



# VIRGINIA

## REGISTER OF REGULATIONS

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Virginia Code Commission

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# THE VIRGINIA REGISTER INFORMATION PAGE

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**THE VIRGINIA REGISTER OF REGULATIONS** is an official state publication issued every other week throughout the year. Indexes are published quarterly, and are cumulative for the year. The *Virginia Register* has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in the *Virginia Register*. In addition, the *Virginia Register* is a source of other information about state government, including petitions for rulemaking, emergency regulations, executive orders issued by the Governor, and notices of public hearings on regulations.

## **ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS**

Unless exempted by law, an agency wishing to adopt, amend, or repeal regulations must follow the procedures in the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Typically, this includes first publishing 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 proposed regulation 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 of Regulations 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 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 the final regulation contains changes made after publication of the proposed regulation that 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*. Pursuant to § 2.2-4007.06 of the Code of Virginia, any person may request that the agency solicit additional public comment on certain changes made after publication of the proposed regulation. The agency shall suspend the regulatory process for 30 days upon such request from 25 or more individuals, 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.

A 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 alternative to the standard process set forth in the Administrative Process Act for regulations deemed by the Governor to be noncontroversial. To use this process, the Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations become effective on the date noted in the regulatory action if fewer than 10 persons object to using the process in accordance with § 2.2-4012.1.

## **EMERGENCY REGULATIONS**

Pursuant to § 2.2-4011 of the Code of Virginia, an agency may adopt emergency regulations if necessitated by an emergency situation or when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or fewer from its enactment. In either situation, approval of the Governor is required. The emergency regulation is effective upon its filing with the Registrar of Regulations, unless a later date is specified per § 2.2-4012 of the Code of Virginia. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under the circumstances noted in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Virginia Register* and are on the Register of Regulations website at [register.dls.virginia.gov](http://register.dls.virginia.gov).

During the time the emergency regulation is in effect, the agency may proceed with the adoption of permanent regulations in accordance with the Administrative Process Act. 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. **34:8 VA.R. 763-832 December 11, 2017**, refers to Volume 34, Issue 8, pages 763 through 832 of the *Virginia Register* issued on December 11, 2017.

*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:** **John S. Edwards**, Chair; **Marcus B. Simon**, Vice Chair; **Ward L. Armstrong**; **Nicole Cheuk**; **Rita Davis**; **Leslie L. Lilley**; **Jennifer L. McClellan**; **Christopher R. Nolen**; **Don L. Scott, Jr.**; **Charles S. Sharp**; **Samuel T. Towell**; **Malfourd W. Trumbo**.

**Staff of the Virginia Register:** **Karen Perrine**, Registrar of Regulations; **Anne Bloomsburg**, Assistant Registrar; **Nikki Clemons**, Regulations Analyst; **Rhonda Dyer**, Publications Assistant; **Terri Edwards**, Senior Operations Staff Assistant.

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# PUBLICATION SCHEDULE AND DEADLINES

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This schedule is available on the Virginia Register of Regulations website (<http://register.dls.virginia.gov>).

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## March 2021 through March 2022

| <u>Volume: Issue</u> | <u>Material Submitted By Noon*</u>  | <u>Will Be Published On</u> |
|----------------------|-------------------------------------|-----------------------------|
| 37:15                | February 24, 2021                   | March 15, 2021              |
| 37:16                | March 10, 2021                      | March 29, 2021              |
| 37:17                | March 24, 2021                      | April 12, 2021              |
| 37:18                | April 7, 2021                       | April 26, 2021              |
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| 37:23                | June 16, 2021                       | July 5, 2021                |
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| 38:4                 | September 22, 2021                  | October 11, 2021            |
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| 38:8                 | November 15, 2021 ( <b>Monday</b> ) | December 6, 2021            |
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| 38:11                | December 29, 2021                   | January 17, 2022            |
| 38:12                | January 12, 2022                    | January 31, 2022            |
| 38:13                | January 26, 2022                    | February 14, 2022           |
| 38:14                | February 9, 2022                    | February 28, 2022           |
| 38:15                | February 23, 2022                   | March 14, 2022              |
| 38:16                | March 9, 2022                       | March 28, 2022              |

\*Filing deadlines are Wednesdays unless otherwise specified.

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# PETITIONS FOR RULEMAKING

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF COUNSELING

#### Agency Decision

Title of Regulation: **18VAC115-20. Regulations Governing the Practice of Professional Counseling.**

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

Name of Petitioner: Tasha Burnette.

Nature of Petitioner's Request: To modify the regulation on required supervision hours for endorsement.

Agency Decision: Request denied.

Statement of Reason for Decision: The board considered the petition at its meeting on February 5, 2021, and decided it would not initiate rulemaking. An applicant from another state can qualify by meeting the education and experience requirements for licensure. In lieu of meeting those requirements, the board allows an applicant to verify two years of post-licensure clinical practice as a minimum to demonstrate competency. The board recently reviewed its regulations for endorsement and determined that the requirement for some period of clinical practice for those applicants who do not qualify by education and experience is necessary to protect the public health and safety.

Agency Contact: Jaime Hoyle, Executive Director, Board of Counseling, 9960 Mayland Drive, Suite 300, Richmond, VA, 23233, telephone (804) 367-4406, or email [jaime.hoyle@dhp.virginia.gov](mailto:jaime.hoyle@dhp.virginia.gov).

VA.R. Doc. No. PFR21-335; Filed February 5, 2021, 6:03 p.m.

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# PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

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## TITLE 1. ADMINISTRATION

### DEPARTMENT OF THE TREASURY

#### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of the Treasury conducted a periodic review and a small business impact review of **1VAC75-11, Public Participation Guidelines**, and determined that this regulation should be amended. The board is publishing its report of findings dated February 25, 2021, to support this decision.

The regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018).

The Department of the Treasury will amend subsection A of 1VAC75-11-50 to include a requirement for the board to afford interested persons an opportunity to present their views and be accompanied by and represented by counsel or other representative in the promulgation of any regulatory action.

Contact Information: Vernita Boone, Treasury Board Secretary, Department of the Treasury, James Monroe Building, 101 North 14th Street, 3rd Floor, Richmond, VA 23219, telephone (804) 371-6011.

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## TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

### FORENSIC SCIENCE BOARD

#### Agency Notice

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, these regulations are undergoing a periodic review and a small business impact review: **6VAC40-20, Regulations for Breath Alcohol Testing; 6VAC40-30, Regulations for the Approval of Field Tests for Detection of Drugs; 6VAC40-40, Regulations for the Implementation of the Law Permitting DNA Analysis Upon Arrest for All Violent Felonies and Certain Burglaries; 6VAC40-50, Regulations for the Approval of Marijuana Field Tests for Detection of Marijuana Plant Material; and 6VAC40-60, DNA Data Bank Regulations.** The review of these regulations will be guided by the principles in Executive Order 14 (as amended July 16, 2018). The purpose of this review is to determine whether each regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to these regulations, including whether each regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins March 1, 2021, and ends March 22, 2021.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Amy Jenkins, Department Counsel, Department of Forensic Science, 700 North 5th Street, Richmond, VA 23219, telephone (804) 786-6848.

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## TITLE 9. ENVIRONMENT

### STATE WATER CONTROL BOARD

#### Agency Notice

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Water Control Board will conduct a periodic review and a small business impact review on **9VAC25-260, Water Quality Standards**. The Notice of Intended Regulatory Action, which is published in this issue of the Register, serves as the notice of announcement of the reviews.

Contact Information: David Whitehurst, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4121, or email [david.whitehurst@deq.virginia.gov](mailto:david.whitehurst@deq.virginia.gov).

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## TITLE 12. HEALTH

### STATE BOARD OF HEALTH

#### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Health conducted a periodic review and a small business impact review of **12VAC5-391, Regulations for the Licensure of Hospice**, and determined that this regulation should be amended.

The fast-track regulatory action to amend 12VAC5-391, which is published in this issue of the Register, serves as the report of findings of both reviews.

Contact Information: Rebekah E. Allen, Senior Policy Analyst, Virginia Department of Health, 9960 Mayland Drive, Suite 401, Richmond, VA 23233, telephone (804) 367-2102, FAX (804) 527-4502, or email [regulatorycomment@vdh.virginia.gov](mailto:regulatorycomment@vdh.virginia.gov).

## TITLE 22. SOCIAL SERVICES

### STATE BOARD OF SOCIAL SERVICES

#### Agency Notice

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Social Services will conduct a periodic review and a small business impact review of **22VAC40-180, Voluntary Registration of Family Day Homes - Requirements for Providers**. The Notice of Intended Regulatory Action, which is published in this issue of the Register, serves as the notice of announcement of the reviews.

Contact Information: Cynthia Carneal Heflin, Program Consultant, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7140, or email [cynthia.carneal@dss.virginia.gov](mailto:cynthia.carneal@dss.virginia.gov).

#### Agency Notice

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Social Services will conduct a periodic review and a small business impact review of **22VAC40-325, Fraud Reduction/Elimination Effort**. The Notice of Intended Regulatory Action, which is published in this issue of the Register, serves as the notice of announcement of the reviews.

Contact Information: Susan Lloyd, Fraud Consultant, Department of Social Services, 1604 Santa Rosa Road, Henrico, VA 23229, telephone (804) 663-5526, or email [susan.lloyd@dss.virginia.gov](mailto:susan.lloyd@dss.virginia.gov).



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# NOTICES OF INTENDED REGULATORY ACTION

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## TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

### BOARD OF JUVENILE JUSTICE

#### 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 Juvenile Justice intends to consider promulgating **6VAC35-200, Regulations Governing Youth Detained Pursuant to Federal Contracts**. The purpose of the proposed action is to implement the mandate in Chapter 599 of the 2020 Acts of Assembly that directs the board to promulgate regulations governing the housing of youth who are detained in a juvenile correctional facility pursuant to a contract with the federal government and not committed to such juvenile correctional facility by a court of the Commonwealth. The proposed regulation applies to (i) locally operated juvenile detention centers that enter into contractual arrangements with federal entities to house and provide 24-hour supervision to youth under federal legal custody and (ii) state-operated juvenile correctional centers that adopt such programs. The proposed regulatory provisions impose minimum, enhanced standards for facilities that operate programs housing youth under federal legal custody to ensure additional protections for this vulnerable population of youth.

The agency does not intend to hold a public hearing following the publication of the proposed stage in the Virginia Register.

Statutory Authority: §§ 66-10 and 66-10.2 of the Code of Virginia.

Public Comment Deadline: March 31, 2021.

Agency Contact: Kristen Peterson, Regulatory Coordinator, Department of Juvenile Justice, 600 East Main Street, 20th Floor, Richmond, VA 23219, telephone (804) 588-3902, FAX (804) 371-6490, or email [kristen.peterson@djj.virginia.gov](mailto:kristen.peterson@djj.virginia.gov).

VA.R. Doc. No. R21-6528; Filed February 1, 2021, 6:32 a.m.

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## TITLE 9. ENVIRONMENT

### STATE WATER CONTROL BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Water Control Board intends to consider amending **9VAC25-260, Water Quality Standards**. The purpose of the proposed action is to update the regulation to reflect new scientific information and clarify the regulation. Proposed amendments include updating numerical and narrative criteria, use designations, classifications, site specific or special standards, and other standards and requirements and

(ii) improving permitting, monitoring, and assessment programs.

In addition, this regulation will undergo a periodic review pursuant to Executive Order 14 (as amended July 16, 2018) and a small business impact review pursuant to § 2.2-4007.1 of the Code of Virginia to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

This notice serves as the notice of the triennial review pursuant to subdivision (3a) of § 62.1-44.15 of the Code of Virginia, the Clean Water Act (33 USC § 1251 et seq.), and 40 CFR 131.

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

Statutory Authority: § 62.1-44.15 of the Code of Virginia; 33 USC § 1251 et seq.; 40 CFR 131.

Public Comment Deadline: March 31, 2021.

Agency Contact: David Whitehurst, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4121, or email [david.whitehurst@deq.virginia.gov](mailto:david.whitehurst@deq.virginia.gov).

VA.R. Doc. No. R21-6555; Filed February 8, 2021, 1:07 p.m.

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## TITLE 12. HEALTH

### STATE BOARD OF HEALTH

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Board of Health intends to consider promulgating **12VAC5-402, Certification of Community Health Workers**. The purpose of the proposed action is to promulgate a new regulation to establish the requirements for use of the title "certified community health worker," including training and education requirements, as required by Chapter 363 of the 2020 Acts of Assembly. Proposed amendments include (i) definitions for "community health workers" and "certified community health workers" as well as other relevant terminology, (ii) minimum training and education requirements to be considered a certified community health worker based on the core competences for community health worker certification used by national organizations and community based organizations in Virginia, and (iii) minimum standards required of a board-approved entity responsible for confirming certified community health workers and approving



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# Notices of Intended Regulatory Action

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the training and education meeting community health worker certification requirements.

The agency does not intend to hold a public hearing following the publication of the proposed stage in the Virginia Register.

Statutory Authority: §§ 32.1-12 and 32.1-15.1 of the Code of Virginia.

Public Comment Deadline: March 31, 2021.

Agency Contact: Brenden Rivenbark, Senior Policy Analyst, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7190, or email [brenden.rivenbark@vdh.virginia.gov](mailto:brenden.rivenbark@vdh.virginia.gov).

VA.R. Doc. No. R21-6685; Filed February 1, 2021, 1:33 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Board of Health intends to consider promulgating **12VAC5-416, Sexual Assault Survivor Treatment and Transfer Regulation**. The purpose of the proposed action is to implement Chapter 725 of the 2020 Acts of Assembly, which requires the board to promulgate regulations to effectuate the act, specifically to establish the standards for review and approval of sexual assault survivor transfer plans, pediatric sexual assault survivor transfer plans, sexual assault survivor treatment plans, and pediatric sexual assault survivor treatment plans. As the requirement to have such plans extends to hospitals, clinics, and physicians offices, no existing regulatory chapter best fits this mandate; therefore the board intends to promulgate a new regulatory chapter for these standards.

The agency does not intend to hold a public hearing following the publication of the proposed stage in the Virginia Register.

Statutory Authority: §§ 32.1-12, 32.1-162.15:4, 32.1-162.15:5, and 32.1-162.15:6 of the Code of Virginia.

Public Comment Deadline: March 31, 2021.

Agency Contact: Rebekah E. Allen, Senior Policy Analyst, Virginia Department of Health, 9960 Mayland Drive, Suite 401, Richmond, VA 23233, telephone (804) 367-2102, FAX (804) 527-4502, or email [regulatorycomment@vdh.virginia.gov](mailto:regulatorycomment@vdh.virginia.gov).

VA.R. Doc. No. R21-6686; Filed February 1, 2021, 1:48 p.m.

## Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Board of Health intends to consider promulgating **12VAC5-635, Rainwater Harvesting Systems Regulations**. The purpose of the proposed action is to implement Chapter 817 of the 2018 Acts of Assembly, which requires the State Board of Health to adopt regulations regarding the use of gray water and rainwater. The proposed amendments regarding rainwater include (i) describing the conditions under which rainwater may be appropriately be used and for what purposes and (ii) providing standards for the

use of rainwater harvesting systems. Rainwater harvesting systems include systems that collect rainwater for use by commercial enterprises but do not provide water for human consumption as that term is defined in § 32.1-67 of the Code of Virginia. Regulations pertaining to gray water will be addressed in a revision of 12VAC5-610, Sewage Handling and Disposal Regulations.

The agency does not intend to hold a public hearing following the publication of the proposed stage in the Virginia Register.

Statutory Authority: §§ 32.12 and 32.1-248.2 of the Code of Virginia.

Public Comment Deadline: March 31, 2021.

Agency Contact: Julie Henderson, Director of Environmental Health Services, Virginia Department of Health, 109 Governor Street, Richmond, VA 23235, telephone (804) 864-7455, FAX (804) 864-7475, TDD (800) 828-1120, or email [julie.henderson@vdh.virginia.gov](mailto:julie.henderson@vdh.virginia.gov).

VA.R. Doc. No. R21-6687; Filed February 1, 2021, 1:55 p.m.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending **12VAC30-60, Standards Established and Methods Used to Assure High Quality Care**. The purpose of the proposed action is to implement Item 303 X 1 of Chapter 2 of the 2018 Acts of Assembly and Item 303 X 1 of Chapter 854 of the 2019 Acts of Assembly, which require the Department of Medical Assistance Services to make programmatic changes in the provision of community mental health services to ensure appropriate utilization and cost efficiency and to consider all available options including utilization review. The proposed amendments clarify the documentation requirements for service authorization, including service authorization for community mental health and rehabilitative services.

The agency does not intend to hold a public hearing at the proposed stage.

Statutory Authority: § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

Public Comment Deadline: March 31, 2021.

Agency Contact: Emily McClellan, Regulatory Supervisor, Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804)786-1680, or email [emily.mcclellan@dmas.virginia.gov](mailto:emily.mcclellan@dmas.virginia.gov).

VA.R. Doc. No. R21-5674; Filed February 8, 2021, 2:08 p.m.

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# Notices of Intended Regulatory Action

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF DENTISTRY

#### 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 Dentistry intends to consider amending **18VAC60-21, Regulations Governing the Practice of Dentistry**. The purpose of the proposed action is to implement Chapters 37 and 220 of the 2020 Acts of Assembly, which define a digital scan technician, as used in teledentistry, and require the board to promulgate regulations for the education and training of technicians to practice under the supervision of a dentist licensed in Virginia. Proposed amendments include (i) establishing requirements for a board-approved training program, (ii) specifying the responsibility of the dentist for the practice of teledentistry and training and supervision of a digital scan technician, (iii) voluntary registration of digital scan technicians, and (iv) other changes necessary to implement the provisions of Chapters 37 and 220.

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

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

Public Comment Deadline: March 31, 2021.

Agency Contact: Sandra Reen, Executive Director, Board of Dentistry, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4437, FAX (804) 527-4428, or email [sandra.reen@dhp.virginia.gov](mailto:sandra.reen@dhp.virginia.gov).

VA.R. Doc. No. R21-6525; Filed February 11, 2021, 12:43 p.m.

#### 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 Dentistry intends to consider amending **18VAC60-30, Regulations Governing the Practice of Dental Assistants**. The purpose of the proposed action is to consider adoption of requirements for education and training in infection control for dental assistants I, which may entail coursework, continuing education, or certification by a nationally-recognized body. The proposed action is in response to a petition for rulemaking from the Virginia Dental Hygiene Program Directors' Consortium.

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

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

Public Comment Deadline: March 31, 2021.

Agency Contact: Sandra Reen, Executive Director, Board of Dentistry, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4437, FAX (804) 527-4428, or email [sandra.reen@dhp.virginia.gov](mailto:sandra.reen@dhp.virginia.gov).

VA.R. Doc. No. R20-15; Filed January 30, 2021, 2:09 p.m.

## 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 **18VAC85-160, Regulations Governing the Licensure of Surgical Assistants and Registration of Surgical Technologists**. The purpose of the proposed action is to provide for consistency with other licensed allied professions regulated by the Board of Medicine in the fee structure, continuing competency, inactive licensure and reactivation or reinstatement of a license, and standards of practice. Additionally, the board intends to amend regulations for renewal of registration for surgical technologists.

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

Statutory Authority: §§ 54.1-2400 and 54.1-2956.13 of the Code of Virginia.

Public Comment Deadline: March 31, 2021.

Agency Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4558, FAX (804)527-4429, or email [william.harp@dhp.virginia.gov](mailto:william.harp@dhp.virginia.gov).

VA.R. Doc. No. R21-6696; Filed February 5, 2021, 1:51 p.m.

## BOARD OF LONG-TERM CARE ADMINISTRATORS

#### 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 Long-Term Care Administrators intends to consider amending **18VAC95-20, Regulations Governing the Practice of Nursing Home Administrators**, and **18VAC95-30, Regulations Governing the Practice of Assisted Living Facility Administrators**. The purpose of the proposed action is to clarify and enhance training and supervision requirements for prospective nursing home and assisted living facility administrators receiving pre-licensure training in an Administrator-in-Training (AIT) program. Proposed amendments include (i) establishing an additional pathway for individuals to qualify for AIT training in the assisted living setting and to strengthen the current requirement for college or university coursework to include coursework in business or human services; (ii) requiring an 80-hour training course that is based on curriculum standards established by the National Association of Long Term Care Administrator Boards for both nursing home and assisted living AITs, with those training hours to count toward total AIT hours; (iii) offering continuing education credit for preceptors who supervise AITs; (iv) enhancing the training and continuing education received by both AITs and administrators related to mental impairments, including dementia and Alzheimer's; and (v) changes for clarity and consistency.

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# Notices of Intended Regulatory Action

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

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

Public Comment Deadline: March 31, 2021.

Agency Contact: Corie Tillman Wolf, Executive Director, Board of Long-Term Care Administrators, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4595, FAX (804)527-4413, or email [corie.wolf@dhp.virginia.gov](mailto:corie.wolf@dhp.virginia.gov).

VA.R. Doc. No. R21-6286; Filed January 30, 2021, 2:10 p.m.

## BOARD OF PHARMACY

### 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 Pharmacy intends to consider amending **18VAC110-60, Regulations Governing Pharmaceutical Processors**. The purpose of the proposed action is to consider the adoption of a replacement regulation for the emergency regulation effective February 8, 2020, and published in this issue of the Virginia Register. Proposed amendments include (i) establishing provisions for cannabis dispensing facilities, including an application process and fee; (ii) allowing patients who are temporary residents to register; (iii) permitting access to cultivation areas of the processor when a pharmacist is not present; (iv) establishing standards for laboratories that provide testing to obtain a controlled substance registration; (v) permitting the sale of devices and inert sample products; (vi) allowing wholesale distribution between processors and dispensing facilities; and (vii) modifying other regulatory provisions as applicable to align with the statutory amendments and requirements of Chapter 1278 of the 2020 Acts of Assembly.

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

Statutory Authority: §§ 54.1-2400 and 54.1-3442.6 of the Code of Virginia.

Public Comment Deadline: March 31, 2021.

Agency Contact: Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804)367-4456, FAX (804) 527-4472, or email [caroline.juran@dhp.virginia.gov](mailto:caroline.juran@dhp.virginia.gov).

VA.R. Doc. No. R21-6538; Filed February 5, 2021, 2:43 p.m.

### 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 Pharmacy intends to consider amending **18VAC110-60, Regulations Governing Pharmaceutical Processors**. The purpose of the proposed action is to consider amendments requested in a petition for rulemaking from the Virginia Medical Cannabis Coalition. The proposed amendments relate to requirements for pharmacy technicians, visitor policy, inventory, labeling, expiration dates

on products, remediation of samples, and access for nonlicensed personnel. The board will consider if the proposed amendments facilitate the operation of a pharmaceutical processor without imposing any additional risk of harm or diversion to protect the health and safety of the public.

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

Statutory Authority: §§ 54.1-2400 and 54.1-3442.6 of the Code of Virginia.

Public Comment Deadline: March 31, 2021.

Agency Contact: Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4456, FAX (804)527-4472, or email [caroline.juran@dhp.virginia.gov](mailto:caroline.juran@dhp.virginia.gov).

VA.R. Doc. No. R20-59; Filed February 5, 2021, 1:52 p.m.

## BOARD OF COUNSELING

### 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 Counseling intends to consider promulgating **18VAC115-90, Regulations Governing the Practice of Art Therapy**. The purpose of the proposed action is to implement Chapter 301 of the 2020 Acts of Assembly, which requires the board to promulgate regulations governing the practice of art therapy and specifies that the credential that will be considered as qualification for licensure as an art therapist and as an art therapy associate. Proposed amendments include establishing (i) education, examination, and experience requirements for licensure; (ii) standards for confidentiality, patient records, dual relationships, and informed consent; and (iii) requirements similar to other licensed professions for a fee structure, renewal or reinstatement of licensure, continuing competency, supervision of persons in training, and standards of practice.

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

Statutory Authority: §§ 54.1-2400 and 54.1-3516 of the Code of Virginia.

Public Comment Deadline: March 31, 2021.

Agency Contact: Jaime Hoyle, Executive Director, Board of Counseling, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4406, FAX (804) 527-4435, or email [jaime.hoyle@dhp.virginia.gov](mailto:jaime.hoyle@dhp.virginia.gov).

VA.R. Doc. No. R21-6583; Filed February 5, 2021, 1:50 p.m.

## BOARD OF SOCIAL WORK

### 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 Social Work intends to consider amending **18VAC140-20, Regulations Governing**

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# Notices of Intended Regulatory Action

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**the Practice of Social Work.** The purpose of the proposed action is to consider amending the regulation to (i) eliminate all requirements for either supervised experience or active practice in another jurisdiction licensure by endorsement; (ii) eliminate requirements for a person whose license has been lapsed for 10 or more years to provide evidence of either active practice in another jurisdiction or in an exempt setting, or supervised practice of no less than 360 hours in a 12-month period for reinstatement or reactivation of licensure; and (iii) modify the standards of practice to specify that persons licensed by the board shall not engage in physical contact with a client when there is a likelihood of psychological harm to the client and shall not sexually harass a client.

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

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

Public Comment Deadline: March 31, 2021.

Agency Contact: Jaime Hoyle, Executive Director, Board of Social Work, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4406, FAX (804)527-4435, or email [jaime.hoyle@dhp.virginia.gov](mailto:jaime.hoyle@dhp.virginia.gov).

VA.R. Doc. No. R21-6341; Filed January 30, 2021, 2:11 p.m.

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## TITLE 22. SOCIAL SERVICES

### STATE BOARD OF SOCIAL SERVICES

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Board of Social Services intends to consider repealing **22VAC40-180, Voluntary Registration of Family Day Homes - Requirements for Providers** and promulgating **22VAC40-181, Voluntary Registration of Family Day Homes - Requirements for Providers**. The purpose of the proposed action is to replace the existing outdated regulation with a new regulation that incorporates current health and safety criteria; updates health and safety standards to include safe sleep practices; establishes caregiver training requirements to include CPR, First Aid certification, and medication administration of prescription medications; updates background check and tuberculosis screening requirements; and expands emergency preparedness procedures beyond just basic evacuation drills to protect children in care.

In addition, this regulation will undergo a periodic review pursuant to Executive Order 14 (as amended July 16, 2018) and a small business impact review pursuant to § 2.2-4007.1 of the Code of Virginia to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is

necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

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

Statutory Authority: §§ 63.2-217 and 63.2-1704 of the Code of Virginia.

Public Comment Deadline: March 31, 2021.

Agency Contact: Cynthia Carneal Heflin, Program Consultant, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7140, or email [cynthia.carneal@dss.virginia.gov](mailto:cynthia.carneal@dss.virginia.gov).

VA.R. Doc. No. R21-6698; Filed February 8, 2021, 12:57 p.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Board of Social Services intends to consider amending **22VAC40-325, Fraud Reduction/Elimination Effort**. The purpose of the proposed action is to (i) rename the Fraud Reduction/Elimination Effort to the Statewide Fraud Control Program and (ii) change the methodology for reimbursement to local departments of social services for fraud control activities to reflect greater proportions for fraud control activities such as investigations initiated, claims established, or recovery of overpaid benefits.

In addition, pursuant to Executive Order 14 (as amended, July 16, 2018) and § 2.2-4007.1 of the Code of Virginia, the agency is conducting a periodic review and a small business impact review of this regulation to determine whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare; (ii) minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

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

Statutory Authority: §§ 63.2-217 and 63.2-526 of the Code of Virginia.

Public Comment Deadline: March 31, 2021.

Agency Contact: Susan Lloyd, Fraud Consultant, Department of Social Services, 1604 Santa Rosa Road, Henrico, VA 23229, telephone (804) 663-5526, or email [susan.lloyd@dss.virginia.gov](mailto:susan.lloyd@dss.virginia.gov).

VA.R. Doc. No. R21-5880; Filed February 8, 2021, 1:11 p.m.



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# REGULATIONS

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

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## Symbol Key

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

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## TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

### BOARD OF JUVENILE JUSTICE

#### Fast-Track Regulation

**Title of Regulation: 6VAC35-170. Regulation Governing Minimum Standards for Juvenile Information Requests from and Research Involving Human Subjects within the Department of Juvenile Justice (amending 6VAC35-170-10, 6VAC35-170-20, 6VAC35-170-50, 6VAC35-170-60, 6VAC35-170-65, 6VAC35-170-70 through 6VAC35-170-110, 6VAC35-170-130 through 6VAC35-170-200, 6VAC35-170-220; adding 6VAC35-170-55, 6VAC35-170-67, 6VAC35-170-69, 6VAC35-170-230; repealing 6VAC35-170-62).**

**Statutory Authority:** §§ 66-10 and 66-10.1 of the Code of Virginia.

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

**Public Comment Deadline:** March 31, 2021.

**Effective Date:** April 15, 2021.

**Agency Contact:** Kristen Peterson, Regulatory Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA 23218-1110, telephone (804) 588-3902, FAX (804) 371-6497, or email [kristen.peterson@djj.virginia.gov](mailto:kristen.peterson@djj.virginia.gov).

**Basis:** The Board of Juvenile Justice is entrusted with general, discretionary authority to promulgate regulations by § 66-10 of the Code of Virginia, which authorizes the board to promulgate such regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth. Section 66-10.1 of the Code of Virginia imposes upon the board the duty to promulgate regulations for human research conducted or authorized by the department in accordance with Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia.

**Purpose:** During the last periodic review and amendment of this chapter, which took effect on December 1, 2016, the board revised the regulation to address how external data requests and research proposals within the Commonwealth's juvenile justice system would be coordinated, reviewed, and approved or denied. Rather than providing clarity and enhancing compliance, some of these changes generated additional confusion among the regulated community or created an unsustainable process for department staff and researchers. The proposed changes are intended to clarify the processes

applicable for individuals or organizations seeking to conduct research on or requesting data regarding youth under the authority of the department or a department-regulated facility. These amendments provide the regulated community with needed guidance regarding the requirements for submitting data requests and research proposals and the process for handling and approving or denying these requests. New provisions that further protect sensitive data regarding these youth and that allow for more severe consequences for researchers who fail to comply with approved proposals or laws or regulations are needed to ensure the protection of youth under the care of the Department of Juvenile Justice (DJJ) or a DJJ-regulated facility or program and will be essential to protect their safety and welfare.

In addition, the department's participation in the Virginia Longitudinal Data System (VLDS) has generated inquiries among staff and researchers as to whether the existing regulatory requirements apply when external data requests for DJJ-maintained data are submitted through the VLDS. VLDS is a data system that seeks to create usable information for policy and generate cross-agency research by providing de-identified case-specific data from various participating agencies to qualified researchers. Researchers submit data requests through the VLDS portal and work with participating agencies to access whatever data the participating agency elects to make available to the researcher on a case-by-case basis. As the number of requests submitted through VLDS increase, DJJ and researchers should have clear guidance regarding the rules and expectations for submitting such requests.

**Rationale for Use of Fast-Track Rulemaking Process:** The department does not expect the changes to generate controversy. The amendments seek to simplify the process for external researchers to obtain requested data, protect information deemed sensitive, create a separate process for data requests submitted through the Virginia Longitudinal Data System, and provide additional clarity and guidance to the regulated community.

**Substance:** The proposed language clarifies the scope of the regulatory provisions regarding human research and specifies that individuals under the care, custody, or supervision of a facility or program regulated by the department or the Board of Juvenile Justice, as well as under the care or supervision of the department, may constitute a human subject for purposes of the regulation. A conforming change is made in the definition of organizational unit head to demonstrate that the head of facilities or programs regulated by the department also

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may endorse human research conducted on residents or youth under their supervision or care.

The amendments:

Add the Confidentiality Form that must be submitted to the department for external case-specific data requests, remove a few of the identifiers currently required to be removed from case-specific data before the department or department-regulated facility or program provides this information to researchers, and place restrictions on the director's existing authority to allow the dissemination of data with some of these identifiers.

Exempt external-case specific data requests submitted through the VLDS from the requirements applicable to other such data requests and establishes new rules for these requests.

Allow for an expedited review conducted by the chair of the Human Research Review Committee when minor amendments are made to previously approved data requests.

Add two exceptions to the categories of research exempt from the requirements governing human research to conform to federal regulatory provisions contained in 45 CFR 46.101(b).

Remove provisions directing the researcher, as part of the required proposal mandated for external research, to include the endorsement of an academic advisor for student research and the appropriate juvenile and domestic relations judge for records involving juveniles at state and local court service units.

Insert an additional potential consequence for researchers who fail to comply with the approved proposal or who violate state statutes or regulations. In addition to restricting or terminating further research and prohibiting the researcher from presenting or publishing the research results, as authorized under the existing regulation, the proposal allows the department to bar the researcher from conducting studies in the future.

Require an overview of the annual report currently mandated in the regulation be completed and posted on the department's website unless the information is exempt from disclosure under the Freedom of Information Act.

Remove provisions requiring the regulant to comply with various mandates in accordance with department procedures. These provisions violate the Virginia Code Commission's 2016 regulation (1VAC7-10-140) prohibiting state agencies from incorporating into their regulations documents established by that agency. To alert regulants to department-developed procedures pertaining to data requests and research proposals, the amendments add a new section that allows the department to establish written procedures to comply with the regulatory requirements contained in this chapter and that requires the department to place such procedures on its website.

Make minor changes intended to promote clarity including, for example, establishing a new term (internal committee), to distinguish between the human research review committee and the committee that oversees de-identified case specific data.

Issues: Advantages of the action include (i) promoting uniformity for department-regulated facilities and programs seeking to respond to external data requests and research proposals for youth under such facilities' care; (ii) protecting sensitive data and ensure that protected records and information concerning court-involved youth remain confidential; (iii) ensuring that the department's regulations more closely reflect federal and state statutes and regulations; and (iv) removing several needless, impractical, and burdensome requirements that tend to delay or hamper research efforts. These changes may help to advance research that ultimately could reduce recidivism and otherwise benefit the public and court-involved youth in the Commonwealth. A disadvantage to the public is that allowing the department to bar the researcher from conducting studies in the future, however, could quell such research efforts, which ultimately may harm the public.

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

Summary of the Proposed Amendments to Regulation. External researchers seeking data on incarcerated minors under the supervision or custody of the Department of Juvenile Justice (DJJ) must adhere to the application and review process established in 6 VAC 35-170. The Board of Juvenile Justice (Board) proposes to amend this regulation to remove provisions that are no longer valid, address data requests submitted through the Virginia Longitudinal Data System (VLDS), and impose additional data security requirements. The Board also seeks to make a number of amendments to simplify the language and clarify existing requirements to reduce confusion amongst regulants.

Background. The Board proposes to make several changes to this regulation at the recommendation of DJJ staff; in particular, the coordinator of external research maintained a log of frequently asked questions and issues raised by researchers who sought access to DJJ data. The most substantive changes are summarized as follows:

1. In the interest of simplicity, the Board wishes to shorten the title of the regulation to Regulation Governing Juvenile Data Requests and Research Involving Human Subjects;
2. The Board seeks to amend two existing definitions to clarify existing policy. First, the definition of "human subject" would be amended to also include an individual who is "under the care, custody or supervision of a facility or program regulated by [DJJ or the Board]," as well as an individual who is "employed in or provides contractual services to a juvenile correctional center or other facility or program regulated by [DJJ or the Board] and who is or who is proposed to be a subject of human research." That is, any research that directly involves DJJ staff or contractors and any youth under their authority at any facility either directly run by or contracted by DJJ would be considered "human research."



The Board also seeks to amend the definition of "legally authorized representative" to fully clarify that "for the purposes of this chapter, "legally authorized representative" shall not include an official or employee of the institution or agency conducting or authorizing the research." Although the current definition includes the statement, "No official or employee of the institution or agency conducting or authorizing the research shall act as a legally authorized representative," DJJ reported that "Some researchers believed that this definition meant that DJJ could provide consent on behalf of juveniles, as if they were a "ward of the state."

1. The Board also seeks to clarify 6 VAC 35-170-65 (section 65), which lays out the process for external researchers to use when seeking case specific data, by adding two new definitions and updating procedural language. First, the Board proposes to add a definition of "internal committee" to mean "the committee established by the department pursuant to 6 VAC 35-170-65 to oversee de-identified case specific data." Second, the Board would add a definition of "sensitive data" to mean "data, the compromise of which, with respect to the confidentiality, integrity, or availability, could have a material adverse effect on agency programs or the privacy to which individuals are entitled."

These definitional changes, when used in conjunction with certain identifying information listed in section 65, would clarify which data elements would be considered sensitive data and would therefore have to be removed for the data to be considered de-identified. These identifiers include names, dates of birth, postal street addresses, telephone numbers, email addresses (a proposed addition to the list), social security numbers, and medical record numbers. Thus, the amendments serve to clarify the existing process: that once the coordinator of external research ascertains that the data request does not include any sensitive data, the director would then designate an internal committee to review the proposal and make a written recommendation to the director.

The Board seeks to further amend section 65 to specify that any request for sensitive data would require a review by the Human Research Review Committee (HRRC). Once again, the Board is not amending the process so much as explaining the circumstances that would warrant HRRC review. Further the Board seeks to clarify that the director could make an exception if the request was for only a limited number of the identifiers listed above, provided the researchers agree to the confidentiality requirements as stated in 6 VAC 35-170-40.

1. DJJ is one of several agencies that participates in the Virginia Longitudinal Data System (VLDS), which has prompted questions from researchers using the VLDS portal as to how requests submitted via the VLDS are evaluated vis-a-vis the existing regulation. Hence, the Board proposes to add a new section explicitly addressing VLDS requests.

The Board seeks to add a definition of "Virginia Longitudinal Data System or VLDS" to mean "a data system that provides de-identified case-specific data from participating agencies to

qualified researchers through a process that involves submission of requests and approval or denial by each sponsoring agency from which data are sought in an effort to create usable information for policy and generate cross-agency research."

The new section 6 VAC 35 170-67 titled "VLDS requests" would essentially require researchers using the portal to comply with the same requirements as they would for a request directly submitted to DJJ. However, rather than go through review and approval by the director or an internal committee, the chair of the HRRC would have the primary responsibility for reviewing and approving requests made through the VLDS portal. Moreover, the data being requested would need to already be available in the VLDS database. By addressing the requirements and process in a separate section, the Board seeks to provide clear and simple directions for researchers choosing to adopt this route for accessing data.

1. The Board proposes to repeal 6 VAC 35-170-62 (Review and approval of aggregate data requests) and replace it with 6 VAC 35-170-55 with the same title. This change is intended to clarify how this process works in relationship to section 60, which prohibits any research involving a case specific data request or human research request from beginning until all reviews required by this chapter have been completed and the principal researcher receives a copy of the research agreement signed by the director. Moving the section regarding aggregate data before section 60 is intended to distinguish between aggregate data requests in the proposed section 55, and case specific data requests or human research requests in section 60, and to clarify that aggregate data requests fall outside the requirements in section 60. The actual process of reviewing and approving aggregate data requests would not be changed.

2. The Board proposes to add a new section 6 VAC 35-170-69 titled "Minor amendment to data requests" to allow researchers to submit amendments to existing data requests as long as the scope of the original data request or research proposal remains unchanged. DJJ staff offered the following examples of minor amendments: revising the recruitment method due to low enrollment (e.g. putting up a recruitment poster in a court service unit office when that method was not previously used), revising the wording of a question previously considered confusing, or changing the order of questions on a survey for better flow. The section would allow the chair of the HRRC to conduct an expedited review of the amendment, and would not require the director or internal committee to review the amendment.

3. The Board proposes to add a new section 6 VAC 35-170-230 titled "Written procedures" that requires DJJ to establish written procedures for requesting approval of a research proposal by a DJJ unit head. DJJ may also use written procedures to provide additional guidelines for the submission, approval, and review of research proposals or data requests. The proposed section also serves to notify

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regulants that these procedures may be accessed through DJJ's website.<sup>1</sup> Compliance with these procedures would not be required, but they would serve to streamline the process for researchers who choose to use them.

4. The Board seeks to add a subsection to section 190 "Committee reports required," which would require that the HRRC post a summary of approved human research projects, unless the research is explicitly protected under the Virginia Freedom of Information Act.

5. Throughout the regulation, the Board proposes to make explicit exactly which parties within DJJ would be responsible for making decisions regarding data requests and for communicating those decisions in writing to the principal investigators making the request.

**Estimated Benefits and Costs.** The proposed amendments would help streamline the process for different types of data and research requests, clarify the requirements for each type of request, and identify the relevant DJJ personnel who would be responsible for reviewing and approving each type of request. The proposed amendments would not create new costs for researchers requesting data or human research, while continuing to safeguard the privacy and protection of incarcerated juveniles and/or staff at DJJ facilities. Since the requirements themselves are no more onerous or restrictive than they were before, and to the extent that researchers seeking data are able to better understand and follow DJJ procedures, both the researchers and DJJ staff stand to benefit.

**Businesses and Other Entities Affected.** The proposed amendments would affect researchers at universities or private non-profit organizations or foundations that conduct social science research in facilities operated (or sub-contracted) by DJJ. The proposed amendments do not introduce any additional costs to conducting such research.

**Small Businesses<sup>2</sup> Affected.** Small businesses are unlikely to be affected by the proposed amendments. The proposed amendments create no new costs.

**Localities<sup>3</sup> Affected.<sup>4</sup>** The proposed amendments do not disproportionately affect any specific localities, nor do they introduce new costs for local governments.

**Projected Impact on Employment.** The proposed amendments are unlikely to affect employment.

**Effects on the Use and Value of Private Property.** To proposed amendments would not affect the value of private property. Real estate development costs would not be affected.

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<sup>1</sup>See <http://www.djj.virginia.gov/pages/admin/data-research-requests.htm> for details.

<sup>2</sup>Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

<sup>3</sup>"Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>4</sup>§ 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

**Agency's Response to Economic Impact Analysis:** The Board of Juvenile Justice agency representatives have reviewed the Department of Planning and Budget's economic impact analysis and are in agreement with the analysis.

**Summary:**

*The amendments (i) remove invalid provisions consistent with recent regulatory amendments, (ii) add provisions addressing external case-specific data requests submitted through the Virginia Longitudinal Data System, (iii) impose additional requirements to ensure that sensitive data disseminated to external entities are protected from unauthorized access, and (iv) make changes to clarify and simplify existing requirements.*

**6VAC35-170-10. Definitions.**

~~Unless the context clearly indicates otherwise, the~~ The following words and terms when used in this chapter shall have the following meanings, ~~consistent with the definitions offered in § 32.1-162.16 of the Code of Virginia unless the context clearly indicates otherwise:~~

"Aggregate data" means statistics that relate to broad classes, groups, or categories so that it is not possible to distinguish the properties of individuals within those classes, groups, or categories.

"Case-specific data" means nonaggregated data that provides information about individuals within a group.

"Coordinator of external research" ~~is~~ means the department employee designated by the director to receive research proposals and data requests from external entities and to ensure that the proposals are reviewed in accordance with this chapter and related department procedures.

"De-identified data" means data with common identifiers, such as names, phone numbers, social security numbers, and addresses, ~~etc.~~, removed in order to eliminate the ability of an individual viewing the data to determine the identity of an individual.

"Department" means the Department of Juvenile Justice.

"Director" means the ~~Director~~ director of the ~~Department of Juvenile Justice~~ department or the director's designee.

"Encrypted" ~~means the transformation of data through the use of an algorithmic process into a form in which there is a low probability of assigning meaning without the use of a confidential process or key or the securing of the information by another method that renders the data elements unreadable or unusable.~~

"External research" means research conducted at or using the resources of a facility, program, or organization that is owned, operated, or regulated by the department or the Board of Juvenile Justice by researchers who are not part of the department or under contract ~~to~~ with the department, or who are not employees of another state agency conducting a study at the direction of the General Assembly.

"Human research" means ~~any~~ a 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 Research Review Committee" or "HRRC" means the committee established by the department to oversee human research proposals and activities in accordance with 6VAC35-170-130 and § 32.1-162.19 of the Code of Virginia.

"Human subject" means ~~any~~ an individual who is: under the department's care, custody, or supervision, or, under the care, custody, or supervision of a facility or program regulated by the department or the Board of Juvenile Justice; or a member of the family of such an individual, and who is, or who is proposed to be, a subject of human research. For purposes of this definition, human subject also means an individual who is employed in or provides contractual services to a juvenile correctional center or other facility or program regulated by the department or the Board of Juvenile Justice and who is or who is proposed to be a subject of human research.

"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 who is capable of exercising free choice. The basic elements necessary for informed consent regarding human research include:

1. A reasonable and comprehensible explanation to the person of the proposed procedures and protocols to be followed; their purposes, including descriptions of attendant discomforts; and the risks and benefits reasonably to be expected;
2. A disclosure of alternative procedures or therapies that might be helpful to the person;
3. An instruction that the person may withdraw his consent and stop participating in the human research at any time without prejudice to him;
4. An explanation of costs or compensation that may accrue to the person and whether third party reimbursement is available for the proposed procedures or protocols; and
5. An offer to answer, and answers to, questions by the person about the procedures and protocols.

"Internal committee" means the committee established by the department pursuant to 6VAC35-170-65 to oversee de-identified case specific data.

"Legally authorized representative" means the parent ~~or parents~~ having custody of a prospective subject; the legal guardian of a prospective subject; or any person or judicial or other body authorized by law to consent on behalf of a prospective subject to such subject's participation in the particular human research, including an attorney in fact appointed under a durable power of attorney, provided the power grants the authority to make such a decision ~~and the attorney in fact is not employed by the person, institution, or agency conducting the human research. No official or employee of the institution or agency conducting or authorizing the research shall act as a legally authorized representative. For purposes of this chapter, "legally authorized representative" shall not include an official or employee of the institution or agency conducting or authorizing the research.~~

"Minimal risk" means that the risks of harm anticipated in the proposed 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 or tests.

"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.

"Organizational unit head" means the person in charge of a juvenile correctional center, court service unit, or other organizational unit of the department or a Board of Juvenile Justice-regulated facility, program, or service.

"Principal researcher" means the individual who is responsible for the research design, ~~the conduct of~~ research implementation, supervision of research staff, and ~~the~~ research findings.

"Research" means the systematic development of knowledge essential to effective planning and rational decision-making. It involves the assessment of current knowledge on conceptual problems selected, the statement of those problems in researchable format, the design of methodologies appropriate to the problems, and the application of statistical techniques to organize and analyze data. ~~Research findings should provide valuable information to management for policy options.~~

"Researcher" means an individual conducting research.

"Research project" means the systematic collection of information, analysis of the data, and the preparation of a report of findings.

"Sensitive data" means data, the compromise of which, with respect to confidentiality, integrity, or availability, could have a material adverse effect on agency programs or the privacy to which individuals are entitled.

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"Virginia Longitudinal Data System" or "VLDS" means a data system that provides de-identified case-specific data from participating agencies to qualified researchers through a process that involves submission of requests and approval or denial by each sponsoring agency from which data are sought in an effort to create usable information for policy and generate cross-agency research.

"Written" means the required information is communicated in writing. Such writing may be available in either in hard copy or electronic form.

## **6VAC35-170-20. General requirements of external researchers.**

A. The principal researcher shall have academic or professional standing in the pertinent field or job-related experience in the areas of study or be directly supervised by such a person.

B. The principal researcher ~~is shall be~~ responsible for (i) the conduct of the research staff, (ii) the protection of the rights of subjects involved in the project, and (iii) ~~providing~~ the provision of information required by the coordinator of external research, organizational unit heads, and the ~~Human Research Review Committee HRRC.~~

## **6VAC35-170-50. Conditions for department approval of external research and data requests.**

The department may approve research ~~projects and data requests~~ only when it determines, in its sole discretion, that the following conditions have been met:

1. The department has sufficient financial ~~resources~~ and staff resources to support the ~~research project, request~~ and that, on balance, the benefits of the ~~research request~~ justify the department's involvement;
2. The ~~proposed research request~~ will not interfere significantly with department programs or operations, particularly those of the operating units that would participate in the proposed research; and
3. The ~~proposed research request~~ is compatible with the purposes and goals of the juvenile justice system and with the department's organization, operations, and resources; and
4. The ~~proposed research requests for aggregate data or de-identified data, and the human research proposals, comply with all department procedures, which shall be posted on the department's website.~~

## **6VAC35-170-55. Review and approval of aggregate data requests.**

A. The department shall determine the following prior to approving aggregate data requests:

1. That the request meets the conditions for department approval of research identified in 6VAC35-170-30 and 6VAC35-170-50;
2. That the data requested is accessible;
3. An estimate of the time required to process the data request; and
4. Based on staff workload, whether staff resources are available to process the request.

B. The department may approve and coordinate the provision of data.

C. The department shall provide the principal researcher with a written notification of the approval or denial of the data request within 20 business days of the department's receipt of the proposal.

1. If the department denies the data request, documentation of the rationale for the denial shall accompany the proposal.
2. If the department approves the data request, it shall provide the principal researcher with a written estimated timeline for receipt of the data.

## **6VAC35-170-60. Formal agreement required.**

~~No external research case-specific data request or human research request shall begin until all reviews required by this regulation and department procedure chapter have been completed and the principal researcher is given receives a copy of the research agreement signed by the director.~~

## **6VAC35-170-62. Review and approval of aggregate data requests. (Repealed.)**

~~A. Aggregate data requests shall be submitted to the department in accordance with procedures posted on the department's website.~~

~~B. The department shall determine the following prior to approving the request:~~

1. ~~The request meets the conditions for department approval of research identified in 6VAC35-170-30 and 6VAC35-170-50;~~
2. ~~The data requested is accessible;~~
3. ~~An estimate of the time required to process the data request; and~~
4. ~~Based on staff workload, if staff resources are available to process the data request.~~

~~C. The department may approve and coordinate the provision of data.~~

~~D. The principal researcher shall be notified in writing of the approval or denial of the data request within 20 business days of the department receiving the proposal.~~

1. ~~The department shall provide the principal researcher with documentation of the rationale for the denial of the request when applicable.~~

2. ~~The department shall provide the principal researcher with a written estimated timeline for receipt of the data when applicable.~~

**6VAC35-170-65. External case-specific data requests.**

A. External case-specific data requests shall be submitted to the department ~~via using the Confidentiality Agreement Form, the Research Proposal Form, and the Research Agreement Form, and any attachment required by department procedures.~~

B. The Research Agreement Form shall be signed by the principal researcher and the student researcher, if applicable, at the time of submission.

C. The coordinator of external research shall determine the following within 10 business days of receiving the ~~research proposal~~ data request:

1. ~~The~~ That the request meets the conditions for department approval of research identified in 6VAC35-170-30 and 6VAC35-170-50;
2. ~~The~~ That the proposal is not a human research proposal and is not required to be reviewed by the ~~Human Research Review Committee~~ HRRC; however, requests that include sensitive data shall be reviewed by the HRRC;
3. ~~The~~ That the principal researcher has appropriate academic or professional standing or job-related experience in the area to be studied;
4. ~~The~~ That the proposal is in the required format and includes all required information;
5. ~~The~~ That the proposal complies with basic research standards and applicable laws;
6. ~~The~~ That the data requested is accessible;
7. ~~Department staff and~~ That department resources are available to process the data request; and
8. An estimate of the time required to compile the data request.

D. ~~The~~ Except as provided in subsection E of this section, the following identifiers are considered sensitive data and shall be removed from the data provided to researchers:

1. Names;
2. ~~Dates (date of birth, date of admission, date of release, etc.)~~ Dates of birth;
3. ~~Postal address information, other than town or city, state, and zip code~~ street addresses;
4. Telephone numbers;
5. Email addresses;

6. Social security numbers;

~~6.~~ 7. Medical record numbers;

~~7. Account numbers (Juvenile Tracking System, Direct Care, etc.);~~

8. Biometric identifiers, including finger and voice prints; and

9. Full face photographic images and any comparable image.

E. The director ~~or his designee~~ may on a case-by-case basis approve the dissemination of data containing a limited number of the identifiers listed in subsection D of this section for research benefiting the department provided the researcher agrees that any such information shall be kept confidential in accordance with 6VAC35-170-40 or released or published only in aggregate form.

F. The human research review process shall be followed when the data requested by a researcher are such that a reasonable person could identify the research participants.

G. Industry standard levels of encryption shall be required to protect all juvenile record information provided to researchers.

H. Upon determining the requirements in subsection C of this section are met, the director ~~or his designee~~ shall designate a an internal committee ~~to, which shall~~ meet within 20 business days of receiving the proposal. The internal committee shall:

1. Review the data requested and determine if it is necessary to restrict the scope of the information provided. The scope of information may be restricted for any reason.
2. Determine the research is beneficial to the department.
3. Ensure juvenile confidential information will be ~~adequately~~ adequately protected adequately.
4. Make a written recommendation to the director ~~or his designee~~ to approve or disapprove the request.

I. The director shall approve or deny the proposal within 10 business days of receiving the recommendation.

J. The department shall notify the researcher of the director's decision within five business days of the director making the decision.

1. If the director denies the proposal, the notification shall include a written rationale for the denial.

2. If the director approves the proposal, the notification shall include the research agreement containing the director's signature. The agreement shall outline the respective responsibilities of the parties and shall specify:

a. When progress reports shall be required. If the external research request also involves human research, this schedule of progress reports shall be developed in consultation with the HRRC;

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~~b. That the department shall have unrestricted permission to use the research findings in accordance with professional standards of research;~~

~~c. That a final report shall be submitted electronically to the department;~~

~~d. That unless waived by the director or the director's designee, all external articles, reports, and presentations made from the data collected shall be submitted electronically to the department and shall include the statement "The findings of this study are the responsibility of the researchers, and cooperation by the Virginia Department of Juvenile Justice in facilitating this research should not be construed as an endorsement of the conclusions drawn by the researchers;" and~~

~~e. That the research agreement shall not be effective until signed by both the principal researcher and the director.~~

~~K. Notification of the denial of a proposal shall include a written rationale.~~

~~L. Notification of the approval of a proposal shall include the research agreement. The research agreement shall outline the respective responsibilities of the parties and will specify:~~

~~1. When progress reports shall be required. If the external research also involves human research, this schedule of progress reports shall be developed in consultation with the Human Research Review Committee;~~

~~2. The department shall have unrestricted permission to use the research findings in accordance with professional standards of research;~~

~~3. A final report shall be submitted electronically to the department;~~

~~4. Unless waived by the director or designee, all external articles, reports, and presentations made from the data collected shall be submitted electronically to the department and shall include the statement, "The findings of this study are the responsibility of the researchers, and cooperation by the Virginia Department of Juvenile Justice in facilitating this research should not be construed as an endorsement of the conclusions drawn by the researchers.;" and~~

~~5. The research agreement is not effective until signed by both the principal researcher and the director or his designee.~~

~~M. K. The department shall provide the principal researcher, by first class mail, electronic mail, or facsimile, a final signed copy of the research agreement to the principal researcher containing the director's signature by first class mail, electronic mail, or facsimile.~~

L. External case-specific data requests submitted through the VLDS shall not be subject to the requirements of this section. Researchers submitting such requests shall adhere to the provisions of 6VAC35-170-67.

## **6VAC35-170-67. VLDS requests.**

A. External case-specific data requests submitted through the VLDS shall be submitted to the department using the VLDS portal.

B. The researcher shall comply with all VLDS procedures in order to access data through the VLDS.

C. The chair of the HRRC shall have primary responsibility for reviewing and approving requests submitted through the VLDS portal. The chair of the HRRC may not approve an external case-specific data request unless the request meets the following requirements:

1. The request satisfies the conditions for department approval of research identified in 6VAC35-170-30 and 6VAC35-170-50;

2. The request is not a human research proposal and does not require the HRRC's review;

3. The request is in the required format and includes all required information;

4. The request complies with basic research standards and applicable laws; and

5. The data requested are accessible and available in the VLDS.

D. Upon reviewing the data request, the chair of the HRRC may restrict the scope of the data, provided the data requested are unrelated to the purpose of the research study.

## **6VAC35-170-69. Minor amendments to data requests.**

If the researcher offers a minor amendment to an external data request that the director previously approved in accordance with the provisions of this chapter, the chair of the HRRC may conduct an expedited review of the amendment, provided the amendment does not alter the scope of the request. Additional review or approval by the internal committee or director shall not be required.

## **6VAC35-170-70. Requirements specific to human research.**

A. All human research shall comply with all applicable laws, particularly Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia and all other applicable laws regarding human research.

B. Research Human research involving known and substantive physical, mental, or emotional risk to subjects, including the withholding of any prescribed program of treatment, and all experimental medical, pharmaceutical or cosmetic research, are specifically prohibited.

C. Offering incentives to participate in research is discouraged, but not prohibited. Incentives offered shall be appropriate to the juveniles' custodial status and shall be proportionate to the situation.



~~D.~~ E. If sensitive data are provided, the researchers must comply with appropriate security and non-disclosure requirements.

~~D.~~ E. No human research shall be conducted without the approval of the ~~Human Research Review Committee~~ HRRC.

**6VAC35-170-80. Informed consent required for human research (~~§ 32.1-162.18 of the Code of Virginia~~).**

A. ~~Except as provided elsewhere in this chapter, no researcher may involve a human subject in human research without first obtaining the informed consent of the human subject or his legally authorized representative. A researcher shall seek such consent only under circumstances that provide the human subject or the legally authorized representative sufficient opportunity to consider whether to participate and that minimize the possibility of coercion or undue influence.~~

~~A.~~ B. If a human subject is competent, informed consent shall be given in writing by the subject and witnessed.

~~B.~~ C. If a human subject is not competent, informed consent shall be given in writing by the subject's legally authorized representative and witnessed.

~~C.~~ D. If a human subject is a minor who is otherwise capable of giving informed consent, informed consent shall be given in writing by both the minor and his legally authorized representative.

~~D.~~ E. If two or more persons who qualify as legally authorized representatives with decision-making authority inform the researcher that they disagree as to the participation of the ~~prospective subject in human research~~ subject, the subject shall not be enrolled in the human research that is the subject of the consent.

~~E.~~ F. Notwithstanding consent by a legally authorized representative, no person who is otherwise capable of giving informed consent shall be forced to participate in ~~any~~ human research.

~~F.~~ G. A legally authorized representative may not consent to nontherapeutic research unless the ~~Human Research Review Committee~~ HRRC determines that ~~such nontherapeutic~~ the research will present no more than a minimal risk to the human subject.

~~G.~~ H. ~~The~~ informed consent form shall not include any language through which the human subject waives or appears to waive any legal right, including ~~any~~ the release of ~~any~~ an individual, institution, or agency or any agent thereof from liability for negligence (~~see § 32.1-162.18 of the Code of Virginia~~).

**6VAC35-170-90. Exemptions from the requirements governing human research.**

In accordance with § 32.1-162.17 of the Code of Virginia, the A. The following categories of human research are not subject to this ~~regulation's~~ chapter's provisions governing human

research. Except ~~when~~ as otherwise provided for by law or regulation, these activities ~~may~~ shall be subject to the nonhuman research review and approval process established by the department.

1. Activities of the Virginia Department of Health conducted pursuant to § 32.1-39 of the Code of Virginia.

2. Research or student learning outcomes assessments conducted in educational settings involving regular or special education instructional strategies; the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods; or the use of educational tests, whether cognitive, diagnostic, aptitude, or achievement, if the data from such tests are recorded in a manner so that subjects cannot be identified, directly or through identifiers linked to the subject.

3. Research involving solely the observation of public behavior, including observation by participants, or research involving survey or interview procedures unless subjects can be identified from the data either directly or through identifiers linked to the subjects, and either:

a. The information about the subject, if it ~~become~~ became known outside the research, ~~could~~ reasonably could place the subject at risk of criminal or civil liability or be damaging to the subject's financial standing or employability; or

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

4. The collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the subjects cannot be identified from the information either directly or through identifiers linked to the subjects.

5. Medical treatment of an experimental nature intended to save or prolong the life of the subject in danger of death, to prevent the subject from becoming disfigured; or physically or mentally incapacitated, or to improve the quality of the subject's life.

B. Pursuant to 45 CFR 46.101, the exemptions outlined in this section shall not apply to research conducted upon individuals involuntarily confined in a penal institution, including individuals committed to a juvenile correctional center or juvenile secure detention center.

C. Pursuant to 45 CFR 46.101, the exemptions outlined in subdivision A 3 of this section shall not apply to research conducted on children who have not attained age 18 years.

**6VAC35-170-100. Proposal for external research.**

A. If the external research is proposed to take place in a particular organizational unit, the principal researcher shall present a preliminary research proposal to the ~~head of that~~

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organizational unit head and get the organizational unit head's endorsement ~~of the proposal, in accordance with procedures established by the department.~~

B. The principal researcher shall submit to the coordinator of external research a complete research proposal describing the research project, and containing:

1. Name, address, telephone ~~numbers~~ number, email address, title, and affiliation of the principal researcher;
2. Name, telephone number, and email address of the person who will ~~immediately supervise~~ coordinate the project, if different from the principal researcher;
3. Funding source, if any;
4. Date of the proposal's submission to the department;
5. Title or descriptive name of the proposed research project;
6. Statement of the specific purpose ~~or purposes~~ of the proposed research project with anticipated results, including benefit to the department;
7. A concise description of the research design and techniques for data collection and analysis; and of the likely effects of the research methodology on existing programs and institutional operations;
8. Timeframes indicating proposed beginning and ending dates for (i) data collection, (ii) analysis, (iii) preliminary report, and (iv) final report;
9. A ~~listing~~ list of resources the researcher will require from the department or its units, such as staff, supplies, materials, equipment, work spaces, or access to clients and files;
10. ~~A~~ The written endorsement from the ~~head of the organizational unit where the research will be conducted, if applicable~~ head in accordance with subsection A of this section;
11. ~~For student research, endorsement from the researcher's academic advisor or other appropriate persons;~~
12. ~~For research involving records of juveniles at state and local court service units, a written endorsement from the appropriate juvenile and domestic relations judge or judges;~~
13. ~~For human research, a~~ 11. A written endorsement from the institutional review board of the institution or organization with which the researcher is affiliated; and
14. ~~For all research projects, a~~ 12. A signed and dated statement that the principal researcher and research staff have read, understand, and agree to abide by these regulations.

## **6VAC35-170-110. Initial review by coordinator of external research.**

The coordinator of external research shall receive all research proposals from external researchers and shall:

1. Ensure that the proposals are in the required format and include all required information;
2. Confirm that the proposal complies with basic research standards and applicable laws; and
3. Refer the proposals to appropriate department personnel for review, which ~~shall include~~, for all proposed human research, shall include the department's ~~human research review committee~~ HRRC.

## **6VAC35-170-130. Human Research Review Committee.**

A. ~~In accordance with § 32.1-162.19 of the Code of Virginia, the~~ The department shall establish a ~~human research review committee~~ an HRRC composed of persons of various backgrounds to ensure the competent, complete, and professional review of human research activities conducted or proposed to be conducted or authorized by the department. No member of the ~~committee~~ HRRC shall be directly involved in the proposed human research or have administrative approval authority over the proposed research except in connection with his role on the ~~committee~~ HRRC.

B. The ~~committee~~ HRRC may ask persons with pertinent expertise and competence to assist in the review of any research proposal or ongoing human research activities.

C. The ~~committee~~ HRRC may require additional information from the researcher before making a recommendation to the director.

## **6VAC35-170-140. Timeline for review of human research proposals.**

A. The ~~Human Research Review Committee will~~ HRCC shall review proposals involving human research within 30 business days of receiving a complete research proposal.

B. At the request of the researcher, the ~~Human Research Review Committee~~ HRRC may conduct an expedited review when the proposed research involves no more than minimal risk to the human subjects and:

1. The proposal has been reviewed and approved by another agency's ~~human research review committee~~ HRRC; or
2. The review involves only minor changes to a previously approved research project ~~that was previously approved~~.

C. A proposal that undergoes expedited review pursuant to subdivision B 2 of this section shall be approved in writing by the chair of the HRRC before the researcher may proceed. Additional review or approval by the director shall not be required.

## **6VAC35-170-150. ~~Committee~~ HRRC review of human research proposals.**

In reviewing the human research proposal, the ~~committee will~~ HRRC shall consider the potential benefits and risks to the human subjects; and shall recommend approval only when ~~the~~

benefits outweigh the risks. In addition, the committee shall recommend approval only when:

1. The benefits to the human subjects outweigh the risks;
2. The methodology is adequate for the proposed research;
- ~~3.~~ 3. The research, if nontherapeutic, presents no more than a minimal risk to the human subjects;
- ~~4.~~ 4. The rights and welfare of the human subjects are adequately protected;
- ~~5.~~ 5. Appropriate provisions have been made to get informed consent from the human subjects, as detailed in 6VAC35-170-160;
- ~~6.~~ 6. The researchers are appropriately qualified;
- ~~7.~~ 7. The criteria and means for selecting human subjects are valid and equitable; and
- ~~8.~~ 8. The research complies with the requirements set out in this regulation and in applicable department policies and procedures chapter.

**6VAC35-170-160. Committee HRRC review of informed consent provisions.**

A. The ~~committee~~ HRRC shall review and approve the consent process and all required consent forms for each proposed human research project before recommending approval to the director.

B. The committee may approve a consent procedure that omits or alters some or all of the basic elements of informed consent; or waives the requirement to get informed consent; if the ~~committee~~ HRRC finds and documents that:

1. ~~Research~~ The research involves no more than a minimal risk to the subjects;
2. The omission, alteration, or waiver will not adversely affect the rights and welfare of the subjects;
3. The research could not ~~practicably~~ practicably be performed without the omission, alteration, or waiver; and
4. After participation, the subjects will be given additional pertinent information; when appropriate.

C. The ~~committee~~ HRRC may waive the requirement that the researcher get written informed consent for some or all subjects if the principal risk would be potential harm resulting from a breach of confidentiality, and the only record linking the subject and the research would be the consent document. The ~~committee~~ HRRC may require the researcher to give the subjects and legally authorized representatives a written statement explaining the research. Further, the researcher shall ask each subject ~~shall be asked~~ whether he wants documentation linking him to the research, and the subject's wishes shall govern.

**6VAC35-170-170. Recommendation to director and final action.**

A. The ~~Human Research Review Committee~~ HRRC shall make a recommendation to the director to deny, approve, or conditionally approve the proposed human research.

B. The director shall approve or deny the proposal within 10 business days of receiving the committee's recommendation.

C. The research agreement shall become effective only after all reviews required by this ~~regulation and department procedures~~ chapter are completed and the director signs the agreement on behalf of the department. The coordinator of external research ~~must~~ shall send a copy of the signed research agreement to the principal researcher before the project may begin.

D. The coordinator of external research shall notify the principal researcher of the director's final decision.

**6VAC35-170-180. Annual review of human research activities.**

The ~~human research review committee~~ HRRC shall review all human research activities at least annually to ensure that they are ~~being~~ conducted in conformance with the proposals as approved by the director.

**6VAC35-170-185. Researcher noncompliance.**

A. The researcher shall report noncompliance with the approved research proposal to the ~~Human Research Review Committee~~ HRRC and the institutional review board.

B. ~~Research~~ If the HRRC determines that the research activities identified by the department or the Human Research Review Committee as failing fail to comply with the approved proposal or ~~in violation of~~ violate the Code of Virginia or the Virginia Administrative Code, ~~the department may result in the department restricting~~ (i) restrict or terminating terminate further research ~~and the department may~~ (ii) prohibit the researcher from presenting or publishing the research results, or (iii) bar the researcher from conducting future studies.

**6VAC35-170-190. Committee reports required.**

A. In accordance with § 66-10.1 of the Code of Virginia, the ~~Human Research Review Committee~~ HRRC shall submit to the Governor, the General Assembly, and the director at least annually a report on human research projects approved by the ~~committee~~ HRRC and the status of such research, including any significant deviation from the proposals as approved.

B. The ~~Human Research Review Committee~~ HRRC ~~also annually~~ submit annually to the Board of Juvenile Justice the same report as required by subsection A of this section.

C. The HRRC shall ensure that an overview of the report required in subsection A of this section, containing a summary of approved human research projects and the results of such projects, is posted on the department's website unless

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otherwise exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia).

## **6VAC35-170-200. Progress reports.**

A. The department may require periodic reports on the progress of any research project. The principal researcher shall be responsible for providing such reports, and any supplementary information requested by the department, ~~in a timely manner.~~

B. The researcher shall submit an annual progress report to the coordinator of external research when the research is not completed within one year of approval.

## **6VAC35-170-220. Final report.**

A. The department shall require ~~that the principal researcher to submit a formal final report be submitted~~ to the coordinator of external research and may require up to 10 copies of the report.

B. The report shall contain, unless waived by the director or designee, ~~contain~~ the following statement:

"The findings of this study are the responsibility of the researchers, and cooperation by the Virginia Department of Juvenile Justice in facilitating this research should not be construed as an endorsement of the conclusions drawn by the researchers."

## **6VAC35-170-230. Written procedures.**

A. The department shall establish written procedures regarding the process for obtaining the organizational unit head's endorsement for any external research proposal, as required in 6VAC35-170-100.

B. The department may establish written procedures that outline additional requirements for the submission, approval, and review of research projects and data requests authorized in this chapter. The written procedures also may identify additional data elements that the department deems to be sensitive data.

C. The department shall ensure that any written procedures established pursuant to this chapter are posted on the agency website.

**NOTICE:** The following forms used in administering the regulation have been filed by the agency. Amended or added forms are reflected in the listing and are published following the listing. Online users of this issue of the Virginia Register of Regulations may also click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

FORMS (6VAC35-170)

[Research Agreement \(rev. 1/2016\)](#)

[Research Proposal Summary \(rev. 1/2016\)](#)

[Confidentiality Agreement \(eff. 2/2021\)](#)

VA.R. Doc. No. R21-5603; Filed February 1, 2021, 9:38 a.m.

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## **TITLE 8. EDUCATION**

### **STATE BOARD OF EDUCATION**

#### **Fast-Track Regulation**

**Title of Regulation:** **8VAC20-23. Licensure Regulations for School Personnel (amending 8VAC20-23-10, 8VAC20-23-20, 8VAC20-23-40, 8VAC20-23-50, 8VAC20-23-90, 8VAC20-23-100, 8VAC20-23-110, 8VAC20-23-130, 8VAC20-23-190, 8VAC20-23-720).**

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

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

**Public Comment Deadline:** March 31, 2021.

**Effective Date:** April 15, 2021.

**Agency Contact:** Patty Pitts, Assistant Superintendent for Teacher Education and Licensure, State Board of Education, 101 North 14th Street, Richmond, VA 23219, telephone (804) 371-2522, or email [patty.pitts@doe.virginia.gov](mailto:patty.pitts@doe.virginia.gov).

**Basis:** Section 22.1-16 of the Code of Virginia authorizes the State Board of Education to promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of Title 22 of the Code of Virginia. In addition, this action is taken pursuant to legislative changes to the following sections of the Code of Virginia enacted in the 2017 through 2020 Sessions of the General Assembly: (i) in 2017, §§ 22.1-298.1 and 22.1-307; (ii) in 2018, §§ 22.1-298.1, 22.1-299, 22.1-299.5, and 22.1-299.6; and (ii) in 2019, §§ 22.1-298.1, 22.1-298.2, 22.1-305.2, and 23.1-902.

**Purpose:** The amendments to the regulations are required to comport with legislation enacted in the 2017 through 2020 Sessions of the General Assembly. The proposed changes to this regulation are required to comport with legislation passed by the Virginia General Assembly. The alignment of the regulations ensures compliance with the Code of Virginia and that teacher licensure applicants have access to the most current information when they apply. These proposed changes benefit the public's health, safety and welfare by ensuring that applicants are highly qualified and that licenses are not issued erroneously.

**Rationale for Use of Fast-Track Rulemaking Process:** The regulatory changes are required by the Virginia General Assembly. The requirements are noncontroversial as all requirements are mandated by the General Assembly.

**Substance:** The following are the chapters and summaries of the substantive provisions mandated by the General Assembly:

2017 Acts of Assembly - Chapters 247 and 255 permit each local school board or division superintendent to waive certain enumerated licensure requirements for any individual whom it seeks to employ as a career and technical education teacher and who is also seeking initial licensure or renewal of a license with an endorsement in the area of career and technical education. Chapter 783 specifies that the certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators that is required of every person seeking initial licensure or renewal of a license as a teacher shall include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. Chapter 688 exempts from any professional teacher's assessment requirements any individual who has obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education, subject to the approval of the division superintendent or the school board in the school division in which such individual is employed. (Section 22.1-298.1 of the Code of Virginia regarding reciprocity was also amended in the 2018 Session of the General Assembly.) Chapter 240 requires the State Board of Education to include in its regulations governing the licensure of teachers and other school personnel procedures for the immediate and thorough investigation by the division superintendent or the division superintendent's designee of any complaint alleging that a license holder has engaged in conduct that may form the basis for the revocation of the license holder's license, including requirements for (i) the division superintendent to petition for the revocation of the license upon completing such investigation and finding that there is reasonable cause to believe that the license holder has engaged in conduct that forms the basis for revocation of a license; (ii) the school board to proceed to a hearing on such petition for revocation within 90 days of the mailing of a copy of the petition to the license holder, unless the license holder requests the cancellation of his license in accordance with board regulations; and (iii) the school board to provide a copy of the investigative file and such petition for revocation to the Superintendent of Public Instruction at the time that the hearing is scheduled. The bill clarifies that in the case of a teacher who is or becomes the subject of a founded complaint of child abuse and neglect, such teacher shall be dismissed after all rights to any administrative appeal have been exhausted. Chapter 520 requires every person seeking initial licensure or renewal of a license with an endorsement as a school counselor to complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse.

2018 Acts of Assembly - Chapters 745 and 746 require the State Board of Education to provide for teacher licensure by reciprocity for any spouse of an active duty member of the Armed Forces of the United States or the Commonwealth who has obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the

application for a Virginia license is received by the Department of Education. The chapters provide that no service requirements or licensing assessments shall be required for any such individual. Chapter 747 requires the State Board of Education, in its regulations providing for teacher licensure by reciprocity, to permit applicants to submit third-party employment verification forms. Chapter 711 requires the board to establish an experiential route to licensure, issuing a one-year renewable license. Chapters 748 and 749 make several changes to the teacher licensure process, including (i) permitting teachers with a valid out-of-state license, with full credentials and without deficiencies, to receive licensure by reciprocity without passing additional licensing assessments and (ii) permitting a local school board or division superintendent to waive certain licensure requirements for any individual who holds a provisional license and is employed by the local school board.

On January 24, 2019, the Board of Education approved 270 professional development points for license renewal for a 10-year renewable license and approved including in the Licensure Renewal Manual the following maximum professional development points for each option until the renewal requirements are comprehensively reviewed. Individuals who hold a five-year renewable license must complete 180 professional development points. All statutory requirements for renewal shall be required. The points are College Credit 270 points, Professional Conference 60 points, Curriculum Development 135 points, Publication of Article 135 points, Publication of Book 135 points, Mentor/Supervision 135 points, Educational Project 135 points, and Professional Development Activities 270 points.

2019 Acts of Assembly - Chapter 767 grants to the Chancellor of the Virginia Community College System voting privileges as a member of the Advisory Board on Teacher Education and Licensure (the Advisory Board). The chapter requires the Advisory Board to report to the Board of Education and the Chairmen of the House Committee on Education and the Senate Committee on Education and Health no later than December 1, 2019, recommendations relating to licensure qualifications for individuals employed by an institution of higher education to teach (i) career and technical education courses in a high school setting and (ii) dual enrollment courses in a high school setting. The chapter also requires the State Board of Education to provide for the issuance of a three-year license to solely teach career and technical education courses or dual enrollment courses at public high schools in the Commonwealth to any individual who is employed as an instructor by an institution of higher education that is accredited by a nationally recognized regional accreditation body, is teaching in the specific career and technical education or dual enrollment subject area at such institution in which the individual seeks to teach at a public school, and complies with certain additional requirements. Chapters 63 and 407 require the State Board of Education to issue a license to an individual seeking initial licensure who has not completed the

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professional assessments prescribed by the board, if such individual (i) holds a provisional license that will expire within three months; (ii) is employed by a school board; (iii) is recommended for licensure by the division superintendent; (iv) has attempted, unsuccessfully, to obtain a qualifying score on the professional assessments prescribed by the board; (v) has received an evaluation rating of proficient or above on the performance standards for each year of the provisional license, and such evaluation was conducted in a manner consistent with the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents; and (vi) meets all other requirements for initial licensure. Chapter 409 requires the State Board of Education in its regulations providing for licensure by reciprocity to grant special consideration to individuals who have successfully completed a program offered by a provider that is accredited by the Council for the Accreditation of Educator Preparation.

Issues: The regulatory revisions need to be made to ensure the public is informed of amended provisions of the Code of Virginia. Chapter 767 of the 2019 Acts of Assembly provides the Chancellor of the Virginia Community College voting privileges as a member of the Advisory Board on Teacher Education and Licensure. Other significant changes expand reciprocity for individuals who apply for licensure in Virginia, require hands-on Cardiopulmonary Resuscitation (CPR), created a One-Year High School License and a Career and Technical Education or Dual Language Endorsement License, and make technical revisions to the section of the Licensure Regulations for School Personnel governing the revocation, denial, and cancellation and suspension of teaching licenses.

The licensure regulations changes do not disadvantage the public or Commonwealth.

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

Summary of the Proposed Amendments to Regulation: The Board of Education (Board) proposes to amend 8 VAC 20-23 Licensure Regulations for School Personnel to reflect 2016, 2017, 2018, 2019, and 2020 Acts of Assembly.

Background. Except for where noted, the proposal essentially inserts text from the legislation described below into the regulation.

Length of Renewable Licenses and Professional Development Points - Chapters 748 and 749 of the 2018 Acts of Assembly changed the length of time for renewable licenses from five to ten years.<sup>1</sup> The second enactment clause of the chapters states "That the Board of Education shall amend its regulations for the establishment of requirements for teacher licensure renewal set forth in 8VAC20-22-110 to require teachers to complete no more than 360 professional development points within the 10-year license renewal period established by this act." The Board proposes to require 270 professional development points within a ten-year period to renew the license.

Provisional Licenses - Chapters 748 and 749 of the 2018 Acts of Assembly also state that the Board shall extend for at least one additional year, but for no more than two additional years, the three-year Provisional License of a teacher upon receiving from the division superintendent (i) a recommendation for such extension and (ii) satisfactory performance evaluations for such teacher for each year of the original three-year Provisional License.

Chapter 63 and 407 of the 2019 Acts of Assembly<sup>2</sup> states that the Board shall issue another Provisional License to an individual seeking initial licensure who has not completed professional assessments as prescribed by the Board, if such individual (i) holds a Provisional License that will expire within three months; (ii) is employed by a school board; (iii) is recommended for licensure by the division superintendent; (iv) has attempted, unsuccessfully, to obtain a qualifying score on the professional assessments as prescribed by the Board; (v) has received an evaluation rating of proficient or above on the performance standards for each year of the provisional license, and such evaluation was conducted in a manner consistent with the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents; and (vi) meets all other requirements for initial licensure.

One-Year High School License - Chapter 711 of the 2018 Acts of Assembly<sup>3</sup> created a one-year annually renewable license to teach in public high schools. The candidate must have: 1) received a graduate degree from a regionally accredited institution of higher education, 2) completed at least 30 credit hours of teaching experience as an instructor at a regionally accredited institution of higher education, 3) received qualifying scores on the professional teacher's assessments prescribed by the Board, including the communication and literacy assessment and the content-area assessment for the endorsement sought, 4) completed study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services, and 5) completed certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators.<sup>4</sup>

Career and Technical Education, Dual Enrollment - Chapters 247 and 255 of the 2017 Acts of Assembly<sup>5</sup> state that a local school board or division superintendent may waive any of the following applicable licensure requirements for any individual whom it seeks to employ as a career and technical education teacher and who is also seeking initial licensure or renewal of a license with an endorsement in the area of career and technical education: 1) demonstrated proficiency in the relevant content area, communication, literacy, and other core skills for educators by achieving a qualifying score on professional assessments or meeting alternative evaluation standards as prescribed by the Board, 2) study in attention deficit disorder, 3) study in gifted education, including the use of multiple criteria to identify gifted students, 4) study in



methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school, 5) renewal requirements, including professional development in a manner prescribed by the Board, 6) demonstrated proficiency in reading and writing Braille, and 7) initial or renewal requirement to complete awareness training, provided by the Department of Education (DOE), on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia.

Chapter 651 of the 2016 Acts of Assembly<sup>6</sup> established a three-year Career and Technical Education License. The three-year license is issued to teach high school career and technical education courses in a specific subject area to an individual who: 1) is recommended for the license by a local school board, 2) meets certain basic conditions for licensure as prescribed by the Board,<sup>7</sup> 3) holds a relevant baccalaureate degree, professional license, or industry certification credential,<sup>8</sup> 4) has at least four years of full-time work experience or its equivalent in the specific career and technical education subject area in which the individual seeks to teach, and 5) if appropriate, has obtained qualifying scores on the communication and literacy professional teacher's assessment prescribed by the Board. The employing local board is required to assign a mentor to supervise the individual issued the Career and Technical Education License. Chapter 651 specified that the individual so licensed was to teach for no more than 50 percent of the instructional day or year, on average. Chapters 748 and 749 of the 2018 Acts of Assembly removed that restriction.

Chapter 767 of the 2019 Acts of Assembly<sup>9</sup> established the Career and Technical Education or Dual Enrollment License. The Career and Technical Education or Dual Enrollment License is a three-year license to solely teach career and technical education courses or dual enrollment courses at public high schools in the Commonwealth issued to any individual who (i) is employed as an instructor by an institution of higher education that is accredited by a nationally recognized regional accreditation body, (ii) is teaching in the specific career and technical education or dual enrollment subject area at such institution in which the individual seeks to teach at a public school, and (iii) complies with the requirements set forth in subsections E and F of 8VAC20-23-40. Such instructor must maintain continuous employment in such position at the institution of higher education as a condition of continued licensure. The statutory authority for issuing this license shall expire on July 1, 2021; however, any such license issued prior to July 1, 2021, shall remain in effect for three years from the date it was issued unless such license is revoked by the Board.

Licensure by Reciprocity - Chapters 745 and 746 of the 2018 Acts of Assembly<sup>10</sup> state that licensure by reciprocity is provided for any spouse of an active duty member of the Armed Forces of the United States or the Commonwealth who has obtained a valid out-of-state license, with full credentials

and without deficiencies, that is in force at the time the application for a Virginia license is received by DOE. Each such individual shall establish a file in DOE by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual.

Chapters 748 and 749 of the 2018 Acts of Assembly state that licensure by reciprocity is provided for individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the DOE. Each such individual shall establish a file in DOE by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual.

Cardiopulmonary Resuscitation - The current regulation requires that every person seeking initial licensure or renewal of a license provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation (CPR), and the use of automated external defibrillators. The certification or training program shall be based on the current national evidence-based emergency cardiovascular care guidelines for CPR and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross. Chapter 783 of the 2017 Acts of Assembly<sup>11</sup> added that the training must include hands-on practice of the skills necessary to perform CPR.

School Counselors - Chapter 520 of the 2017 Acts of Assembly<sup>12</sup> established that every person seeking initial licensure or renewal of a license with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse.

Training Concerning Student Behavior - Chapter 870 of the 2020 Acts of Assembly<sup>13</sup> states that every person seeking initial licensure as a teacher who has not received the instruction described in subsection D of § 23.1-902 of the Code of Virginia<sup>14</sup> shall receive instruction or training on positive behavior interventions and supports, crisis prevention and de-escalation, the use of physical restraint and seclusion, consistent with regulations of the Board, and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion.

Estimated Benefits and Costs.

Length of Renewable Licenses and Professional Development Points - The doubling of the length of renewable licenses from five to ten years saves time and effort for licensees by only requiring them to assemble renewal applications half as often. Renewal fees are not in the regulation, but the Board did double the fees (from \$25 to \$50). Thus, the fee cost per year stays the same.

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Under the current regulation, the requirement for renewing the five-year license is 180 professional development points. The Board's proposal to require 270 professional development points within the ten-year period to renew the license effectively reduces burden on licensees. When 180 professional development points are required over five years, that is 36 professional development points per year. When 270 professional development points are required over ten years, that is 27 professional development points per year.

**Provisional Licenses** - The enabling of the extension, or essentially the one-time renewal of a Provisional License, is beneficial for teachers who have difficulty fulfilling all of the requirements for full licensure. In practice, these teachers are granted extra time to fulfill all such requirements. Given the ongoing teacher shortage,<sup>15</sup> the increase in time allowed with a Provisional License helps alleviate the shortage to a degree.

**One-Year High School License** - The One-Year High School License makes it easier for people with experience teaching college to become licensed to teach high school. This may also help alleviate the teacher shortage to a degree.

**Career and Technical Education, Dual Enrollment** - The provision to allow the waiving of applicable licensure requirements for any individual whom it seeks to employ as a career and technical education teacher, and the introduced Career and Technical Education License, were both intended to help alleviate the shortage of career and technical education teachers. According to DOE, no school board or division superintendent has requested that requirements be waived for their career and technical education teachers since that provision became effective in 2017, and no applications have been received for the Career and Technical Education License since it was established in 2018.

**Licensure by Reciprocity** - The new licensure by reciprocity effectively differs from the existing language in one regard, teaching experience. The current regulation requires a minimum of three years of full-time, successful teaching experience in order for an individual with an out-of-state license with full credentials and without deficiencies to be granted Virginia licensure. The language proposed to be added to the regulation from Chapters 745, 746, 748 and 749 of the 2018 Acts of Assembly does not require a specific amount of teaching experience. This may also help alleviate the teacher shortage to a degree in that more individuals with valid out-of-state licenses would qualify for Virginia licensure.

**CPR** - Prior to Chapter 783 of the 2017 Acts of Assembly, the training requirement for CPR could be satisfied with an online course. Now, as discussed above, the training must include hands-on practice of the skills necessary to perform CPR. An all online course costs about \$35 and takes approximately 2 hours 10 minutes to complete. An online and classroom course with hands-on practice with a qualified instructor costs about \$79 and takes about 3 hours and 35 minutes plus travel time to and from the class.<sup>16</sup> Though the course with hands-on practice with a qualified instructor is more expensive, it seems likely

that there would be greater assurance that the individual taking the training could perform CPR correctly.

**School Counselors** - According to DOE, training in the recognition of mental health disorders and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse is available for free for school counselors through online modules. Thus, the only cost for the school counselors from the required training would be their time to complete the modules.

**Training Concerning Student Behavior** - The requirement that every person seeking initial licensure as a teacher who has not received the instruction described in subsection D of §23.1-902 of the Code of Virginia<sup>17</sup> shall receive such instruction or training can also be satisfied through free online modules.<sup>18</sup> Similarly, the only cost for the required training would be the time to complete the modules.

**Businesses and Other Entities Affected.** The proposed amendments affect the 132 local school divisions in the Commonwealth, teachers, and school counselors. School divisions that are particularly affected by teacher shortages may be particularly affected by the changes that introduce new paths to licensure or extend the length of provisional licensure.

**Small Businesses<sup>19</sup> Affected.** The proposed amendments do not appear to adversely affect small businesses.

**Localities<sup>20</sup> Affected.<sup>21</sup>** The proposal affects all Virginia localities in that all have public schools. Localities that have school divisions that are particularly affected by teacher shortages may be particularly affected by the changes that introduce new paths to licensure or extend the length of provisional licensure. The proposal would not likely substantively increase costs for local governments.

**Projected Impact on Employment.** The proposed amendments do not appear to affect total employment.

**Effects on the Use and Value of Private Property.** The proposed regulation would not likely have a substantive effect on the use and value of private property.

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<sup>1</sup>See Chapter 748: [https://lis.virginia.gov/cgi-bin/legp604.exe?181\\_fulCHAP0748](https://lis.virginia.gov/cgi-bin/legp604.exe?181_fulCHAP0748). Chapter 749 is identical.

<sup>2</sup>See Chapter 63: [https://lis.virginia.gov/cgi-bin/legp604.exe?191\\_fulCHAP0063](https://lis.virginia.gov/cgi-bin/legp604.exe?191_fulCHAP0063). Chapter 407 is identical.

<sup>3</sup>See Chapter 711: [https://lis.virginia.gov/cgi-bin/legp604.exe?181\\_fulCHAP0711](https://lis.virginia.gov/cgi-bin/legp604.exe?181_fulCHAP0711)

<sup>4</sup>The certification or training program shall be (i) based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. The Board shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training.

<sup>5</sup>See Chapter 247: [https://lis.virginia.gov/cgi-bin/legp604.exe?171\\_fulCHAP0247](https://lis.virginia.gov/cgi-bin/legp604.exe?171_fulCHAP0247). Chapter 255 is identical.

<sup>6</sup>See Chapter 651: <https://lis.virginia.gov/cgi-bin/legp604.exe?161 ful CHAP0651&161 ful CHAP0651>

<sup>7</sup>The "certain basic conditions" are not specified in either the Code of Virginia or the proposed regulation.

<sup>8</sup>Specifically, the candidate must: (i) hold, at a minimum, a baccalaureate degree from a regionally accredited institution of higher education and has completed coursework in the career and technical education subject area in which the individual seeks to teach, (ii) hold the required professional license in the specific career and technical education subject area in which the individual seeks to teach, where applicable, or (iii) hold an industry certification credential, as that term is defined in § 22.1-298.1 of the Code of Virginia, in the specific career and technical education subject area in which the individual seeks to teach.

<sup>9</sup>See Chapter 767: <https://lis.virginia.gov/cgi-bin/legp604.exe?191 ful CHAP0767>

<sup>10</sup>See Chapter 745: <https://lis.virginia.gov/cgi-bin/legp604.exe?181 ful CHAP0745>. Chapter 746 is identical.

<sup>11</sup>See Chapter 783: <https://lis.virginia.gov/cgi-bin/legp604.exe?171 ful CHAP0783>

<sup>12</sup>See Chapter 520: <https://lis.virginia.gov/cgi-bin/legp604.exe?171 ful CHAP0520>

<sup>13</sup>See Chapter 870: <https://lis.virginia.gov/cgi-bin/legp604.exe?201 ful CHAP0870>

<sup>14</sup>See §23.1-902: <https://law.lis.virginia.gov/vacode/23.1-902/>

<sup>15</sup>Source: DOE. See [https://www.doe.virginia.gov/teaching/workforce\\_data/index.shtml](https://www.doe.virginia.gov/teaching/workforce_data/index.shtml) and

<https://www.education.virginia.gov/media/governorvirginiagov/secretary-of-education/pdf/final-acts-report.pdf>

<sup>16</sup>Data source: <https://www.redcross.org/take-a-class/cpr/cpr-training>

<sup>17</sup>Specifically, instruction on positive behavior interventions and supports, crisis prevention and de-escalation, the use of physical restraint and seclusion, consistent with regulations of the Board, and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion

<sup>18</sup>See <https://www.odu.edu/eps/programs/ciees/initiatives/restraint-and-seclusion.html>

<sup>19</sup>Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

<sup>20</sup>"Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>21</sup>§ 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

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

### Summary:

*The action conforms the regulations to legislation enacted in the 2017, 2018, and 2019 Sessions of the General Assembly, as follows: Chapters 240, 247, 255, 520, 688, and 783 of the 2017 Acts of Assembly; Chapters 711, 745, 746, 747, 748, and 749 of the 2018 Acts of Assembly; and Chapters 63, 407, 409, and 767 of the 2019 Acts of Assembly regarding teacher licensure.*

## 8VAC20-23-10. Definitions.

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

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

"Accredited virtual school or program" means a virtual school or program accredited by one of the accrediting agencies recognized by the Virginia Department of Education. School divisions operating as multi-division online providers may be deemed as meeting accreditation requirements if a majority of their schools are fully accredited by the Virginia Board of Education.

"Alternate route to licensure" means a nontraditional route to licensure available to individuals who meet the criteria specified in guidelines developed by the board or 8VAC20-23-90.

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

"Cancellation" means the withdrawal of a license following the voluntary return of the license by the license holder.

"Career and Technical Education License" means a three-year license available to qualified individuals to teach, either full time or part time, high school career and technical education courses in specific subject areas who meet requirements set forth in this chapter. Individuals issued a three-year Career and Technical Education License shall not be eligible for continuing contract status while teaching under such license and shall be subject to the probationary terms of employment specified in § 22.1-303 of the Code of Virginia.

"Certified program provider" means a provider certified by the Virginia Department of Education to provide preparation and training for applicants seeking the Provisional License specified in 8VAC20-23-90.

"Career and Technical Education or Dual Enrollment License" means a three-year license to solely teach career and technical education courses or dual enrollment courses at public high schools in the Commonwealth issued to any individual who (i) is employed as an instructor by an institution of higher education that is accredited by a nationally recognized regional accreditation body, (ii) is teaching in the specific career and technical education or dual enrollment subject area at such institution in which the individual seeks to teach at a public school, and (iii) complies with the requirements set forth in subdivisions D 1 and D 3 of § 22.1-298.1 of the Code of Virginia. The Virginia Board of Education shall require any such instructor to maintain

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continuous employment in such position at the institution of higher education as a condition of continued license. The provisions of this regulation shall expire on July 1, 2021, however, any license issued pursuant to the act prior to July 1, 2021, shall remain in effect for three years from the date it was issued unless such license is revoked by the Virginia Board of Education.

"Collegiate Professional License" means a ~~five-year~~ 10-year, renewable teaching license available to an individual who has satisfied all requirements for licensure set forth in this chapter, including an earned baccalaureate degree from a regionally accredited college or university and the professional teacher's assessments prescribed by the Virginia Board of Education.

"Denial" means the refusal to grant a license.

"Division Superintendent License" means a ~~five-year~~ 10-year, renewable license available to an individual who has completed an earned master's degree from a regionally accredited college or university and meets the requirements specified in 8VAC20-23-630. The individual's name shall be listed on the Virginia Board of Education's list of eligible division superintendents.

"Experiential learning" means a process of applying for an initial license through the alternate route as prescribed by the Virginia Board of Education and meeting the criteria specified in 8VAC20-23-90 E to be eligible to request experiential learning credits in lieu of the coursework for the endorsement (teaching) content area.

"Industry certification credential" means an active career and technical education credential that is earned by successfully completing a Virginia Board of Education-approved industry certification examination, being issued a professional license in the Commonwealth, or successfully completing an occupational competency examination.

"International Educator License" means a professional teaching license issued for no more than five years to an exchange teacher with citizenship in a nation other than the United States of America who meets requirements by a state-approved, federally-designated Exchange Visitor Program and who is employed as a teacher in a Virginia public school or an accredited nonpublic school.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into Virginia from another state when that individual meets certain conditions specified in this chapter.

"Mentor" means a classroom teacher hired by the local school division who has achieved continuing contract status or other instructional personnel including retired teachers who meet local mentor selection criteria. The mentor should work in the same building as the beginning teacher or be instructional personnel who is assigned solely as a mentor. A mentor should be assigned a limited number of teachers at any time.

Instructional personnel who are not assigned solely as mentors should not be assigned to more than four teachers at any time. Mentors guide teachers in the program through demonstrations, observations, and consultations.

"One-Year High School License" means a license valid for one-year and renewable thereafter in one-year increments to teach in public high schools for individuals who have met requirements for such license as set forth in this chapter.

"Online Teacher License" means a ~~five-year~~ 10-year, renewable license valid only for teaching online courses. Teachers who hold a five-year or 10-year renewable license issued by the Virginia Board of Education may teach online courses for which they are properly endorsed and do not need to seek this license.

"Postgraduate Professional License" means a ~~five-year~~ 10-year, renewable license available to an individual who has qualified for the Collegiate Professional License and who holds an appropriate earned graduate degree from a regionally accredited college or university.

"Professional studies" means courses and other learning experiences designed to prepare individuals in the areas of human development and learning, curriculum and instruction, assessment of and for learning, classroom and behavior management, foundations of education and the teaching profession, language and literacy, and supervised clinical experiences.

"Professional teacher assessment" means those tests or other requirements mandated for licensure as prescribed by the Virginia Board of Education.

"Provisional License" means a nonrenewable license valid for a specified period of time not to exceed three years issued to an individual who has allowable deficiencies for full licensure as set forth in this chapter. The individual shall have a minimum of an earned baccalaureate degree from a regionally accredited college or university, with the exception of those individuals seeking the Technical Professional License. The Provisional License will be issued for a three-year validity period, with the exception of the Provisional (Career Switcher) License that will be initially issued for a one-year validity period and Teach For America Provisional License that will be initially issued for a two-year validity period. Individuals shall complete all requirements for licensure, including passing all licensure assessments, for a renewable license within the validity period of the Provisional License.

"Pupil Personnel Services License" means a ~~five-year~~ 10-year, renewable license available to an individual who has earned an appropriate graduate degree from a regionally accredited college or university with an endorsement as a school counselor, school psychologist, school social worker, or vocational evaluator. This license does not require teaching experience unless otherwise outlined under the specific endorsement's requirements.

"Renewable license" means a license issued by the Virginia Board of Education for ~~five~~ 10 years, unless otherwise specified, to an individual who meets all requirements specified in this chapter.

"Revocation" means the withdrawal of a license.

"School Manager License" means a ~~five-year~~ 10-year, renewable license intended to provide for a differentiation of administrative responsibilities in a school setting. A school manager is licensed to administer noninstructional responsibilities in an educational setting. A school manager is restricted from evaluating teachers, supervising instruction, developing and evaluating curriculum, and serving as a school's student disciplinarian. The license is available to a candidate who holds a baccalaureate degree from a regionally accredited college or university; has three years of successful managerial experience; and is recommended for the license by a Virginia school division superintendent.

"Suspension" means the temporary withdrawal of a license.

"Technical Professional License" means a ~~five-year~~ 10-year, renewable license available to an individual who has graduated from a public or accredited nonpublic high school (or possesses a Virginia Board of Education-approved high school equivalency credential); has exhibited academic proficiency, technical competency, and successful occupational experience; and meets the requirements specified in 8VAC20-23-50 A 4.

"Teach For America License" means a two-year provisional license available to an individual who is a participant in Teach For America and meets the requirements specified in 8VAC20-23-50.

### **8VAC20-23-20. Administering this chapter.**

A. In administering this chapter, modifications may be made in exceptional cases by the Superintendent of Public Instruction. Proposed modifications shall be made in writing to the Superintendent of Public Instruction, Commonwealth of Virginia, Virginia Department of Education, P.O. Box 2120, Richmond, Virginia 23218-2120.

B. In administering this chapter, competencies required for endorsement areas are outlined in the Regulations Governing the Review and Approval of Education Programs in Virginia (8VAC20-543). This document should be referenced for detailed information regarding coursework content for endorsements. Individuals shall complete the semester hours required for endorsement areas, or the equivalent, that shall be documented and approved by the Virginia Department of Education.

C. Virginia school divisions may submit requests to the Virginia Department of Education for determination of appropriate endorsements for blended or integrated course options.

D. A local school board or division superintendent may waive any of the following applicable licensure requirements for any individual whom it seeks to employ as a career and technical education teacher and who is also seeking initial licensure or renewal of a license with an endorsement in the area of career and technical education:

1. Demonstrated proficiency in the relevant content area, communication, literacy, and other core skills for educators by achieving a qualifying score on professional assessments or meeting alternative evaluation standards as prescribed by the Virginia Board of Education;

2. Study in attention deficit disorder;

3. Study in gifted education, including the use of multiple criteria to identify gifted students;

4. Study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school;

5. Renewal requirements, including professional development in a manner prescribed by the Virginia Board of Education;

6. Demonstrated proficiency in reading and writing Braille; and

7. Initial or renewal requirement to complete awareness training, provided by the Virginia Department of Education, on the indicators of dyslexia, as that term is defined by the Virginia Board of Education pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia.

E. Upon the effective date of this chapter, the Virginia Board of Education grants a one-year transition period for the implementation of this chapter.

### **8VAC20-23-40. Conditions for licensure.**

A. Applicants for licensure shall:

1. Be at least 18 years of age;

2. Pay the appropriate fees as determined by the Virginia Board of Education and complete the application process;

3. Have earned a baccalaureate degree, with the exception of the Technical Professional License, from a regionally accredited college or university and meet requirements for the license sought. Persons seeking initial licensure through approved programs from Virginia institutions of higher education shall only be licensed as instructional personnel if the education endorsement programs have approval by the Virginia Board of Education; individuals who have earned a degree from an institution in another country shall hold the equivalent of a regionally accredited college or university degree in the United States, as verified by a Virginia Department of Education-approved credential evaluation agency, for the required degree for the license; and

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4. Possess good moral character and be free of conditions outlined in Part VII (8VAC20-23-720 et seq.) of this chapter.

B. All candidates who hold at least a baccalaureate degree from a regionally accredited college or university and who seek an initial Virginia teaching license shall obtain passing scores on professional teacher's assessments prescribed by the Virginia Board of Education. With the exception of the career switcher program that requires assessments as prerequisites, individuals shall complete the professional teacher's assessment requirements within the three-year validity of the initial provisional license. Candidates seeking a Technical Professional License, International Educator License, School Manager License, or Pupil Personnel Services License are not required to take the professional teacher's assessments. Individuals who hold a valid out-of-state license (full credential without deficiencies) and who have completed a minimum of three years of full-time, successful teaching experience in a public or an accredited nonpublic school, kindergarten through grade 12, outside of Virginia are exempt from the professional teacher's assessment requirements. Documentation shall be submitted to verify the school's status as a public or an accredited nonpublic school.

C. All individuals seeking an initial endorsement in early/primary education preK-3, elementary education preK-6, special education-general curriculum, special education-deaf and hard of hearing, special education-blindness and visual impairments, and individuals seeking an endorsement as a reading specialist shall obtain passing scores on a reading instructional assessment prescribed by the Virginia Board of Education.

D. Licensure by reciprocity is set forth in 8VAC20-23-100. A school leaders licensure assessment prescribed by the Virginia Board of Education shall be met for all individuals who are seeking an endorsement authorizing them to serve as principals and assistant principals in the public schools. Individuals seeking an initial administration and supervision endorsement who are interested in serving as central office instructional personnel are not required to take and pass the school leaders licensure assessment prescribed by the Virginia Board of Education.

E. Individuals seeking initial licensure shall demonstrate proficiency in the ~~use of educational technology for instruction, complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Virginia Board of Education in consultation with the Virginia Department of Social Services, and receive professional development in instructional methods tailored to promote student academic progress and effective preparation for the Virginia Standards of Learning end-of-course and end-of-grade assessments relevant content area, communication, literacy, and other core skills for educators by achieving a qualifying score on professional assessments or meeting alternatives evaluation standards as prescribed by the board;~~

complete study in attention deficit disorder; complete study in gifted education, including the use of multiple criteria to identify gifted students; complete study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school.

F. Every person seeking initial licensure shall (i) complete awareness training, provided by the Department of Education on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia; (ii) complete study in child abuse recognition and intervention in accordance with curriculum guidelines, developed by the Virginia Board of Education in consultation with the Virginia Department of Social Services; and (iii) provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall (a) be based on the current national evidenced-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross; and (b) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. The Virginia Board of Education shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training.

G. Every person seeking initial licensure as a teacher who has not received the instruction described in subsection D of § 23.1-902 of the Code of Virginia shall receive instruction or training on positive behavior interventions and supports; crisis prevention and de-escalation; the use of physical restraint and seclusion, consistent with regulations of the Virginia Board of Education; and appropriate alternative methods to reduce and prevent the need for the use of physical restraint and seclusion.

H. The teacher of record for verified credit courses for high school graduation shall hold a Virginia license with the appropriate content endorsement.

~~H. I.~~ Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education shall have an industry certification credential, as defined in 8VAC20-23-10, in the area in which the teacher seeks endorsement. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Virginia Board of Education may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential.

I. ~~J. Effective July 1, 2017, every~~ Every person seeking renewal of a license shall complete awareness training, provided by the Virginia Department of Education, on the

indicators of dyslexia, as that term is defined by the Virginia Board of Education pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia.

K. No teacher who seeks a provisional license shall be required to meet any requirement set forth in subdivision F, G, or I as a condition of such licensure, but each teacher shall complete each such requirement during the first year of provisional licensure.

L. Every person seeking initial licensure of a license with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse.

**8VAC20-23-50. Types of licenses; dating licenses.**

A. The following types of licenses are available:

1. Provisional License. The Provisional License is a nonrenewable license valid for a period not to exceed three years issued to an individual who has allowable deficiencies for full licensure as set forth in this chapter. The Provisional License will be issued for a three-year validity period, with the exceptions of the Provisional (Career Switcher) License that will initially be issued for a one-year validity period and the Provisional Teach For America License issued for a two year validity period. Individuals shall complete all requirements for licensure, including passing all licensure assessments, for a renewable license within the validity period of the Provisional License. The individual shall have a minimum of an earned baccalaureate degree from a regionally accredited college or university, with the exception of those individuals seeking the Technical Professional License.

The Virginia Board of Education shall extend for at least one additional year, but for no more than two additional years, the three-year provisional license of a teacher upon receiving from the division superintendent (i) a recommendation for such extension and (ii) satisfactory performance evaluations for such teacher for each year of the original three-year provisional license. If a teacher employed in the Commonwealth under a provisional license is activated or deployed for military service within a school year (July 1 through June 30), an additional year shall be added to the teacher's provisional license for each school year or portion thereof during which the teacher is activated or deployed. The additional year shall be granted the year following the return of the teacher from deployment or activation.

The Virginia Board of Education shall issue a license to an individual seeking initial licensure who has not completed professional assessments as prescribed by the board if such individual (i) holds a provisional license that will expire within three months; (ii) is employed by a school board; (iii) is recommended for licensure by the division superintendent; (iv) has attempted, unsuccessfully, to obtain

a qualifying score on the professional assessments as prescribed by the Virginia Board of Education; (v) has received an evaluation rating of proficient or above on the performance standards for each year of the provisional license, and such evaluation was conducted in a manner consistent with the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents; and (vi) meets all other requirements for initial licensure.

2. Collegiate Professional License. The Collegiate Professional License is a ~~five-year~~ 10-year, renewable license available to an individual who has satisfied all requirements for licensure, including an earned baccalaureate degree from a regionally accredited college or university and the professional teacher's assessments prescribed by the Virginia Board of Education.

3. Postgraduate Professional License. The Postgraduate Professional License is a ~~five-year~~ 10-year, renewable license available to an individual who has qualified for the Collegiate Professional License and who holds an appropriate earned graduate degree from a regionally accredited college or university.

4. Technical Professional License. The Technical Professional License is a ~~five-year~~ 10-year, renewable license available to a person who has graduated from a public or an accredited nonpublic high school or possesses a Virginia Board of Education-approved high school equivalency credential; has exhibited academic proficiency, skills in literacy and communication, technical competency, and successful occupational experience; has completed nine semester hours of specialized professional studies credit from a regionally accredited college or university; and has completed one year of successful, full-time teaching experience in a public school or accredited nonpublic school in the area of endorsement. The nine semester hours of professional studies coursework shall include three semester hours of human development and learning, three semester hours of curriculum and instruction, and three semester hours of applications of instructional technology or classroom and behavior management. The Technical Professional License is issued at the recommendation of a Virginia employing educational agency in the areas of career and technical education, educational technology, and military science. Individuals seeking an endorsement to teach military science shall have the appropriate credentials issued by the United States military. The employing Virginia educational agency shall ensure the credentials issued by the United States military are active during the period the individual is teaching. In addition to demonstrating competency in the endorsement area sought, the individual shall:

a. Hold a valid license issued by the appropriate Virginia board for those program areas requiring a license and a minimum of two years of successful experience at the



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journeyman level or an equivalent. The employing Virginia educational agency shall ensure that the valid license issued by the appropriate Virginia board for the occupational program area is active during the period the individual is teaching;

b. Have completed a registered apprenticeship program and two years of successful experience at the journeyman level or an equivalent level in the trade; or

c. Have four years of successful work experience at the management or supervisory level or equivalent or have a combination of four years of training and successful work experience at the management or supervisory level or equivalent.

Individuals holding the Technical Professional License who seek the Collegiate Professional or Postgraduate Professional License shall meet the requirements of the respective licenses.

5. School Manager License. The school manager license is a ~~five-year~~ 10-year, renewable license intended to provide for the differentiation of administrative responsibilities in a school setting. A school manager is licensed to administer noninstructional responsibilities in an educational setting. A school manager is restricted from evaluating teachers, supervising instruction, developing and evaluating curriculum, and serving as a school's student disciplinarian. The license is available to a candidate who holds a baccalaureate degree from a regionally accredited college or university, has three years of successful managerial experience, and is recommended for the license by a Virginia school division superintendent.

6. Pupil Personnel Services License. The Pupil Personnel Services License is a ~~five-year~~ 10-year, renewable license available to an individual who has earned an appropriate graduate degree from a regionally accredited college or university with an endorsement for school counselor, school psychologist, school social worker, or vocational evaluator. This license does not require teaching experience, unless otherwise outlined under the specific endorsement's requirements.

7. Division Superintendent License. The Division Superintendent License is a ~~five-year~~ 10-year, renewable license available to an individual who has completed an earned master's degree from a regionally accredited college or university and meets the requirements specified in 8VAC20-23-630. The individual's name shall be listed on the Virginia Board of Education's list of eligible division superintendents.

8. International Educator License. The International Educator License provides a five-year cultural exchange opportunity for Virginia students and international teachers. The International Educator License is a professional teaching license issued for no more than five years to an

exchange teacher with citizenship in a nation other than the United States of America who is employed as a teacher in a Virginia public or accredited nonpublic school. To be issued the five-year, nonrenewable International Educator License, an individual serving as a cultural exchange teacher in Virginia shall:

a. Be employed by a Virginia public or an accredited nonpublic school;

b. Hold non-United States citizenship and be a nonpermanent resident; and

c. Meet the following requirements as verified by a state-approved, federally-designated Exchange Visitor Program (22 CFR Part 62):

(1) Be proficient in written and spoken English;

(2) Demonstrate competence in the appropriate academic subject area or areas by meeting the credential requirements for a qualified teacher in the exchange country;

(3) Hold the United States equivalent of a baccalaureate degree or higher as determined by an approved credential evaluation agency; and

(4) Complete at least two years of successful full-time teaching experience that enables the educator to fulfill a similar assignment in his home country or is comparable to those requirements for Virginia teachers.

If an individual meets requirements of subdivisions 8 a, 8 b, 8 c (1), 8 c (2), and 8 c (3) of this subsection and has completed at least one year, but less than two years, of successful full-time teaching experience that would enable the educator to fulfill a similar assignment in his home country or is comparable to those requirements for Virginia teachers, the International Educator License will be issued for three years with an option to extend the nonrenewable International Educator License for the additional two years upon passing all teacher assessments prescribed by the Virginia Board of Education and a recommendation of the Virginia employing school division or accredited nonpublic school.

Individuals who have been issued an International Educator License who seek a ~~five-year~~ 10-year, renewable license shall meet all licensure and endorsement requirements, including passing applicable assessments prescribed by the Virginia Board of Education.

9. Online Teacher License. The Online Teacher License is a ~~five-year~~ 10-year, renewable license valid only for teaching online courses. Teachers who hold a five-year or 10-year renewable license issued by the Virginia Board of Education may teach online courses for which they are properly endorsed and do not need to seek this license.

a. In order to be issued an Online Teacher License, the individual shall meet the requirements for an endorsement in a content (teaching) area and professional studies and

achieve qualifying scores on professional teacher's assessments as prescribed by the Virginia Board of Education. In addition, the individual shall complete a three-semester-hour course in online instructional procedures.

Online instructional procedures: Three semester hours. Skills in this area shall contribute to an understanding of the principles of online learning and online instructional strategies and the application of skills and the ability to use the Internet for teaching, learning, and management; design, deliver, and support instruction in an online environment; adapt strategies for a variety of course models, such as synchronous and asynchronous; select, adapt, and create rich multimedia for instruction; adapt individualized education program requirements to online course practices, as appropriate; use data to meet individual student's needs; and employ innovative teaching strategies in an online environment. Demonstrated proficiency of advanced skills in the following areas shall be addressed: use of communication technologies to interact with and engage students, parents, and mentors; use of education technologies; management of instructional activities in a technology-mediated environment; and nontraditional content delivery methods.

b. Online teaching experience is not acceptable to meet the full-time teaching experience for other license types, such as a Division Superintendent License, or for endorsements, such as for the reading specialist, school counselor, or administration and supervision endorsements. The Online Teacher License may be issued if requirements have been met as one of the following licenses to individuals teaching only online courses:

(1) Online Teacher (Postgraduate Professional) License - a ~~five-year~~ 10-year, renewable license available to an individual who has qualified for the Online Teacher (Collegiate Professional) License and who holds an appropriate earned graduate degree from a regionally accredited college or university.

(2) Online Teacher (Collegiate Professional) License - a ~~five-year~~ 10-year, renewable teaching license available to an individual who has satisfied all requirements for licensure, including an earned baccalaureate degree from a regionally accredited college or university, endorsement and professional studies requirements, and passed the professional teacher's assessments prescribed by the Virginia Board of Education, or

(3) Online Teacher (Technical Professional) License - a ~~five-year~~ 10-year, renewable teaching license available to an individual who has graduated from a public or an accredited nonpublic high school or possesses a Virginia Board of Education-approved high school equivalency credential; has exhibited academic proficiency, technical competency, and occupational experience; and meets the

requirements specified in subdivision 4 of this subsection. An individual seeking an Online Teacher (Technical Professional) License shall be recommended for the license by a Virginia public school, a Virginia accredited nonpublic school, or an accredited virtual school program.

c. A nonrenewable Online Teacher (Provisional) License may be issued for a period not to exceed three years to an individual who has allowable deficiencies for full licensure as set forth in 8VAC20-23-90 B. The Online (Provisional) License will be issued for three years. The individual shall have a minimum of an earned baccalaureate degree from a regionally accredited college or university, with the exception of those individuals seeking the Technical Professional License. Individuals shall complete all requirements for a renewable Online Teacher License within the validity period of the license.

10. Teach For America License. The Teach For America License is a two-year provisional license.

a. This provisional license is available to any participant in Teach For America, a nationwide nonprofit organization focused on closing the achievement gaps between students in high-income and low-income areas, who submits an application and meets the following requirements:

(1) Holds, at minimum, a baccalaureate degree from a regionally accredited institution of higher education;

(2) Has met the requirements prescribed by the Virginia Board of Education for all endorsements sought or has met the qualifying scores on the content area assessment prescribed by the board for the endorsements sought;

(3) Possesses good moral character according to criteria developed by the Virginia Board of Education;

(4) Has been offered and has accepted placement in Teach For America;

(5) Has successfully completed preservice training and is participating in the professional development requirements of Teach For America, including teaching frameworks, curricula, lesson planning, instructional delivery, classroom management, assessment and evaluation of student progress, classroom diversity, and literacy development;

(6) Has an offer of employment from a local school board to teach in a public elementary or secondary school in the Commonwealth or a preschool program that receives state funds pursuant to subsection C of § 22.1-199.1 of the Code of Virginia; and

(7) Receives a recommendation from the employing school division for a Teach For America License in the endorsement area in which the individual seeks to be licensed.

b. In addition to the criteria set forth in subdivision 10 a of this subsection, any individual who seeks an endorsement

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in early childhood, early/primary, or elementary education shall either (i) agree to complete such coursework in the teaching of language and literacy as may be prescribed by the Virginia Board of Education pursuant to 8VAC20-23-130 during the first year of employment or (ii) achieve a passing score on a reading instructional assessment prescribed by the Virginia Board of Education.

c. Teachers issued a Teach For America provisional license shall not be eligible for continuing contract status while employed under the authority of a Teach For America license and shall be subject to the probationary terms of employment specified in § 22.1-303 of the Code of Virginia.

d. The Virginia Board of Education may extend any Teach For America License for one additional year upon request of the employing school division, provided that no Teach For America License shall exceed a total of three years in length.

e. Notwithstanding any provision of law to the contrary, upon completion of at least two years of full-time teaching experience in a public elementary or secondary school in the Commonwealth or a preschool program that receives state funds pursuant to subsection C of § 22.1-199.1 of the Code of Virginia, an individual holding a Teach For America License shall be eligible to receive a renewable license if he has (i) achieved satisfactory scores on all professional teacher assessments required by the Virginia Board of Education and (ii) received satisfactory evaluations at the conclusion of each year of employment.

f. Notwithstanding any provision of law to the contrary, the Virginia Board of Education shall issue a Teach For America License to any individual who (i) has completed two years of successful teaching in the Teach For America program in another state, (ii) is not eligible to receive a renewable license, and (iii) meets the criteria set forth in subdivision 10 a of this subsection.

## 11. Career and Technical Education License. The Career and Technical Education License is a three-year license.

a. This license is available to qualified individuals to teach, either full time or part time, high school career and technical education courses in specific subject areas.

b. The three-year license is issued to teach high school career and technical education courses in a specific subject area to an individual who:

(1) Submits an application to the Virginia Board of Education, in the form prescribed by the Virginia Board of Education, that includes a recommendation for such a license from the local school board;

(2) Meets certain basic conditions for licensure as prescribed by the Virginia Board of Education;

(3) Meets one of the following requirements:

(a) Holds, at a minimum, a baccalaureate degree from a regionally accredited institution of higher education and has completed coursework in the career and technical education subject area in which the individual seeks to teach.

(b) Holds the required professional license in the specific career and technical education subject area in which the individual seeks to teach, where applicable, or

(c) Holds an industry certification credential, as that term is defined in § 22.1-298.1 of the Code of Virginia, in the specific career and technical education subject area in which the individual seeks to teach;

(4) Has at least four years of full-time work experience or its equivalent in the specific career and technical education subject area in which the individual seeks to teach; and

(5) If appropriate, has obtained qualifying scores on the communication and literacy professional teacher's assessment prescribed by the Virginia Board of Education.

c. The employing school board shall assign a mentor to supervise an individual issued a three-year license pursuant to this section during the individual's first two years of teaching.

d. Except as otherwise provided in subdivision A 11 e of this section, any individual issued a three-year license pursuant to this section may be granted subsequent three-year extensions of such license by the Virginia Board of Education upon recommendation of the local school board.

e. Any individual issued a three-year license pursuant to this section who completes (i) nine semester hours of specialized professional studies credit from a regionally accredited institution of higher education or (ii) an alternative course of professional studies proposed by the local school board and approved by the Virginia Department of Education shall be granted a three-year extension of such license by the board and may be granted subsequent three-year extensions of such license by the board upon recommendation of the local school board. Any such specialized professional studies credit or alternative course of professional studies may be completed through distance learning programs and shall include human growth and development; curriculum, instructional, and technology procedures; and classroom and behavior management.

f. No three-year license issued by the board pursuant to this section shall be deemed a provisional license or a renewable license, as those terms are defined in § 22.1-298.1 of the Code of Virginia.

g. Individuals issued a three-year license pursuant to this section shall not be eligible for continuing contract status while teaching under such license and shall be subject to the probationary terms of employment specified in § 22.1-303 of the Code of Virginia.

h. The provisions of this section and of Virginia Board of Education regulations governing the denial, suspension, cancellation, revocation, and reinstatement of licensure shall apply to three-year licenses.

12. One-Year High School License. The One-Year High School License is for individuals seeking licensure through an alternate route. The license is a renewable, one-year license issued to teach in public high schools for individuals who:

a. Received a graduate degree from a regionally accredited institution of higher education;

b. Completed at least 30 credit hours of teaching experience as an instructor at a regionally accredited institution of higher education;

c. Received qualifying scores on the professional teacher's assessments prescribed by the Virginia Board of Education, including the communication and literacy assessment and the content-area assessment for the endorsement sought; and

d. Met the following requirements:

(1) Complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Virginia Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure route; and

(2) Provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall be (i) based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. The Virginia Board of Education shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training.

The license may be renewed for one year by the submission of an application for renewal and verification from the division superintendent that the individual received a satisfactory performance evaluation.

13. Career and Technical Education or Dual Enrollment License. The Career and Technical Education or Dual Enrollment License is a three-year license to solely teach career and technical education courses or dual enrollment courses at public high schools in the Commonwealth issued to any individual who (i) is employed as an instructor by an institution of higher education that is accredited by a nationally recognized regional accreditation body, (ii) is teaching in the specific career and technical education or

dual enrollment subject area at such institution in which the individual seeks to teach at a public school, and (iii) complies with the requirements set forth in subsections E and F of 8VAC20-23-40. The Virginia Board of Education shall require any such instructor to maintain continuous employment in such position at the institution of higher education as a condition of continued licensure. Subsections E and F of 8VAC20-23-40 shall expire on July 1, 2021, however, any license issued pursuant to this regulation prior to July 1, 2021, shall remain in effect for three years from the date the license was issued unless such license is revoked by the Virginia Board of Education.

B. All licenses will be effective from July 1 in the school year in which the application is made. An employing Virginia public school division, agency, or accredited nonpublic school is required to notify employees in writing at the time of employment of the need to meet appropriate assessment requirements for licensure.

**8VAC20-23-90. Alternate routes to licensure.**

A. Career switcher alternate route to licensure for career professionals - Provisional (Career Switcher) License. An alternate route is available to career switchers who seek teaching endorsements preK through grade 12 with the exception of special education.

1. An individual seeking a Provisional (Career Switcher) License through the career switcher program shall meet the following prerequisite requirements:

a. An application process;

b. An earned baccalaureate degree from a regionally accredited college or university;

c. The completion of requirements for an endorsement in a teaching area or the equivalent through verifiable experience or academic study;

d. At least three years of successful full-time work experience or its equivalent; and

e. Virginia qualifying scores on the professional teacher's assessments as prescribed by the Virginia Board of Education.

2. The Provisional (Career Switcher) License is awarded at the end of Level I preparation for an initial validity period of one school year. All components of the career switcher alternate route for career professionals shall be completed by the candidate.

3. The Level I requirements shall be completed during the course of a single year and may be offered through a variety of delivery systems, including distance learning programs. If an employing agency recommends extending the Provisional (Career Switcher) License for a second year, the candidate will enter Level III of the program. Career switcher programs shall submit program documentation as set forth by the Virginia Department of Education for review

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and be certified every seven years by the Virginia Department of Education.

a. Level I preparation. Intensive Level I preparation includes a minimum of 180 clock hours of instruction, including field experience. This phase includes human development and learning; curriculum and instruction, including technology; language and literacy; specific course content relating to the Virginia Standards of Learning; foundations of education and the teaching profession; classroom and behavior management; and assessment of and for learning.

b. Level II preparation during first year of employment.

(1) Candidate seeks employment in Virginia with the one-year Provisional (Career Switcher) License.

(2) Continued Level II preparation during the first year of employment with a minimum of five seminars that expand the intensive preparation requirements listed in subdivision 3 a of this subsection. The five seminars will include a minimum of 20 cumulative instructional hours. A variety of instructional delivery techniques will be utilized to implement the seminars.

(3) One year of successful, full-time teaching experience in a Virginia public or accredited nonpublic school under a one-year Provisional (Career Switcher) License. A trained mentor shall be assigned to assist the candidate during the first year of employment. Responsibilities of the mentor include the following:

(a) Collaborate with the beginning teacher in the development and implementation of an individualized professional development plan;

(b) Observe, assess, coach, and provide opportunities for constructive feedback, including strategies for self-reflection;

(c) Share resources and materials;

(d) Share best instructional, assessment, and organizational practices; classroom and behavior management strategies; and techniques for promoting varied and effective methods of communication with and among students; and

(e) Provide general support and direction regarding school policies and procedures.

(4) Upon successful completion of the Levels I and II preparation requirements of the career switcher alternate route to licensure program and submission of a recommendation from the employing Virginia educational agency, the candidate will be eligible to apply for a ~~five-year~~ 10-year, renewable license. Renewal requirements for the regular license will be subject to current regulations of the Virginia Board of Education.

c. Level III preparation, if required.

(1) Post preparation, if required, will be conducted by the employing Virginia educational agency to address the

areas where improvement is needed as identified in the candidate's professional improvement plan; and

(2) Upon successful completion of Levels I, II, and, if required, Level III of the career switcher alternate route to licensure program and submission of a recommendation from the employing Virginia educational agency, the candidate will be eligible to receive a ~~five-year~~ 10-year renewable license.

4. Verification of program completion will be documented by the certified program provider and the division superintendent or designee.

5. Certified providers implementing a career switcher program may charge a fee for participation in the program.

B. An alternate route is available to individuals employed by a Virginia educational agency who seek teaching endorsements preK through grade 12. The employing Virginia educational agency may request a nonrenewable Provisional License on behalf of the individual if the individual has completed an allowable portion of professional studies and endorsement requirements. An employed teacher may demonstrate meeting the teaching endorsement requirements by passing a rigorous academic subject test for endorsements in which a test is prescribed by the Virginia Board of Education. This testing option does not apply to individuals (i) who are seeking an early/primary education preK-3 or elementary education preK-6 endorsement, special education endorsements, or a reading specialist endorsement or (ii) who hold a Technical Professional License, Vocational Evaluator License, Pupil Personnel Services License, School Manager License, or Division Superintendent License. This route also is available to individuals who are employed by a Virginia public school, a Virginia accredited nonpublic school, or an accredited virtual school or program and who are seeking the Online Teacher License that is issued to teachers who teach only online courses. The Provisional License will be issued for a validity period not to exceed three years. The Provisional License is a nonrenewable teaching license valid for a period not to exceed three years. Individuals shall complete all licensure requirements to become eligible for the ~~five-year~~ 10-year, renewable license.

1. An individual seeking a license through this alternate route shall have met the following requirements:

a. Entered the teaching field through the alternate route to licensure upon the recommendation of the employing Virginia educational agency. For the Online Teacher Provisional License, individuals shall be employed by a Virginia public school division, a Virginia accredited nonpublic school, or an accredited virtual school or program;

b. Earned a baccalaureate degree from a regionally accredited college or university with the exception of individuals seeking the Technical Professional License;

- c. Have met requirements for the endorsement area; and
- d. Need to complete an allowable portion of professional studies and licensure requirements.

2. The professional studies requirements for the appropriate level of endorsement sought shall be completed. A Virginia educational agency may submit to the Superintendent of Public Instruction for approval an alternate program to meet the professional studies requirements. The alternate program shall include training such as seminar, internship, or coursework in human development and learning; curriculum and instruction, including technology; assessment of and for learning; classroom and behavior management; foundations of education and the teaching profession, including legal status of teachers and students, federal and state laws, and teacher evaluation as prescribed by the Virginia Board of Education's guidelines for performance standards and evaluation criteria established pursuant to § 22.1-253.13:5 B of the Code of Virginia and language and literacy.

3. One year of successful, full-time teaching experience in the appropriate teaching area in a Virginia public or an accredited nonpublic school shall be completed. For the Online Teacher License only, one year of successful online teaching experience in the endorsement area in a public school division, an accredited nonpublic school, or an accredited virtual school or program may be accepted in lieu of the supervised teaching experience. A fully licensed experienced teacher shall be available in the school building to assist the beginning teacher employed through the alternate route.

C. Alternate route in special education. The Provisional (Special Education) License is a nonrenewable teaching license issued for a validity period not to exceed three years to an individual employed as a special education teacher in a public school or a nonpublic school in Virginia who does not hold the appropriate special education endorsement. The Provisional (Special Education) License will be issued only with endorsements in special education. The Provisional License is a nonrenewable teaching license valid for a period not to exceed three years. This alternate route to special education endorsement is not applicable to individuals seeking the Online Teacher License. To be issued the Provisional (Special Education) License through this alternate route, an individual shall:

- 1. Be employed by a Virginia public or accredited nonpublic school as a special education teacher and have the recommendation of the employing educational agency;
- 2. Have earned a baccalaureate degree from a regionally accredited college or university;
- 3. Have an assigned mentor with an active Virginia teaching license with an endorsement in special education; and
- 4. Have a planned program of study in the assigned endorsement area, make progress toward meeting the

endorsement requirements each of the three years of the license, and have completed at least three semester hours of coursework in the competencies of foundations for educating students with disabilities and have an understanding and application of the legal aspects and regulatory requirements associated with identification, education, and evaluation of students with disabilities. A survey course integrating these competencies would satisfy this requirement.

The Provisional (Special Education) License issued through this alternate route shall not be issued without the completion of these prerequisites.

D. Alternate programs at institutions of higher education or Virginia school divisions. Alternate programs developed by institutions of higher education (i) recognize the unique strengths of prospective teachers from nontraditional backgrounds and (ii) prepare these individuals to meet the same standards that are established for others who are granted a license through an alternate route.

E. Experiential learning. Individuals applying for an initial teaching license through the alternate route as prescribed by the Virginia Board of Education shall meet the following criteria to be eligible to request that experiential learning satisfy the coursework for the endorsement (teaching) content area:

- 1. Have earned a baccalaureate degree from a regionally accredited college or university;
- 2. Have at least three years of documented successful full-time work experience that may include specialized training related to the endorsement sought; and
- 3. Have met the Virginia qualifying score on the content knowledge assessment prescribed by the Virginia Board of Education.

Experiential learning does not apply to individuals seeking special education and preK-3 and preK-6 endorsements or endorsements in which there is no Virginia Board of Education - prescribed content or subject assessment.

**8VAC20-23-100. Conditions for licensure for out-of-state candidates by reciprocity.**

A. An individual coming into Virginia from any state may qualify for a Virginia teaching license with comparable endorsement areas if the individual (i) has completed a state-approved teacher preparation program through a regionally accredited four-year college or university or (ii) holds a valid out-of-state teaching license (full credential without deficiencies) that shall be in force at the time the application for a Virginia license is made. An individual shall meet licensure requirements set forth in the Code of Virginia. An individual seeking licensure shall establish a file in the Virginia Department of Education by submitting a complete application packet that includes official student transcripts. Unless



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exempted by the criteria in ~~subsection C of this section~~ chapter, professional teacher's assessment requirements prescribed by the Virginia Board of Education shall be satisfied.

B. An individual coming into Virginia will qualify for a Virginia teaching license with comparable endorsement areas if the individual holds an active national certification from the National Board for Professional Teaching Standards (NBPTS) or a nationally recognized certification program approved by the Virginia Board of Education.

~~C. Individuals who hold a valid out-of-state license (full credential without deficiencies) and who have completed a minimum of three years of full time, successful teaching experience in a public or an accredited nonpublic school, kindergarten through grade 12, outside of Virginia are exempt from the professional teacher's assessment requirements. Documentation shall be submitted to verify the school's status as a public or accredited nonpublic school.~~

C. Licensure by reciprocity is provided for any spouse of an active duty member of the Armed Forces of the United States or the Commonwealth who has obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Virginia Department of Education. Each such individual shall establish a file in the Virginia Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual.

D. Licensure by reciprocity is provided for individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Virginia Department of Education. Each such individual shall establish a file in the Virginia Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual.

E. For licensure by reciprocity, applicants may submit third-party employment verification forms.

F. For licensure by reciprocity, the board shall grant special consideration to individuals who have successfully completed a program offered by a provider that is accredited by the Council for the Accreditation of Educator Preparation.

## **8VAC20-23-110. Requirements for renewing a license.**

A. The Division Superintendent, Postgraduate Professional, Collegiate Professional, Technical Professional, Pupil Personnel Services, Online Teacher, and School Manager Licenses may be renewed upon the completion of ~~180~~ 270 professional development points within a ~~five-year~~ 10-year validity period based on an individualized professional development plan that includes ongoing, sustained, and high-

quality professional development. Individuals renewing a five-year renewable license must complete 180 professional development points. Every person seeking renewal of a license shall complete all renewal requirements, including professional development in a manner prescribed by the Virginia Board of Education, except that no person seeking renewal of a license shall be required to satisfy any such requirement by completing coursework and earning credit at an institution of higher education.

B. An individual seeking renewal shall submit a completed licensure application at the time a renewal request is submitted.

C. Any individual licensed and endorsed to teach (i) middle school civics or economics or (ii) high school government or history who is seeking renewal of such license is required to demonstrate knowledge of Virginia history or state and local government by completing a module or professional development course specifically related to Virginia history or state and local government that has a value of five professional development points.

D. Every person seeking renewal of a license shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall (i) be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross, and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. The Virginia Board of Education shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training.

~~E. Every person seeking renewal of a license shall demonstrate proficiency in the use of educational technology for instruction with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse.~~

F. Every person seeking renewal of a license shall complete awareness training, provided by the Virginia Department of Education, on the indicators of dyslexia, as that term is defined by the Virginia Board of Education pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia.

~~G. Training in instructional methods tailored to promote academic progress and effective preparation for the Virginia Standards of Learning tests and end-of-grade assessments is required for licensure renewal.~~

~~H. G.~~ Every person seeking renewal or initial license shall complete a study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the

Virginia Board of Education in consultation with the Virginia Department of Social Services.

~~¶ H.~~ When provided by the state, individuals shall complete other professional development activities prescribed by the Virginia Board of Education.

~~¶ I.~~ Professional development points may be accrued by the completion of professional development activities to improve and increase instructional personnel's knowledge of the academic subjects the teachers teach or the area assigned from one or more of the following eight options, in accordance with Virginia Board of Education guidelines set forth in the Virginia Licensure Renewal Manual.

1. College credit. Acceptable coursework offers content that provides new information and is offered on campus, off campus, or through extension by any regionally accredited two-year or four-year college or university. College coursework shall develop further experiences in subject content taught, teaching strategies, uses of technologies, leadership, and other essential elements in teaching to high standards and increasing student learning. No person seeking renewal of a license shall be required to complete coursework and earn credit at an institution of higher learning.

2. Professional conference. A professional conference is a workshop, institute, or seminar of four or more hours that contributes to ongoing, sustained, and high-quality professional development.

3. Curriculum development. Curriculum development is a group activity in which the license holder contributes to the improvement of the curriculum of a school, a school division, or an educational institution in the teaching area assigned. This includes the alignment of curriculum frameworks, instructional materials, and assessments to provide a system with clear expectations of what is to be taught and learned.

4. Publication of article. The article shall contribute to the education profession or to the body of knowledge of the license holder's teaching area or instructional position. This article shall be published in a recognized professional journal. Grant reports that present the results of educational research are acceptable provided the license holder had an active role in planning, analyzing, interpreting, demonstrating, disseminating, or evaluating the study or innovation.

5. Publication of book. Books shall be published for purchase and shall contribute to the education profession or to the body of knowledge of the license holder's teaching area or instructional position. The published book shall increase the field of content knowledge; provide information on planning and assessment for evaluating and providing students with feedback that encourages student progress and measures student achievement; reference instruction, safety,

and learning environment; expand upon and communication and community relations working with students, parents, and members of the community to promote broad support for student learning. Points will not be awarded for self-published books.

6. Mentorship. Mentoring is the process by which an experienced professional who has received mentorship training provides assistance to one or more persons for the purpose of improving their performance. Assistance may involve role modeling, direct instruction, demonstration, observation with feedback, developing of plans, and consultation to promote instructional excellence and increased student achievement. Mentoring may include the supervision of a field experience of a pre-service student teacher or an intern in an approved teacher or principal preparation program, as well as mentoring as part of the induction process for a beginning teacher or a first-year administrator. Individuals serving in this role and submitting documentation for license renewal based on the mentorship option shall receive training as a mentor prior to the assignment and at least once during the ~~five-year~~ 10-year renewal cycle.

7. Educational project. Educational projects shall be planned, focused projects based on high standards of teaching and learning. Projects shall result in a written report or other tangible product. Projects shall contribute to the education profession or to the body of knowledge of the license holder's teaching area or instructional position. A project could include participation in new professional responsibilities, such as leading a school improvement initiative.

8. Professional development activity. Professional development activities shall focus on student learning and achievement, schoolwide educational improvement, leadership, subject content, teaching strategies, and use of technologies or other essential elements in teaching to high standards. Activities shall be planned, rigorous, systematic, and promote continuous inquiry and reflection. Local employing educational agencies are encouraged to design professional development activities that are conducted in school settings and linked to student learning and achievement.

~~¶ J.~~ The ~~480~~ 270 points may be accrued by activities drawn from one or more of the eight renewal options. Individuals renewing a five-year renewable license must complete 180 professional development points as prescribed by the Virginia Board of Education. Renewal work is designed to provide licensed personnel with opportunities for professional development relative to the grade levels or teaching fields to which they are assigned or for which they seek an added endorsement. Such professional development encompasses (i) responsible remediation of any area of an individual's knowledge or skills that fails to meet the standards of

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competency and (ii) responsible efforts to increase the individual's knowledge of new developments in his field and to respond to new curricular demands within the individual's area of professional competence.

~~L. K.~~ The proposed work toward renewal in certain options shall be approved in advance by the chief executive officer or designee of the employing educational agency. Persons who are not employed by an educational agency may renew their license by submitting to the Office of Professional Licensure, Virginia Department of Education, a renewal application, fee, the individualized renewal record, and verification of the completion of all renewal requirements, including official student transcripts of coursework taken at a regionally accredited two-year or four-year college or university.

~~M. L.~~ Virginia school divisions and accredited nonpublic schools shall recommend renewal of licenses using the renewal point system.

## **8VAC20-23-130. Professional studies requirements for early/primary education, elementary education, and middle education endorsements.**

Professional studies requirements for early/primary education, elementary education, and middle education: 21 semester hours. These requirements may be taught in integrated coursework or modules.

1. Human development and learning (birth through adolescence): 3 semester hours.

a. Skills in this area shall contribute to an understanding of the physical, social, emotional, speech and language, and intellectual development of children and the ability to use this understanding in guiding learning experiences and relating meaningfully to students.

b. The interaction of children with individual differences - economic, social, racial, ethnic, religious, physical, and cognitive- should be incorporated to include skills contributing to an understanding of developmental disabilities and developmental issues related to, but not limited to, low socioeconomic status; attention deficit disorders; developmental disorders; gifted education, including the use of multiple criteria to identify gifted students; substance abuse; trauma, including child abuse and neglect and other adverse childhood experiences; and family disruptions.

2. Curriculum and instruction: 3 semester hours.

a. Early/primary education preK-3 or elementary education preK-6 curriculum and instruction: 3 semester hours.

(1) Skills in this area shall contribute to an understanding of the principles of learning; the application of skills in discipline-specific methodology; varied and effective methods of communication with and among students; selection and use of materials, including media and

contemporary technologies; and selection, development, and use of appropriate curricula, methodologies, and materials that support and enhance student learning and reflect the research on unique, age-appropriate, and culturally relevant curriculum and pedagogy.

(2) Understanding of the principles of online learning and online instructional strategies and the application of skills to deliver online instruction shall be included.

(3) Instructional practices that are sensitive to culturally and linguistically diverse learners, including English learners, gifted and talented students, and students with disabilities, and appropriate for the preK-3 or preK-6 endorsement shall be included.

(4) Teaching methods shall be tailored to promote student engagement and student academic progress and effective preparation for the Virginia Standards of Learning assessments.

(5) Study in (i) methods of improving communication between schools and families; (ii) communicating with families regarding social and instructional needs of children; (iii) ways of increasing family engagement in student learning at home and in school; (iv) the Virginia Standards of Learning; and (v) Virginia Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds prepared by the Virginia Department of Education's Office of Humanities and Early Childhood shall be included.

(6) Early childhood educators shall understand the role of families in child development and in relation to teaching educational skills.

(7) Early childhood educators shall understand the role of the informal and play-mediated settings for promoting students' skills and development and shall demonstrate knowledge and skill in interacting in such situations to promote specific learning outcomes as reflected in Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds.

(8) ~~Demonstrated proficiency in the use of educational technology for instruction shall be required.~~ Study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Virginia Board of Education in consultation with the Virginia Department of Social Services and training or certification in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators shall be included. The certification or training program shall (i) be based on the current national evidenced-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross, and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation.

- (9) Pre-student teaching experiences (field experiences) should be evident within these skills.
- b. Middle education 6-8 curriculum and instruction: 3 semester hours.
- (1) Skills in this area shall contribute to an understanding of the principles of learning; the application of skills in discipline-specific methodology; varied and effective methods of communication with and among students; selection and use of materials, including media and contemporary technologies; and evaluation of pupil performance.
  - (2) Understanding of the principles of online learning and online instructional strategies and the application of skills to deliver online instruction shall be included.
  - (3) Instructional practices that are sensitive to culturally and linguistically diverse learners including English learners, gifted and talented students, and students with disabilities, and shall be appropriate for the middle education endorsement shall be included.
  - (4) Teaching methods shall be tailored to promote student engagement and student academic progress and effective preparation for the Virginia Standards of Learning assessments.
  - (5) Study in methods of improving communication between schools and families, ways of increasing family engagement in student learning at home and in school, and family engagement with the Virginia Standards of Learning shall be included.
  - (6) ~~Demonstrated proficiency in the use of educational technology for instruction shall be included.~~ Study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Virginia Board of Education in consultation with the Virginia Department of Social Services and training or certification in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators shall be included. The certification or training program shall (i) be based on the current national evidenced-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross, and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation.
  - (7) Pre-student teaching experiences (field experiences) should be evident within these skills.
3. Classroom and behavior management: 3 semester hours.
- a. Skills in this area shall contribute to an understanding and application of research-based classroom and behavior management techniques, classroom community building, positive behavior supports, and individual interventions, including techniques that promote emotional well-being and teach and maintain behavioral conduct and skills consistent with norms, standards, and rules of the educational environment.
  - b. This area shall address diverse approaches based upon culturally responsive behavioral, cognitive, affective, social and ecological theory and practice.
  - c. Approaches should support professionally appropriate practices that promote positive redirection of behavior, development of social skills, and of self-discipline.
  - d. Knowledge and an understanding of various school crisis management and safety plans and the demonstrated ability to create a safe, orderly classroom environment shall be included.
  - e. The link between classroom management and students' ages shall be understood and demonstrated in techniques used in the classroom.
4. Assessment of and for learning: 3 semester hours.
- a. Skills in this area shall be designed to develop an understanding and application of creating, selecting, and implementing valid and reliable classroom-based assessments of student learning, including formative and summative assessments. Assessments designed and adapted to meet the needs of diverse learners shall be addressed.
  - b. Analytical skills necessary to inform ongoing planning and instruction, as well as to understand and help students understand their own progress and growth shall be included.
  - c. Skills shall also include the ability to understand the relationships among assessment, instruction, and monitoring student progress to include student performance measures in grading practices, the ability to interpret valid assessments using a variety of formats in order to measure student attainment of essential skills in a standards-based environment, and the ability to analyze assessment data to make decisions about how to improve instruction and student performance.
  - d. Understanding of state assessment programs and accountability systems, including assessments used for student achievement goal-setting as related to teacher evaluation and determining student academic progress shall be included.
  - e. Knowledge of legal and ethical aspects of assessment and skills for developing familiarity with assessments used in preK-12 education, such as diagnostic, college admission exams, industry certifications, and placement assessment shall be included.
5. Foundations of education and the teaching profession: 3 semester hours.
- a. Skills in this area shall be designed to develop an understanding of the historical, philosophical, and sociological foundations underlying the role,

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development, and organization of public education in the United States.

b. Attention shall be given to the legal status of teachers and students, including federal and state laws and regulations; school as an organization and culture; and contemporary issues and current trends in education, including the impact of technology on education. Local, state, and federal governance of schools, including the roles of teachers and schools in communities, shall be included.

c. Professionalism and ethical standards, as well as personal integrity shall be addressed.

d. Knowledge and understanding of Virginia's Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers shall be included.

## 6. Language and literacy: 6 semester hours.

a. Early/primary preK-3 and elementary education preK-6 - language acquisition and reading and writing: 6 semester hours. Skills listed for these endorsement areas represent the minimum competencies that a beginning teacher shall be able to demonstrate. These skills are not intended to limit the scope of a beginning teacher's program. Additional knowledge and skills that add to a beginning teacher's competencies to deliver instruction and improve student achievement should be included as part of a quality learning experience.

(1) Language acquisition: 3 semester hours. Skills in this area shall be designed to impart a thorough understanding of the Virginia English Standards of Learning, as well as the complex nature of language acquisition as a precursor to literacy. Language acquisition shall follow the typical development of linguistic competence in the areas of phonetics, semantics, syntax, morphology, phonology, and pragmatics.

(2) Reading and writing: 3 semester hours. Skills in this area shall be designed to impart a thorough understanding of the Virginia English Standards of Learning, as well as the reciprocal nature of reading and writing. Reading shall include phonemic and other phonological awareness, concept of print, phonics, fluency, vocabulary development, and comprehension strategies. Writing shall include writing strategies and conventions as supporting composing and written expression and usage and mechanics domains. Additional skills shall include proficiency in understanding the stages of spelling development and the writing process, as well as the ability to foster appreciation of a variety of fiction and nonfiction texts and independent reading.

b. Middle education - language acquisition and reading development: 3 semester hours and literacy in the content areas: 3 semester hours.

(1) Language acquisition and reading development: 3 semester hours. Skills in this area shall be designed to

impart a thorough understanding of the complex nature of language acquisition and reading, to include phonemic and other phonological awareness, phonics, fluency, vocabulary development, and comprehension strategies for adolescent learners. Additional skills shall include proficiency in writing strategies, as well as the ability to foster appreciation of a variety of fiction and nonfiction texts and independent reading for adolescent learners.

(2) Literacy in the content areas: 3 semester hours. Skills in this area shall be designed to impart an understanding of vocabulary development and comprehension skills in English, mathematics, science, history and social science, and other content areas. Strategies include teaching students how to ask effective questions, summarize and retell both verbally and in writing, and to listen effectively. Teaching strategies include literal, interpretive, critical, and evaluative comprehension, as well as the ability to foster appreciation of a variety of fiction and nonfiction texts and independent reading for adolescent readers.

7. Supervised clinical experiences. Supervised clinical experiences shall be continuous and systematic and comprised of early field experiences and a minimum of 10 weeks of successful full-time student teaching in the endorsement area sought under the supervision of a cooperating teacher with demonstrated effectiveness in the classroom. The summative supervised student teaching experience shall include at least 150 clock hours spent in direct teaching at the level of endorsement in a public or accredited nonpublic school. One year of successful full-time teaching experience in the endorsement area in a public or accredited nonpublic school may be accepted in lieu of the supervised teaching experience. For the Online Teacher License only, one year of successful online teaching experience in the endorsement area in a public school, an accredited nonpublic school, or an accredited virtual school or program may be accepted in lieu of the supervised teaching experience. A fully licensed, experienced teacher shall be available in the school building to assist a beginning teacher employed through the alternate route.

## **8VAC20-23-190. Professional studies requirements for PreK-12, special education, secondary grades 6-12, and adult education endorsements.**

Professional studies requirements for preK-12, secondary grades 6-12, and adult education endorsements: 18 semester hours. Professional studies requirements for special education endorsements: 21 semester hours. These requirements may be taught in integrated coursework or modules.

1. Human development and learning (birth through adolescence): 3 semester hours.

a. Skills in this area shall contribute to an understanding of the physical, social, emotional, speech and language, and intellectual development of children and the ability to

use this understanding in guiding learning experiences and relating meaningfully to students.

b. The interaction of children with individual differences - economic, social, racial, ethnic, religious, physical, and cognitive - should be incorporated to include skills contributing to an understanding of developmental disabilities and developmental issues related to, but not limited to, low socioeconomic status; attention deficit disorders; developmental disabilities; gifted education, including the use of multiple criteria to identify gifted students; substance abuse; trauma, including child abuse and neglect and other adverse childhood experiences; and family disruptions.

## 2. Curriculum and instruction: 3 semester hours.

a. Skills in this area shall contribute to an understanding of the principles of learning; the application of skills in discipline-specific methodology; varied and effective methods of communication with and among students; selection and use of materials, including media and contemporary technologies; selection, development, and use of appropriate curricula, methodologies, and materials that support and enhance student learning and reflect the research on unique, age-appropriate, and culturally relevant curriculum and pedagogy.

b. Understanding of the principles of online learning and online instructional strategies and the application of skills to deliver online instruction shall be included.

c. Instructional practices that are sensitive to culturally and linguistically diverse learners, including English learners; gifted and talented students and students with disabilities; and appropriate for the level of endorsement sought shall be included.

d. Teaching methods shall be tailored to promote student academic progress and effective preparation for the Virginia Standards of Learning assessments.

e. Methods of improving communication between schools and families, ways of increasing family engagement in student learning at home and in school, and family engagement with the Virginia Standards of Learning shall be included.

f. ~~Demonstrated proficiency in the use of educational technology for instruction shall be included.~~ Study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Virginia Board of Education in consultation with the Virginia Department of Social Services and training or certification in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators shall be included. The certification or training program shall (i) be based on the current national evidenced-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of automated external defibrillator, such as a program developed by the

American Heart Association or the American Red Cross, and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation.

g. Curriculum and instruction for secondary grades 6-12 endorsements shall include middle and secondary education.

h. Pre-student teaching experiences (field experiences) should be evident within these skills. For preK-12, field experiences shall be at the elementary, middle, and secondary levels.

## 3. Assessment of and for learning: 3 semester hours.

a. Skills in this area shall be designed to develop an understanding and application of creating, selecting, and implementing valid and reliable classroom-based assessments of student learning, including formative and summative assessments. Assessments designed and adapted to meet the needs of diverse learners shall be addressed.

b. Analytical skills necessary to inform ongoing planning and instruction, as well as to understand, and help students understand their own progress and growth shall be included.

c. Skills shall also include the ability to understand the relationships among assessment, instruction, and monitoring student progress to include student performance measures in grading practices, the ability to interpret valid assessments using a variety of formats in order to measure student attainment of essential skills in a standards-based environment, and the ability to analyze assessment data to make decisions about how to improve instruction and student performance.

d. Understanding of state assessment programs and accountability systems, including assessments used for student achievement goal-setting as related to teacher evaluation and determining student academic progress shall be included.

e. Knowledge of legal and ethical aspects of assessment and skills for developing familiarity with assessments used in preK-12 education such as diagnostic, college admission exams, industry certifications, and placement assessments shall be included.

## 4. Foundations of education and the teaching profession: 3 semester hours.

a. Skills in this area shall be designed to develop an understanding of the historical, philosophical, and sociological foundations underlying the role, development, and organization of public education in the United States.

b. Attention shall be given to the legal status of teachers and students, including federal and state laws and regulations; school as an organization and culture; and contemporary issues and current trends in education,



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including the impact of technology on education. Local, state, and federal governance of schools, including the roles of teachers and schools in communities shall be included.

c. Professionalism and ethical standards, as well as personal integrity shall be addressed.

d. Knowledge and understanding of Virginia's Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers shall be included.

## 5. Classroom and behavior management: 3 semester hours.

a. Skills in this area shall contribute to an understanding and application of research-based classroom and behavior management techniques, classroom community building, positive behavior supports, and individual interventions, including techniques that promote emotional well-being and teach and maintain behavioral conduct and skills consistent with norms, standards, and rules of the educational environment.

b. This area shall address diverse approaches based upon culturally responsive behavioral, cognitive, affective, social and ecological theory and practice.

c. Approaches should support professionally appropriate practices that promote positive redirection of behavior, development of social skills and of self-discipline.

d. Knowledge and an understanding of various school crisis management and safety plans and the demonstrated ability to create a safe, orderly classroom environment shall be included. The link between classroom management and the students' ages shall be understood and demonstrated in techniques used in the classroom.

## 6. Language and literacy.

a. Adult education, preK-12, and secondary grades 6-12 - literacy in the content areas: 3 semester hours. Skills in this area shall be designed to impart an understanding of vocabulary development and comprehension skills in English, mathematics, science, history and social science, and other content areas. Strategies include teaching students how to ask effective questions, summarize and retell both verbally and in writing, and listen effectively. Teaching strategies include literal, interpretive, critical, and evaluative comprehension, as well as the ability to foster appreciation of a variety of fiction and nonfiction texts and independent reading for adolescent learners.

b. Special education - language acquisition and reading and writing: 6 semester hours. Skills listed for these endorsement areas represent the minimum competencies that a beginning teacher shall be able to demonstrate. These skills are not intended to limit the scope of a beginning teacher's program. Additional knowledge and skills that add to a beginning teacher's competencies to deliver instruction and improve student achievement should be included as part of a quality learning experience.

(1) Language acquisition: 3 semester hours. Skills in this area shall be designed to impart a thorough understanding of the Virginia English Standards of Learning, as well as the complex nature of language acquisition as a precursor to literacy. Language acquisition shall follow the typical development of linguistic competence in the areas of phonetics, semantics, syntax, morphology, phonology, and pragmatics.

(2) Reading and writing: 3 semester hours. Skills in this area shall be designed to impart a thorough understanding of the Virginia English Standards of Learning, as well as the reciprocal nature of reading and writing. Reading shall include phonemic and other phonological awareness, concept of print, phonics, fluency, vocabulary development, and comprehension strategies. Writing shall include writing strategies and conventions as supporting the composing and written expression and usage and mechanics domains. Additional skills shall include proficiency in understanding the stages of spelling development and the writing process and the ability to foster appreciation of a variety of fiction and nonfiction texts and independent reading.

7. Supervised classroom experience. Supervised clinical experiences shall be continuous and systematic and comprised of early field experiences and a minimum of 10 weeks of successful full-time student teaching in the endorsement area sought under the supervision of a cooperating teacher with demonstrated effectiveness in the classroom. The summative supervised student teaching experience shall include at least 150 clock hours spent in direct teaching at the level of endorsement in a public or accredited nonpublic school.

If a preK-12 endorsement is sought, teaching activities shall be at the elementary and middle or secondary levels. Individuals seeking the endorsement in library media shall complete the supervised school library media practicum in a school library media setting. Individuals seeking an endorsement in an area of special education shall complete the supervised classroom experience requirement in the area of special education for which the endorsement is sought. One year of successful full-time teaching experience in the endorsement area in a public or an accredited nonpublic school may be accepted in lieu of the supervised teaching experience. For the Online Teacher License only, one year of successful online teaching experience in the endorsement area in a public school, an accredited nonpublic school, or an accredited virtual school or program may be accepted in lieu of the supervised teaching experience. A fully licensed, experienced teacher shall be available in the school building to assist a beginning teacher employed through the alternate route.

**8VAC20-23-720. Revocation.**

A. A license issued by the Virginia Board of Education may be revoked for the following reasons:

1. Obtaining or attempting to obtain a license by fraudulent means or through misrepresentation of material facts;
2. Falsification of school records, documents, statistics, or reports;
3. Conviction of any felony;
4. Conviction of any misdemeanor involving moral turpitude;
5. Conviction of any misdemeanor involving a student or minor;
6. Conviction of any misdemeanor involving drugs (not alcohol);
7. Conduct with direct and detrimental effect on the health, welfare, discipline, or morale of a student or minor;
8. Misapplication of or failure to account for school funds or other school properties with which the licensee has been entrusted;
9. Acts related to secure mandatory tests as specified in subsection A of § 22.1-292.1 of the Code of Virginia;
10. Knowingly and willfully with the intent to compromise the outcome of an athletic competition procure, sell, or administer anabolic steroids or cause such drugs to be procured, sold, or administered to a student who is a member of a school athletic team, or fail to report the use of such drugs by a student to the school principal and division superintendent as required by clause (iii) of subsection A of § 22.1-279.3:1 of the Code of Virginia. Any person whose license is suspended or revoked by the board pursuant to this section shall be ineligible for three school years for employment in the public schools of the Commonwealth;
11. Revocation, suspension, surrender, cancellation, invalidation, or denial of, or other adverse action against, a teaching, administrator, pupil personnel services, or other education-related certificate or license by another state, territory, or country; or denial of an application for any such certificate or license;
12. Founded case of child abuse or neglect after all administrative appeals have been exhausted;
13. Notification of dismissal or resignation pursuant to subsection F of § 22.1-313 of the Code of Virginia; or
14. Other good and just cause in the best interest of the public schools of the Commonwealth of Virginia.

B. The Virginia Board of Education shall revoke the license of any person for whom it has received a notice of dismissal or resignation pursuant to subsection F of § 22.1-313 of the Code

of Virginia and, in the case of a person who is the subject of a founded complaint of child abuse or neglect, after all rights to any administrative appeal provided by § 63.2-1526 of the Code of Virginia have been exhausted.

C. Procedures.

1. A complaint may be filed by anyone, but it shall be the duty of a division superintendent, principal, or other responsible school employee to file a complaint in any case in which he has knowledge that a basis for the revocation of a license exists, as set forth in subsection A of this section. The person making the complaint shall submit the complaint in writing to the appropriate division superintendent. If the subject of the complaint is the division superintendent, the person making the complaint may submit the complaint to the chair of the local school board.

2. Upon receipt of the complaint against the holder of a license, a division superintendent or his duly authorized representative shall ~~immediately and thoroughly investigate the complaint~~ conduct an immediate and thorough investigation of any complaint alleging that a license holder has engaged in conduct that may form the basis for the revocation of his license. If, on the basis of such investigation, the division superintendent finds the complaint to be without merit, he shall so notify the complaining party or parties in writing and then close his file on the matter. This action shall be final unless the local school board, on its own motion, votes to proceed to a hearing on the complaint.

~~C. D.~~ P. Petition for revocation. Should Upon completing an investigation, should the division superintendent or local school board conclude that there is reasonable cause to believe that ~~a basis for revocation of the license exists~~ the license holder has engaged in conduct that forms the basis for revocation of a license, the license holder shall be notified of the complaint by a written petition for revocation of a license signed by the division superintendent. A copy of such petition shall be sent by certified mail, return receipt requested, to the license holder's last known address. The school board shall proceed to a hearing on such petition for revocation within 90 days of the mailing of a copy of the petition to the license holder, unless the license holder requests the cancellation of his license in accordance with this chapter; and the school board shall provide a copy of the investigative file and such petition for revocation to the Superintendent of Public Instruction at the time that the hearing is scheduled.

~~D. E.~~ F. Form of petition. The petition for the revocation of a license shall set forth:

1. The name and last known address of the person against whom the petition is being filed;
2. The type of license and the license number held by the person against whom the petition is being filed;

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3. The basis for revocation and the specific underlying alleged actions;

4. A statement of rights of the person against whom the petition is being filed. The statement of rights shall notify the person that any adverse action against a license, including revocation, will be reported to the division superintendents in Virginia and, through a national clearinghouse, to chief state school officers of the other states and territories of the United States. The statement also shall include notification to the person of the right to cancel the license if he chooses not to contest the allegations in the petition. The statement shall notify the individual that he shall receive a notice of cancellation that will include the statement: "The license holder voluntarily returned the license in response to a petition for revocation." The individual also shall be notified that the cancellation of the license will be reported to division superintendents in Virginia and, through a national clearinghouse, to chief state school officers of the other states and territories of the United States; and

5. Any other pertinent information.

~~E. F.~~ F. E. Filing of petition. The original petition shall be entered in the files of the local school board where the license holder is or was last employed.

~~F. G.~~ F. G. Response to petition. The license holder shall present his written answer to the petition, if any, within 14 days of delivery or attempted delivery of the petition as certified by the United States Postal Service.

1. If the license holder does not wish to contest the allegations in the petition, he may request cancellation of the license by submitting a written, signed statement requesting cancellation in response to a petition for revocation. The division superintendent shall forward the request for cancellation along with the petition for revocation to the Superintendent of Public Instruction within 14 days of receipt. The Superintendent of Public Instruction shall cancel the license and send a notice of cancellation to the person by certified mail within 14 days of receipt of the request for cancellation.

2. If the license holder files a written answer admitting or denying the allegations in the petition or fails to file a written answer within 14 days of delivery or attempted delivery of the petition, as certified by the United States Postal Service, the local school board shall proceed to a hearing as described in subsection D of this section and subdivisions 3 and 4 of this subsection; and within 90 days of mailing the petition to the license holder and provide the Superintendent of Public Instruction a copy of the petition and investigative file at the time the local school board hearing is scheduled. The local school board shall provide a hearing at the time and place of its regular meeting or at such other reasonable time and place

it may specify. The license holder or his representative, if any, shall be given at least 14 days' notice of the hearing.

3. At the hearing, the local school board shall receive the recommendation of the division superintendent and then either deny the petition or recommend license revocation or suspension. A decision to deny the petition shall be final, except as specified in subsection ~~G. C.~~ of this section, and the investigative file on the petition shall be closed and maintained as a separate file. Any record or material relating to the allegations in the petition shall be placed in the investigative file. Should the local school board recommend the revocation or suspension of a license, the division superintendent shall forward the recommendation, petition, and investigative file to the Superintendent of Public Instruction within 14 days.

~~G. H.~~ G. H. Revocation on motion of the Virginia Board of Education. The Virginia Board of Education reserves the right to act directly to revoke a license when the Virginia Board of Education has reasonable cause to believe that subsection A of this section is applicable. The Superintendent of Public Instruction may send a petition for revocation to the license holder as provided by subsection ~~D. E.~~ of this section. The license holder shall have the opportunity to present his written answer, if any, to the petition within 14 days of delivery or attempted delivery of the petition, as certified by the United States Postal Service.

1. If the license holder does not wish to contest the allegations in the petition, he may request the cancellation of the license by submitting a written, signed statement requesting cancellation in response to a petition for revocation. The Superintendent of Public Instruction shall cancel the license and send a notice of cancellation to the person by certified mail within 14 day of receipt of the request for cancellation.

2. If the license holder files a written answer admitting the allegations in the petition or fails to file a written answer within 14 days of delivery or attempted delivery of the petition, as certified by the United States Postal Service, the petition shall be forwarded to the Virginia Board of Education for action. No revocation will be ordered without the involved license holder being given the opportunity to appear at a hearing specified in 8VAC20-23-780 C.

3. If the license holder timely files his written answer denying the allegations in the petition, the Superintendent of Public Instruction shall schedule a hearing with the investigative panel provided in 8VAC20-23-780 A. The license holder or his representative, if any, shall be given at least 14 days' notice of the hearing. The investigative panel shall take action on the petition as specified in 8VAC20-23-780 A. No revocation will be ordered without the involved license holder being given the opportunity to appear at a hearing specified in 8VAC20-23-780 C.

**H. I.** Reinstatement of license. A license that has been revoked may be reinstated by the Virginia Board of Education after five years if the board is satisfied that reinstatement is in the best interest of the public schools of the Commonwealth of Virginia. The individual seeking reinstatement shall submit a written request and completed application to the board. Notification to all appropriate parties will be communicated in writing by the Virginia Department of Education.

VA.R. Doc. No. R21-6180; Filed February 9, 2021, 4:01 p.m.

### Fast-Track Regulation

**Title of Regulation:** **8VAC20-131. Regulations Establishing Standards for Accrediting Public Schools in Virginia (amending 8VAC20-131-51).**

**Statutory Authority:** §§ 22.1-16 and 22.1-253.13 of the Code of Virginia.

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

**Public Comment Deadline:** March 31, 2021.

**Effective Date:** April 15, 2021.

**Agency Contact:** Holly M. Coy, Assistant Superintendent, Policy, Equity, and Communications, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2092, or email [holly.coy@doe.virginia.gov](mailto:holly.coy@doe.virginia.gov).

**Basis:** The State Board of Education's authority to prescribe regulations is established in § 22.1-16 of the Code of Virginia, and the authority for establishing standards for accrediting public schools is found in § 22.1-253.13:3 of the Code of Virginia.

**Purpose:** This regulatory action is necessary to amend the Standards of Accreditation (SOA) to comport with legislation enacted in Chapters 55, 580, and 874 of the 2020 Acts of Assembly. This regulatory action also advances public welfare by expanding meaningful pathways through which Virginia's public school students can meet graduation requirements and earn a Virginia diploma. A diploma from a Virginia public school is designed to prepare students for success in any post-secondary endeavor, including higher education, additional vocational training, or joining the workforce. In allowing students additional opportunities to meet graduation requirements and develop important, relevant skill sets, this action seeks to ensure these students will be contributing members of their communities and economies.

**Rationale for Use of Fast-Track Rulemaking Process:** The amendments to the SOA are mandated by legislation enacted in the 2020 Session of the General Assembly. This regulatory action is noncontroversial as its purpose is to comport the regulations to align with legislation.

**Substance:** This regulatory action is necessary to comport with Chapters 55 and 580 of the 2020 Acts of Assembly, which require that the State Board of Education, in establishing high school graduation requirements, include the options for

students to complete a dual enrollment course or high-quality work-based learning experience. Currently students must complete an Advanced Placement Course or International Baccalaureate course or earn a career and technical education credential. Chapter 874 of the 2020 Acts of Assembly requires the State Board of Education, in establishing high school graduation requirements, to permit a student who is pursuing an advanced diploma and whose individualized education program specifies a credit accommodation for world language to substitute two standard units of credit in computer science for two standard units of credit in a world language. The chapter provides that for any student electing to substitute a credit in computer science for credit in world language, the student's school counselor shall provide notice to the student and parent or guardian of possible impacts related to college entrance requirements.

**Issues:** The advantages of this regulatory action to the public and Commonwealth are the result of ensuring that Virginia public school students have a variety of meaningful opportunities to meet graduation requirements and earn a high school diploma. In doing so, students are able to develop the foundational skills they need to be successful members of their communities and economies. There are no disadvantages to the public, the agency, or the Commonwealth. These revisions are required by amendments to the Code of Virginia adopted by the Virginia General Assembly in its 2020 Session.

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

Summary of the Proposed Amendments to Regulation. In order to comport with Chapters 55 and 580 of the 2020 Acts of Assembly, the Board of Education (Board) proposes two additional options in order to satisfy a requirement for the Standard and Advanced Studies Diplomas. Additionally, in order to comport with Chapter 874 of the 2020 Acts of Assembly, the Board proposes to allow a student who is pursuing an advanced diploma, and whose individualized education program (IEP) specifies a credit accommodation for world language, to substitute two standard units of credit in computer science for two standard units of credit in a world language.

Background. According to the requirements under the current regulation to earn a Standard Diploma or an Advanced Studies Diploma, the student must either (i) complete an Advanced Placement (AP), honors, or International Baccalaureate course, or (ii) earn a career and technical education credential approved by the board.<sup>1</sup> Pursuant to Chapters 55 and 580, the Board proposes to add (a) completion of a dual enrollment course,<sup>2</sup> or (b) a high-quality work-based learning experience as defined by Board guidance on work-based learning, as two additional options to satisfy this requirement. According to the Department of Education, the Board guidance would be in a guidance document.<sup>3</sup>

Pursuant to Chapter 874, the Board proposes to allow a student who is pursuing an advanced diploma, and whose IEP specifies

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a credit accommodation for world language, to substitute two standard units of credit in computer science for two standard units of credit in a world language. For any student who elects to substitute credit in computer science for credit in world language, his or her school counselor would need to provide notice to the student and parent or guardian of possible impacts related to college entrance requirements.

**Estimated Benefits and Costs.** As mandated by Chapters 55 and 580, providing additional options to meet a graduation requirement could be beneficial for students who would prefer to avail themselves of these options rather than the existing options. Dual enrollment is when students take a college course simultaneously for high school graduation and college degree credit. Dual enrollment courses could reasonably be considered equivalent to AP courses. Whether the high-quality work-based learning experience could be considered equivalent to a career and technical education credential would depend on how the Board defines high-quality work-based learning experience. The proposed two additional options to satisfy a graduation requirement do not appear to substantially affect costs.

As mandated by Chapter 874, the proposal to allow a student who is pursuing an advanced diploma, and whose IEP specifies a credit accommodation for world language to substitute two standard units of credit in computer science for two standard units of credit in a world language, would be beneficial for students with a disability that affects learning foreign languages. This proposed amendment does not appear to produce a substantial cost.

**Businesses and Other Entities Affected.** The proposed amendments affect the students and staff at high schools in all 132 local school divisions in the Commonwealth. No school divisions appear to be disproportionately affected. The proposal to add completion of a dual enrollment course as an option to satisfy a graduation requirement may increase the number of students who take dual enrollment courses. This would affect the colleges that are involved in dual enrollment courses with high schools.<sup>4</sup> The proposal to add completion of a high-quality work-based learning experience as an option to satisfy a graduation requirement may increase the number of students who seek employment. Thus, some employers such as businesses, nonprofit organizations, etc. may also be affected.

**Small Businesses<sup>5</sup> Affected.** The proposed amendments do not appear to adversely affect small businesses.

**Localities<sup>6</sup> Affected.<sup>7</sup>** The proposed amendments affect all Virginia localities in that all localities have students and staff associated with public high schools. No localities appear to be disproportionately affected. The proposed amendments do not appear to substantively affect costs for local governments.

**Projected Impact on Employment.** The proposal to add completion of a high-quality work-based learning experience as an option to satisfy a graduation requirement may increase

the number of students who seek employment. Consequently, more high school students may become employed.

**Effects on the Use and Value of Private Property.** Since the proposal to add completion of a high-quality work-based learning experience as an option to satisfy a graduation requirement may increase the number of students who seek employment, some businesses may find it easier to fill open positions, or at a lower cost. Thus, the proposal may result in a moderate increase in net value for some businesses. The proposed amendments would not likely substantively affect real estate development costs.

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<sup>1</sup>When a career and technical education credential in a particular subject area is not readily available or appropriate or does not adequately measure student competency, the student shall receive satisfactory competency-based instruction in the subject area to satisfy the diploma requirements.

<sup>2</sup>Dual enrollment is defined as when students "take college courses simultaneously for high school graduation and college degree credit." See <https://law.lis.virginia.gov/admincode/title8/agency20/chapter131/section140/>

<sup>3</sup>Guidance documents can be found here: <https://townhall.virginia.gov/L/GDocs.cfm>

<sup>4</sup>Per the State Council of Higher Education in Virginia's Virginia Public Higher Education Policy on the Offering of Dual Enrollment Courses in Public School Districts by Four-year and Two-year Institutions of Higher Education and in consonance with § 22.1-253.13:1 in the Code of Virginia, community colleges are considered the default providers of dual enrollment in Virginia public school districts. However, public four-year institution can offer dual enrollment courses when the educational opportunity is not otherwise available through the local community college, if there is high demand for a type of course, or if there is a specialized need.

<sup>5</sup>Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

<sup>6</sup>"Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>7</sup>§ 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

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

**Summary:**

*The amendments conform the regulation to legislation enacted in the 2020 Session of the General Assembly. The amendments add (i) completion of a dual enrollment course or a high-quality work-based learning experience as two additional options to satisfy requirements for the standard diploma or the advanced studies diploma in accordance with Chapters 55 and 580 and (ii) allow a student who is pursuing an advanced diploma and whose individualized education plan specifies a credit accommodation for world language to substitute two standard units of credit in computer science for two standard units of credit in a world language and, for any student who elects to substitute credit in computer science for credit in world language, require*

*the student's school counselor to provide notice to the student and parent or guardian of possible impacts related to college entrance requirements in accordance with Chapter 874.*

**8VAC20-131-51. Requirements for graduation (effective with the students who enter the ninth grade in the 2018–2019 school year).**

A. The requirements for a student to earn a diploma and graduate from a Virginia high school shall be those in effect when that student enters the ninth grade for the first time. Students shall be awarded a diploma upon graduation from a Virginia high school.

Both the Standard Diploma and the Advanced Studies Diploma shall provide multiple paths toward college, career, and citizenship readiness for students to follow in the later years of high school. Each such pathway shall provide meaningful and rigorous opportunities tied to instruction to achieve workplace and citizenship skills through experiences such as internships, externships, credentialing, and blended learning, which may be offered for credit toward high school graduation.

In accordance with the Profile of a Virginia Graduate approved by the board, the instructional program leading to a Standard Diploma or Advanced Studies Diploma shall ensure that students (i) attain the knowledge, skills, competencies, and experiences necessary to be successful in the evolving global economy whether immediately entering the world of work or pursuing a postsecondary education and (ii) acquire and be able to demonstrate foundational skills in critical thinking, creative thinking, collaboration, communication, and citizenship.

When students below the ninth grade successfully complete courses offered for credit in grades 9 through 12, credit shall be counted toward meeting the standard units required for graduation provided the courses are equivalent in content and academic rigor as those courses offered at the secondary level. To earn a verified unit of credit for these courses, students must meet the requirements of 8VAC20-131-110.

The requirements in this section shall be the only requirements for a diploma, unless a local school board has prescribed additional requirements that have been approved by the board. All additional requirements prescribed by local school boards that have been approved by the board remain in effect until such time as the local school board submits a request to the board to amend or discontinue them.

**B. Requirements for a Standard Diploma.**

1. Beginning with the ninth-grade class of 2018–2019 and beyond, students shall earn the required standard and verified units of credit described in subdivision 2 of this subsection.

2. Credits required for graduation with a Standard Diploma.

A "standard unit of credit" or "standard credit" is a credit awarded for a course in which the student successfully completes 140 clock hours of instruction and the requirements of the course. Local school boards may develop alternatives to the requirement for 140 clock hours of instruction as provided for in 8VAC20-131-110 and in accordance with board guidelines.

A "verified unit of credit" or "verified credit" is a credit awarded for a course in which a student earns a standard unit of credit and (i) achieves a passing score on a corresponding end-of-course SOL test; (ii) achieves a passing score on an additional test, as defined in 8VAC20-131-5 as part of the Virginia Assessment Program; (iii) meets the criteria for the receipt of a locally awarded verified credit conferred in accordance with board criteria and guidelines as provided in 8VAC20-131-110 B 3 when the student has not passed a corresponding SOL test in English, mathematics, laboratory science, or history and social science; or (iv) meets the criteria for the receipt of a verified credit for English (writing) by demonstrating mastery of the content of the associated course on authentic performance assessments as provided in 8VAC20-131-110 B 4.

No more than one locally awarded verified credit may be used to satisfy these requirements, except as provided in subdivision 3 of this subsection for credit accommodations for students with disabilities.

| Discipline Area  | Standard Units of Credit Required | Verified Credits Required |
|--|-----------------------------------|---------------------------|
| English (reading and writing)                                | 4                                 | 2                         |
| Mathematics  | 3                                 | 1                         |
| Laboratory Science   | 3                                 | 1                         |
| History and Social Science                                   | 3                                 | 1                         |
| Health and Physical Education                                | 2                                 |                           |
| World Language, Fine Arts, or Career and Technical Education | 2                                 |                           |
| Economics and Personal Finance                               | 1                                 |                           |
| Electives  | 4                                 |                           |
| <b>Total</b>   | <b>22</b>                         | <b>5</b>                  |

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| Discipline Area    | Specifications  | History and Social Science   | the board as an additional test to verify student achievement.  |
|--------------------|---|--|---|
| Mathematics        | Courses completed to satisfy this requirement shall include at least two different course selections from among: algebra I, geometry, algebra functions, and data analysis, algebra II, or other mathematics courses approved by the board to satisfy this requirement. Per the Standards of Quality, a computer science course credit earned by students may be considered a mathematics course credit.  | History and Social Science   | Courses completed to satisfy this requirement shall include Virginia and U.S. history, Virginia and U.S. government, and one course in either world history or geography or both. The board shall approve courses to satisfy this requirement.  |
| Laboratory Science | Courses completed to satisfy this requirement shall include course selection from at least two different science disciplines: earth sciences, biology, chemistry, or physics, or completion of the sequence of science courses required for the International Baccalaureate Diploma and shall include interdisciplinary courses that incorporate Standards of Learning content from multiple academic areas. The board shall approve courses to satisfy this requirement. Per the Standards of Quality, a computer science course credit earned by students may be considered a science course credit. A laboratory science verified credit may be awarded to students who complete a career and technical education program sequence and (i) pass two examinations or occupational competency assessments in a career and technical education field that confers certification or an occupational competency credential from a recognized industry, trade, or professional association; (ii) acquire two professional licenses in a career and technical education field from the Commonwealth of Virginia; or (iii) pass one examination or competency assessment from clause (i) and acquire one license from clause (ii). The examination or occupational competency assessment must be approved by | World Language, Fine Arts, or Career and Technical Education   | Per the Standards of Quality, credits earned for this requirement shall include one credit in fine or performing arts or career and technical education. Per the Standards of Quality, a computer science course credit earned by students may be considered a career and technical course credit.  |
|                    |   | Electives  | Courses to satisfy this requirement shall include at least two sequential electives as required by the Standards of Quality.  |
|                    |   | Additional Requirements for Graduation<br>(i) complete an Advanced Placement, honors, or International Baccalaureate course, or (ii) earn a career and technical |   |
|                    |   | Advanced Placement, Honors, or International Baccalaureate Course or Career and Technical Education Credential   | In accordance with the Standards of Quality, students shall <del>either</del> (i) complete an Advanced Placement, honors, <del>or</del> International Baccalaureate, or <u>dual enrollment</u> course; (ii) <u>complete a high-quality work-based learning experience, as established by board guidance on work-based learning</u> ; or (iii) earn a career and technical education credential approved by the board, except when a career and technical education credential in a particular subject area is not readily available or appropriate or does not adequately measure student competency, in which case the student shall receive satisfactory competency-based instruction in the subject area to satisfy the standard diploma requirements. The career and technical education credential, when required, could include the successful completion of an industry certification, a state licensure examination, a national |



- occupational competency assessment, or the Virginia workplace readiness assessment.
- Virtual Course** Students shall successfully complete one virtual course, which may be a non-credit-bearing course or a required or elective credit-bearing course that is offered online.
- Training in emergency first aid, cardiopulmonary resuscitation (CPR), and the use of automated external defibrillators (AED)** Students shall be trained in emergency first aid, CPR, and the use of AED, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. Students with an individualized education plan (IEP) or 504 Plan that documents that they cannot successfully complete this training shall be granted a waiver from this graduation requirement, as provided in 8VAC20-131-420 B.
- Demonstration of the five Cs** Students shall acquire and demonstrate foundational skills in critical thinking, creative thinking, collaboration, communication, and citizenship in accordance with the Profile of a Virginia Graduate approved by the board.

3. The board shall establish through guidelines credit accommodations to the standard and verified credit requirements for a Standard Diploma. Such credit accommodations for students with disabilities may include:
- a. Approval of alternative courses to meet the standard credit requirements;
  - b. Modifications to the requirements for local school divisions to award locally awarded verified credits;
  - c. Approval of additional tests to earn a verified credit;
  - d. Adjusted cut scores required to earn verified credit; and
  - e. Allowance of work-based learning experiences.

The student's IEP or 504 Plan shall specify any credit accommodations applicable for the student.

Students completing the requirements for the Standard Diploma may be eligible to receive an honor deemed appropriate by the local school board as described in subsection H of this section.

**C. Requirements for an Advanced Studies Diploma.**

- 1. Beginning with the ninth-grade class of 2018–2019 and beyond, students shall earn the required standard and

verified units of credit described in subdivision 2 of this subsection.

**2. Credits required for graduation with an Advanced Studies Diploma.**

A "standard unit of credit" or "standard credit" is a credit awarded for a course in which the student successfully completes 140 clock hours of instruction and the requirements of the course. Local school boards may develop alternatives to the requirement for 140 clock hours of instruction as provided for in 8VAC20-131-110 and in accordance with board guidelines.

A "verified unit of credit" or "verified credit" is a credit awarded for a course in which a student earns a standard unit of credit and (i) achieves a passing score on a corresponding end-of-course SOL test; (ii) achieves a passing score on an additional test, as defined in 8VAC20-131-5, as part of the Virginia Assessment Program; (iii) meets the criteria for the receipt of a locally awarded verified credit conferred in accordance with board criteria and guidelines as provided in 8VAC20-131-110 B 3 when the student has not passed a corresponding SOL test in English, mathematics, laboratory science, or history and social science; or (iv) meets the criteria for the receipt of a verified credit for English (writing) by demonstrating mastery of the content of the associated course on an authentic performance assessment, as provided in 8VAC20-131-110 B 4.

No more than one locally awarded verified credit may be used to satisfy these requirements.

| Discipline Area                             | Standard Units of Credit Required | Verified Credits Required |
|---|-----------------------------------|---------------------------|
| English (reading and writing)               | 4                                 | 2                         |
| Mathematics                                 | 4                                 | 1                         |
| Laboratory Science                          | 4                                 | 1                         |
| History and Social Science                  | 4                                 | 1                         |
| World Language                              | 3                                 |                           |
| Health and Physical Education               | 2                                 |                           |
| Fine Arts or Career and Technical Education | 1                                 |                           |
| Economics and Personal Finance              | 1                                 |                           |
| Electives                                   | 3                                 |                           |
| <b>Total</b>                                | <b>26</b>                         | <b>5</b>                  |

| Discipline Area | Specifications   |
|-----------------|--|
| Mathematics     | Courses completed to satisfy this requirement shall include at least |

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|                            |   |   |   |
|----------------------------|---|---|---|
|                            | three different course selections from among: algebra I, geometry, algebra II, or other mathematics courses above the level of algebra II. The board shall approve courses to satisfy this requirement. Per the Standards of Quality, a computer science course credit earned by students may be considered a mathematics course credit.  | Fine Arts or Career and Technical Education   | Per the Standards of Quality, a computer science course credit earned by students may be considered a career and technical credit.  |
|                            |   | Electives   | Courses to satisfy this requirement shall include at least two sequential electives as required by the Standards of Quality.  |
|                            |   | Additional Requirements for Graduation  |   |
| Laboratory Science         | Courses completed to satisfy this requirement shall include course selections from at least three different science disciplines from among: earth sciences, biology, chemistry, or physics or completion of the sequence of science courses required for the International Baccalaureate Diploma and shall include interdisciplinary courses that incorporate Standards of Learning content from multiple academic areas. The board shall approve additional courses to satisfy this requirement. Per the Standards of Quality, a computer science course credit earned by students may be considered a science course credit.                                | Advanced Placement, Honors, or International Baccalaureate Course or Career and Technical Education Credential                | In accordance with the Standards of Quality, students shall <del>either</del> (i) complete an Advanced Placement, honors, <del>or</del> International Baccalaureate, or <u>dual enrollment</u> course; (ii) <u>complete a high-quality work-based learning experience as established by board guidance on work-based learning;</u> or (iii) earn a career and technical education credential approved by the board, except when a career and technical education credential in a particular subject area is not readily available or appropriate or does not adequately measure student competency, in which case the student shall receive satisfactory competency-based instruction in the subject area to satisfy the advanced studies diploma requirements. The career and technical education credential, when required, could include the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness assessment. |
| History and Social Science | Courses completed to satisfy this requirement shall include Virginia and U.S. history, Virginia and U.S. government, and two courses in either world history or geography or both. The board shall approve additional courses to satisfy this requirement.  |   |   |
| World Language             | Courses completed to satisfy this requirement shall include three years of one language or two years of two languages. <u>A student who is pursuing an advanced diploma and whose individualized education program specifies a credit accommodation for world language may substitute two standard units of credit in computer science for two standard units of credit in a world language. For any student who elects to substitute a credit in computer science for a credit in world language, the student's school counselor must provide notice to the student and parent or guardian of possible impacts related to college entrance requirements.</u> | Virtual Course  | Students shall successfully complete one virtual course, which may be a non-credit-bearing course or a required or elective credit-bearing course that is offered online.   |
|                            |   | Training in emergency first aid, cardiopulmonary resuscitation (CPR), and the use of automated external defibrillators (AED). | Students shall be trained in emergency first aid, CPR, and the use of AED, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. Students with an IEP or 504 Plan that documents that they cannot successfully complete this training shall be granted a waiver from this   |

graduation requirement, as provided in 8VAC20-131-420 B.

Demonstration of the five Cs      Students shall acquire and demonstrate foundational skills in critical thinking, creative thinking, collaboration, communication, and citizenship in accordance with the Profile of a Virginia Graduate approved by the board.

D. Requirements for an Applied Studies Diploma. In accordance with the requirements of the Standards of Quality, a student with disabilities who completes the requirements of the student's IEP and does not meet the requirements for other diplomas shall be awarded Applied Studies Diplomas in accordance with state and federal laws and regulations regarding special education.

Students who pursue an Applied Studies Diploma shall be allowed to pursue a Standard Diploma or an Advanced Studies Diploma at any time during high school. Such students shall not be excluded from courses or tests required to earn these diplomas.

E. Requirements for Certificates of Program Completion. In accordance with the requirements of the Standards of Quality, students who complete prescribed programs of studies defined by the local school board but do not qualify for a Standard Diploma, an Advanced Studies Diploma, or an Applied Studies Diploma shall be awarded Certificates of Program Completion. The requirements for Certificates of Program Completion are developed by local school boards in accordance with the Standards of Quality.

F. In accordance with the provisions of the compulsory attendance law and 8VAC20-30, Regulations Governing Adult High School Programs, students who do not qualify for diplomas may earn a high school equivalency credential. The requirements for the General Achievement Adult High School Diploma are provided in 8VAC20-30-20.

G. At a student's request, the local school board shall communicate or otherwise make known to institutions of higher education, potential employers, or other applicable third parties, in a manner that the local school board deems appropriate, that a student has attained the state's academic expectations by earning a Virginia diploma and that the value of such a diploma is not affected in any way by the accreditation status of the student's school.

H. Awards for exemplary student performance. Students who demonstrate academic excellence and outstanding achievement may be eligible for one or more of the following awards:

1. The Governor's Seal shall be awarded to students who complete the requirements for an Advanced Studies Diploma with an average grade of "B" or better and

successfully complete college-level coursework that shall earn the student at least nine transferable college credits in Advanced Placement (AP), International Baccalaureate (IB), Cambridge, or dual enrollment courses.

2. The Board of Education Seal shall be awarded to students who complete the requirements for a Standard Diploma or an Advanced Studies Diploma with an average grade of "A."

3. The Board of Education's Career and Technical Education Seal shall be awarded to students who earn a Standard Diploma or an Advanced Studies Diploma and complete a prescribed sequence of courses in a career and technical education concentration or specialization that they choose and maintain a "B" or better average in those courses or (i) pass an examination or an occupational competency assessment in a career and technical education concentration or specialization that confers certification or occupational competency credential from a recognized industry, trade, or professional association or (ii) acquire a professional license in that career and technical education field from the Commonwealth of Virginia. The board shall approve all professional licenses and examinations used to satisfy these requirements.

4. The Board of Education's Science, Technology, Engineering, and Mathematics (STEM) Seal shall be awarded to students who meet criteria established by the board.

5. The Board of Education's Seal for Excellence in Civics Education shall be awarded to students who earn either a Standard Diploma or an Advanced Studies Diploma and (i) complete Virginia and United States history and Virginia and United States government courses with a grade of "B" or higher; (ii) have good attendance and no disciplinary infractions as determined by local school board policies; and (iii) complete 50 hours of voluntary participation in community service or extracurricular activities. Activities that satisfy the requirements of clause (iii) of this subdivision include (a) volunteering for a charitable or religious organization that provides services to the poor, sick, or less fortunate; (b) participating in Boy Scouts, Girl Scouts, or similar youth organizations; (c) participating in JROTC; (d) participating in political campaigns or government internships, or Boys State, Girls State, or Model General Assembly; or (e) participating in school-sponsored extracurricular activities that have a civics focus. Any student who enlists in the United States military prior to graduation shall be deemed to have met this community service requirement.

6. The Board of Education's Seal of Biliteracy shall be awarded to students who demonstrate proficiency in English and at least one other language and meet additional criteria established by the board.

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7. The Board of Education's Seal for Excellence in Science and the Environment shall be awarded to students who earn either a Standard Diploma or Advanced Studies Diploma and (i) complete at least three different first-level board-approved laboratory science courses and at least one rigorous advanced-level or postsecondary-level laboratory science course, each with a grade of "B" or higher; (ii) complete laboratory or field-science research and present that research in a formal, juried setting; and (iii) complete at least 50 hours of voluntary participation in community service or extracurricular activities that involve the application of science such as environmental monitoring, protection, management, or restoration.

8. Students may receive other seals or awards for exceptional academic, career and technical, citizenship, or other exemplary performance in accordance with criteria defined by the local school board.

I. Students completing graduation requirements in a summer school program shall be eligible for a diploma. The last school attended by the student during the regular session shall award the diploma unless otherwise agreed upon by the principals of the two schools.

J. Students who complete Advanced Placement courses, college-level courses, or courses required for an International Baccalaureate Diploma shall be deemed to have completed the course requirements for graduation under these standards provided they have earned the total number of standard units of credit and verified units of credit in each discipline area in accordance with the requirements for the Standard Diploma and the Advanced Studies Diploma, as specified in subsections B and C of this section.

K. Students shall be counseled annually regarding the opportunities for using additional tests for earning verified credits, as provided in accordance with the provisions of 8VAC20-131-110, and the consequences of failing to fulfill the obligations to complete the requirements for verified units of credit.

VA.R. Doc. No. R21-6463; Filed February 9, 2021, 4:06 p.m.

## TITLE 9. ENVIRONMENT

### STATE WATER CONTROL BOARD

#### Forms

**REGISTRAR'S NOTICE:** Forms used in administering the regulation have been filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

#### **Title of Regulation: 9VAC25-190. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Nonmetallic Mineral Mining.**

**Agency Contact:** Gary Graham, Department of Environmental Quality - Central Office, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4103, FAX (804) 698-4178, or email [gary.graham@deq.virginia.gov](mailto:gary.graham@deq.virginia.gov).

FORMS (9VAC25-190)

[Department of Environmental Quality Water Division Permit Application Fee Form, Form 5 \(rev. 10/2018\)](#)

[Change of Ownership Agreement Form \(rev. 3/2014\)](#)

[Virginia Pollutant Discharge Elimination System Change of Ownership Agreement Form \(rev. 4/2018\)](#)

[VPDES General Permit for Nonmetallic Mineral Mining \(VAG84\) - Notice of Termination \(eff. 7/2014\)](#)

~~[VPDES General Permit Registration Statement - Nonmetallic Mineral Mining \(rev. 2014\)](#)~~

[Virginia Pollutant Discharge Elimination System \(VPDES\) General Permit for Nonmetallic Mineral Mining \(VAG84\) Registration Statement, Form VAG84-RS \(rev. 7/2019\)](#)

VA.R. Doc. No. R21-6693; Filed February 5, 2021, 8:40 a.m.

#### Forms

**REGISTRAR'S NOTICE:** Forms used in administering the regulation have been filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

#### **Title of Regulation: 9VAC25-196. Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Noncontact Cooling Water Discharges of 50,000 Gallons Per Day or Less.**

**Agency Contact:** Gary Graham, Department of Environmental Quality - Central Office, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4103, FAX (804) 698-4178, or email [gary.graham@deq.virginia.gov](mailto:gary.graham@deq.virginia.gov).

FORMS (9VAC25-196)

[Registration Statement for the VPDES General Permit For Noncontact Cooling Water Discharges of 50,000 Gallons Per Day or Less, Form VAG25-RS \(rev. 1/2018\)](#)

[VPDES Change of Ownership Agreement Form \(rev. 4/2018\)](#)

[VPDES General Permit for Noncontact Cooling Water \(VAG25\) Notice of Termination \(rev. 1/2021\)](#)

[Water Division Permit Application Fee Form, 9VAC25-20 Form 5 \(rev. 10/2018\)](#)

VA.R. Doc. No. R21-6689; Filed February 5, 2021, 8:38 a.m.

**Proposed**

**REGISTRAR'S NOTICE:** The State Water Control Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 8 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.) and Chapters 24 (§ 62.1-242 et seq.) and 25 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01 of the Code of Virginia; (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action, forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03 of the Code of Virginia; and (iv) conducts at least one public hearing on the proposed general permit. The State Water Control Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** **9VAC25-820. General Virginia Pollutant Discharge Elimination System (VPDES) Watershed Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Bay Watershed in Virginia (amending 9VAC25-820-40, 9VAC25-820-70).**

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

**Public Hearing Information:**

April 1, 2021 - 2 p.m. - GoToWebinar - Register at <https://attendee.gotowebinar.com/register/6346732272498140686>. Once the registration is completed, registrants will receive a confirmation email with a link for participation. Alternatively, those wishing to participate without pre-registering or who prefer to attend the meeting by telephone, without internet access, contact Austen Stevens at [austen.stevens@deq.virginia.gov](mailto:austen.stevens@deq.virginia.gov) or 804-698-4161 prior to the meeting date. Additional details and information are available on the Virginia Regulatory Town Hall ([www.townhall.virginia.gov](http://www.townhall.virginia.gov)).

**Public Comment Deadline:** April 30, 2021.

**Agency Contact:** Curt Linderman, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4468, FAX (804) 698-4178, or email [curt.linderman@deq.virginia.gov](mailto:curt.linderman@deq.virginia.gov).

**Summary:**

*This action amends and reissues the existing general permit for total nitrogen and total phosphorus discharges and nutrient trading in the Chesapeake Bay watershed in Virginia that expires on December 31, 2021. The regulation provides for the permitting of total nitrogen and total phosphorus discharges in the Chesapeake Bay watershed and allows for trading of nutrient credits to minimize costs to the regulated facilities and allow for future growth.*

*The proposed amendments update and clarify compliance plan requirements, effective dates, consolidation of facilities, schedules of compliance, monitoring frequencies and sample types, registration statement requirements for certain facilities treating domestic sewage, and unit costs of credit acquisitions to the Nutrient Offset Fund.*

**9VAC25-820-40. Compliance plans.**

~~A. By July 1, 2017, every owner of a facility identified in 9VAC25 820 80 and subject to a limit effective date after January 1, 2017, as defined in Part I C 1 of 9VAC25 820 70 shall either individually or through the Virginia Nutrient Credit Exchange Association submit compliance plans to the department for approval.~~

~~1. The compliance plans shall contain any capital projects and implementation schedules needed to achieve total nitrogen and phosphorus reductions sufficient to comply with the individual and combined wasteload allocations of all the permittees in the tributary as soon as possible. Permittees submitting individual plans are not required to account for other facilities' activities.~~

~~2. As part of the compliance plan development, permittees shall either:~~

- ~~a. Demonstrate that the additional capital projects anticipated by subdivision 1 of this subsection are necessary to ensure continued compliance with these allocations by the applicable deadline for the tributary to which the facility discharges (Part I C of the permit), or~~
- ~~b. Request that their individual wasteload allocations become effective on January 1, 2017.~~

~~3. The compliance plans may rely on the exchange of point source credits in accordance with this general permit, but not the acquisition of credits through payments into the Nutrient Offset Fund (§ 10.1 2128.2 of the Code of Virginia), to achieve compliance with the individual and combined wasteload allocations in each tributary.~~

~~B. Every owner of a facility required to submit a registration statement shall either individually or through the Virginia Nutrient Credit Exchange Association submit annual compliance plan updates to the department for approval as required by Part I D of the general permit.~~

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## 9VAC25-820-70. General permit.

Any owner whose registration statement is accepted by the board will receive the following general permit and shall comply with the requirements of the general permit.

General Permit No.: VAN000000  
Effective Date: January 1, ~~2017~~ 2022

Expiration Date: December 31, ~~2024~~ 2026

### GENERAL PERMIT FOR TOTAL NITROGEN AND TOTAL PHOSPHORUS DISCHARGES AND NUTRIENT TRADING IN THE CHESAPEAKE WATERSHED IN VIRGINIA

### AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant to it, owners of facilities holding a VPDES individual permit or owners of facilities that otherwise meet the definition of an existing facility, with total nitrogen or total phosphorus discharges, or both to the Chesapeake Bay or its tributaries, are authorized to discharge to surface waters and exchange credits for total nitrogen or total phosphorus, or both.

The authorized discharge shall be in accordance with the registration statement filed with DEQ, this cover page, Part I-Special Conditions Applicable to All Facilities, Part II-Special Conditions Applicable to New and Expanded Facilities, and Part III-Conditions Applicable to All VPDES Permits, as set forth herein.

#### PART I SPECIAL CONDITIONS APPLICABLE TO ALL FACILITIES

##### A. Authorized activities.

1. Authorization to discharge for owners of facilities required to register.
  - a. Every owner of a facility required to submit a registration statement to the department by November 1, ~~2016~~ 2021, and thereafter upon the reissuance of this general permit, shall be authorized to discharge total nitrogen and total phosphorus subject to the requirements of this general permit upon the department's approval of the registration statement.
  - b. Any owner of a facility required to submit a registration statement with the department at the time he makes application with the department for a new discharge or expansion that is subject to an offset or technology-based requirement in Part II of this general permit, shall be authorized to discharge total nitrogen and total phosphorus subject to the requirements of this general permit upon the department's approval of the registration statement.

- c. Upon the department's approval of the registration statement, a facility will be included in the registration list maintained by the department.

2. Authorization to discharge for owners of facilities not required to register. Any owner of a facility authorized by a VPDES permit and not required by this general permit to submit a registration statement shall be deemed to be authorized to discharge total nitrogen and total phosphorus under this general permit at the time it is issued. Owners of facilities that are deemed to be permitted under this subsection shall have no obligation under this general permit prior to submitting a registration statement and securing coverage under this general permit based upon such registration statement.

3. Continuation of permit coverage.

- a. Any owner authorized to discharge under this general permit and who submits a complete registration statement for the reissued general permit by November 1, ~~2024~~ 2026, in accordance with Part III M or who is not required to register in accordance with Part I A 2 is authorized to continue to discharge under the terms of this general permit until such time as the board either:

- (1) Issues coverage to the owner under the reissued general permit, or

- (2) Notifies the owner that the discharge is not eligible for coverage under this general permit.

- b. When the owner that was covered under the expiring or expired general permit has violated or is violating the conditions of that permit, the board may choose to do any or all of the following:

- (1) Initiate enforcement action based upon the ~~2012~~ 2017 general permit,

- (2) Issue a notice of intent to deny coverage under the reissued general permit. If the general permit coverage is denied, the owner would then be required to cease the discharges authorized by the administratively continued coverage under the terms of the ~~2012~~ 2017 general permit or be subject to enforcement action for operating without a permit, or

- (3) Take other actions authorized by the State Water Control Law.

##### B. Wasteload allocations.

1. Wasteload allocations allocated to permitted facilities pursuant to 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation, or applicable TMDLs, or wasteload allocations acquired by owners of new and expanding facilities to offset new or increased delivered total nitrogen and delivered total phosphorus loads from a new discharge or expansion under Part II B of this general permit, and existing loads calculated from the permitted design capacity of expanding facilities

not previously covered by this general permit, shall be incorporated into the registration list maintained by the department. The wasteload allocations contained in this list shall be enforceable as annual mass load limits in this general permit. Credits shall not be generated by facilities whose operations were previously authorized by a Virginia Pollution Abatement (VPA) permit that was issued before July 1, 2005.

2. Except as described in subdivisions 2 c and 2 d of this subsection, an owner of two or more facilities covered by this general permit and discharging to the same tributary may apply for and receive an aggregated mass load limit for delivered total nitrogen and an aggregated mass load limit for delivered total phosphorus reflecting the total of the water quality-based total nitrogen and total phosphorus wasteload allocations or permitted design capacities established for such facilities individually.

- a. The permittee (and all of the individual facilities covered under a single registration) shall be deemed to be in compliance when the aggregate mass load discharged by the facilities is less than the aggregate load limit.
- b. The permittee will be eligible to generate credits only if the aggregate mass load discharged by the facilities is less than the total of the wasteload allocations assigned to any of the affected facilities.
- c. The aggregation of mass load limits shall not affect any requirement to comply with local water quality-based limitations.
- d. Facilities whose operations were previously authorized by a Virginia Pollution Abatement (VPA) permit that was issued before July 1, 2005, cannot be aggregated with other facilities under common ownership or operation.
- e. Operation under an aggregated mass load limit in accordance with this section shall not be deemed credit acquisition as described in Part I J 2 of this general permit.

3. An owner that consolidates two or more facilities discharging to the same tributary into a single regional facility may apply for and receive an aggregated mass load limit for delivered total nitrogen and an aggregated mass load limit for delivered total phosphorus, subject to the following conditions:

- a. Aggregate mass limits will be calculated accounting for delivery factors in effect at the time of the consolidation.
- b. If all of the affected facilities have wasteload allocations in 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation, the aggregate mass load limit shall be calculated by adding the wasteload allocations of the affected facilities. The regional facility shall be eligible to generate credits.
- ~~b.~~ c. If any, but not all, of the affected facilities has a wasteload allocation in 9VAC25-720-50 C, 9VAC25-

720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation, the aggregate mass load limit shall be calculated by adding:

- (1) Wasteload allocations of those facilities that have wasteload allocations in 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation;
- (2) Permitted design capacities assigned to affected industrial facilities; and
- (3) Loads from affected sewage treatment works that do not have a wasteload allocation in 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation, defined as the lesser of a previously calculated permitted design capacity, or the values calculated by the following formulae:

$$\text{Nitrogen Load (lbs/day year)} = \text{flow (MGD)} \times 8.0 \text{ mg/l} \times 8.345 \times 365 \text{ days/year}$$

$$\text{Phosphorus Load (lbs/day year)} = \text{flow (MGD)} \times 1.0 \text{ mg/l} \times 8.345 \times 365 \text{ days/year}$$

Flows used in the preceding formulae shall be the design flow of the treatment works from which the affected facility currently discharges.

The regional facility shall be eligible to generate credits.

~~e.~~ d. If none of the affected facilities have a wasteload allocation in 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation, the aggregate mass load limit shall be calculated by adding the respective permitted design capacities for the affected facilities.

~~e.~~ e. Facilities whose operations were previously authorized by a Virginia Pollution Abatement (VPA) permit that was issued before July 1, 2005, may be consolidated with other facilities under common ownership or operation, but their allocations cannot be transferred to the regional facility.

~~e.~~ f. Facilities whose operations were previously authorized by a VPA permit that was issued before July 1, 2005, can become regional facilities, but they cannot receive additional allocations beyond those permitted in Part II B 1 d of this general permit.

4. Unless otherwise noted, the nitrogen and phosphorus wasteload allocations assigned to permitted facilities are considered total loads, including nutrients present in the intake water from the river, as applicable. On a case-by-case basis, an industrial discharger may demonstrate to the satisfaction of the board that a portion of the nutrient load originates in its intake water. This demonstration shall be consistent with the assumptions and methods used to derive



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the allocations through the Chesapeake Bay models. In these cases, the board may limit the permitted discharge to the net nutrient load portion of the assigned wasteload allocation.

5. Bioavailability. Unless otherwise noted, the entire nitrogen and phosphorus wasteload allocations assigned to permitted facilities are considered to be bioavailable to organisms in the receiving stream. On a case-by-case basis, a discharger may demonstrate to the satisfaction of the board that a portion of the nutrient load is not bioavailable; this demonstration shall not be based on the ability of the nutrient to resist degradation at the wastewater treatment plant, but instead, on the ability of the nutrient to resist degradation within a natural environment for the amount of time that it is expected to remain in the Chesapeake Bay watershed. This demonstration shall also be consistent with the assumptions and methods used to derive the allocations through the Chesapeake Bay models. In these cases, the board may limit the permitted discharge to the bioavailable portion of the assigned wasteload allocation.

## C. Schedule of compliance.

~~1. The following schedule of compliance pertaining to the load allocations for total nitrogen and total phosphorus applies to the facilities listed in 9VAC25-820-80:~~

~~a. Compliance shall be achieved as soon as possible, but no later than the following dates, subject to any compliance plan based adjustment by the board pursuant to subdivision 1 b of this subsection, for each upgrade phase:~~

| Upgrade Phase            | Limit Effective Date |
|--------------------------|----------------------|
| Phase 1 Total Nitrogen   | January 1, 2017      |
| Phase 2 Total Nitrogen   | January 1, 2022      |
| Phase 2 Total Phosphorus | January 1, 2017      |

~~b. Following submission of compliance plans and compliance plan updates required by 9VAC25-820-40, the board shall reevaluate the schedule of compliance in subdivision 1 a of this subsection, taking into account the information in the compliance plans and the factors in § 62.1-44.19:14 C 2 of the Code of Virginia. When warranted based on such information and factors, the board shall adjust the schedule in subdivision 1 a of this subsection as appropriate by modification or reissuance of this general permit.~~

~~2. The registration list shall contain individual dates for compliance with wasteload allocations for dischargers, as follows:~~

~~a. Owners of facilities listed in 9VAC25-820-80 will have individual dates for compliance based on their respective compliance plans that may be earlier than the upgrade phase schedule listed in subdivision 1 of this subsection.~~

~~b. Owners of facilities listed in 9VAC25-820-80 that waive their compliance schedules in accordance with 9VAC25-820-40 A 2 b shall have an individual compliance date of January 1, 2017.~~

~~e. Upon completion of the projects contained in their compliance plans, owners of facilities listed in 9VAC25-820-80 may receive a revised individual compliance date of January 1 for the calendar year immediately following the year in which a Certificate to Operate was issued for the capital projects, but not later than the upgrade phase schedule listed in subdivision 1 of this subsection.~~

~~d. Owners of new and expanded facilities will have individual dates for compliance corresponding to the date that coverage under this general permit was extended to discharges from the facility.~~

~~3. The significant dischargers in the James River Basin shall meet aggregate discharged wasteload allocations of 8,968,864 lbs/yr TN and 545,558 lbs/yr TP by January 1, 2023.~~

D. Annual update of compliance plan. Every owner of a facility required to submit a registration statement shall either individually or through the Virginia Nutrient Credit Exchange Association submit updated compliance plans to the department no later than February 1 of each year. The compliance plans shall contain sufficient information to document a plan to achieve and maintain compliance with applicable total nitrogen and total phosphorus individual wasteload allocations on the registration list and aggregate wasteload allocations in Part I C 3. Compliance plans for owners of facilities that were required to submit a registration statement with the department under Part I G 1 a may rely on the acquisition of point source credits in accordance with Part I J of this general permit, but not the acquisition of credits through payments into the Nutrient Offset Fund, to achieve compliance with the individual and combined wasteload allocations in each tributary. Compliance plans for expansions or new discharges for owners of facilities that are required to submit a registration statement with the department under Part I G 1 b and c may rely on the acquisition of allocation in accordance with Part II B of this general permit to achieve compliance with the individual and combined wasteload allocations in each tributary.

## E. Monitoring requirements.

1. Discharges shall be monitored by the permittee during weekdays as specified in the table below unless the department determines that weekday only sampling results in a non-representative load. Weekend monitoring or alternative monthly load calculations to address production schedules or seasonal flows shall be submitted to the department for review and approval on a case-by-case basis. Facilities that exhibit instantaneous discharge flows that vary from the daily average discharge flow by less than 10% may submit a proposal to the department to use an

alternative sample type; such proposals shall be reviewed and approved by the department on a case-by-case basis.

| Parameter   | Sample Type and Collection Frequency  |  |                       |                                 |  |
|---|---------------------------------------|--|-----------------------|---------------------------------|--|
| STP design flow   | ≥20.0 MGD                             | 1.0 - 19.999 MGD                       | 0.5 - 0.999 MGD       | 0.040 - 0.499 MGD               | < 0.040 MGD  |
| Effluent TN load limit for industrial facilities  |                                       | ≥100,000 →<br><del>350,000</del> lb/yr | 50,000 - 99,999 lb/yr | 487 - 49,999 lb/yr              | < 487 lb/yr  |
| Effluent TP load limit for industrial facilities  |                                       | ≥10,000 →<br><del>35,000</del> lb/yr   | 5,000 - 9,999 lb/yr   | 37 - 4,999 lb/yr                | < 37 lb/yr   |
| Flow  | Totalizing, Indicating, and Recording |  |                       |                                 | 1/Day, see individual VPDES permit for sample type |
| Nitrogen Compounds (Total Nitrogen = TKN NO <sub>2</sub> - (as N) NO <sub>3</sub> - (as N))   | 24 HC<br>3<br>Days/Week               | 24 HC<br>2 Days/Week*                  | 8 HC<br>2 Days/Week*  | 8 HC<br>2/Month, > 7 days apart | 1/Month<br>Grab                                    |
| Total Phosphorus  | 24 HC<br>3<br>Days/Week               | 24 HC<br>2 Days/Week*                  | 8 HC<br>2 Days/Week*  | 8 HC<br>2/Month, > 7 days apart | 1/Month<br>Grab                                    |
| *Two flow composited samples taken in the same calendar week that are then composited by flow into a single weekly composite sample for analysis shall be considered to be in compliance with this requirement. |                                       |  |                       |                                 |  |

2. Monitoring for compliance with effluent limitations shall be performed in a manner identical to that used to determine compliance with effluent limitations established in the individual VPDES permit unless specified otherwise in subdivisions 3, 4, and 5 of Part I E. Monitoring or sampling shall be conducted according to analytical laboratory methods approved under 40 CFR Part 136, unless other test or sample collection procedures have been requested by the permittee and approved by the department in writing. All analysis for compliance with effluent limitations shall be conducted in accordance with 1VAC30-45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46, Accreditation for Commercial Environmental Laboratories. Monitoring may be performed by the permittee at frequencies more stringent than listed in subdivision 1 of Part I E; however, the permittee shall report all results of such monitoring.

3. Loading values greater than or equal to 10 pounds reported in accordance with Part I E and F of this general permit shall be calculated and reported to the nearest pound without regard to mathematical rules of precision. Loading values of less than 10 pounds reported in accordance with Part I E and F of this general permit shall be calculated and reported to at least two significant digits with the exception that all complete calendar year annual loads shall be reported to the nearest pound.

4. Data shall be reported on a form provided by the department, by the same date each month as is required by

the owner's individual VPDES permit. The total monthly load shall be calculated in accordance with the following formula:

$$ML = \left( \frac{\sum DL}{s} \right) \times d$$

where:

ML = total monthly load (lb/mo) = average daily load for the calendar month multiplied by the number of days of the calendar month on which a discharge occurred

DL = daily load = daily concentration (expressed as mg/l to the nearest 0.01 mg/l) multiplied by the flow volume of effluent discharged during the 24-hour period (expressed as MGD to at least the nearest 0.01 MGD and in no case less than two significant digits), multiplied by 8.345. Daily loads greater than or equal to 10 pounds may be rounded to the nearest whole number to convert to pounds per day (lbs/day). Daily loads less than or equal to 10 pounds may be rounded to no fewer than two significant figures.

s = number of days in the calendar month in which a sample was collected and analyzed

d = number of discharge days in the calendar month

For total phosphorus, all daily concentration data below the quantification level (QL) for the analytical method used shall be treated as half the QL. All daily concentration data equal to or above the QL for the analytical method used shall

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be treated as it is reported. If all data are below the QL, then the average shall be reported as half the QL.

For total nitrogen (TN), if none of the daily concentration data for the respective species (i.e., TKN, nitrates/nitrites) are equal to or above the QL for the respective analytical methods used, the daily TN concentration value reported shall equal one half of the largest QL used for the respective species. If one of the data is equal to or above the QL, the daily TN concentration value shall be treated as that data point as reported. If more than one of the data is above the QL, the daily TN concentration value shall equal the sum of the data points as reported.

The quantification levels shall be less than or equal to the following concentrations:

| Parameter       | Quantification Level |
|-----------------|----------------------|
| TKN             | 0.50 mg/l            |
| Nitrite         | 0.10 mg/l            |
| Nitrate         | 0.20 mg/l            |
| Nitrite Nitrate | 0.20 mg/l            |

Higher QLs may be approved on a case-by-case basis where a higher QL routinely results in reportable results of the species in question or is otherwise technically appropriate based on standard lab practices.

The total year-to-date mass load shall be calculated in accordance with the following formula:

$$AL_{YTD} = \sum_{(Jan-present)} ML$$

where:

AL-YTD = calendar year-to-date annual load (lb/yr)

ML = total monthly load (lb/mo)

The total annual mass load shall be calculated in accordance with the following formula:

$$AL = \sum_{(Jan-Dec)} ML$$

where:

AL = calendar year annual load (lb/yr)

ML = total monthly load (lb/mo)

5. The department may authorize a chemical usage evaluation as an alternative means of determining nutrient loading for outfalls where the only source of nutrients is that found in the surface water intake and chemical additives used by the facility. Such an evaluation shall be submitted to the department for review and approval on a case-by-case basis. Implementation of approved chemical usage evaluations shall satisfy the requirements specified under Part I E 1 and 2.

F. Annual reporting. On or before February 1, annually, each permittee shall file a discharge monitoring report with the department identifying the annual mass load of total nitrogen and the annual mass load of total phosphorus discharged by the permitted facility during the previous calendar year.

G. Requirement to register; exclusions.

1. The following owners are required to register for coverage under this general permit:

a. Every owner of an existing facility authorized by a VPDES permit to discharge 100,000 gallons or more per day from a sewage treatment work, or an equivalent load from an industrial facility, directly into tidal waters, or 500,000 gallons or more per day from a sewage treatment works, or an equivalent load from an industrial facility, directly into nontidal waters shall submit a registration statement to the department by November 1, 2016, and thereafter upon the reissuance of this general permit in accordance with Part III M. The conditions of this general permit will apply to such owner upon approval of a registration statement.

b. Any owner of a facility authorized by a Virginia Pollutant Discharge Elimination System permit to discharge 40,000 gallons or more per day from a sewage treatment works, or an equivalent load from an industrial facility, directly into tidal or nontidal waters shall submit a registration statement with the department at the time he makes application for an individual permit with the department for a new discharge or expansion that is subject to an offset requirement in Part II of this general permit or to a technology-based requirement in 9VAC25-40-70, and thereafter upon the reissuance of this general permit in accordance with Part III M. The conditions of this general permit will apply to such owner beginning January 1 of the calendar year immediately following approval of a registration statement and issuance or modification of the individual permit.

c. Any owner of a facility treating domestic sewage authorized by a VPDES permit with a discharge greater than 1,000 gallons per day up to and including 39,999 gallons per day that did not commence the discharge of pollutants prior to January 1, 2011, and is subject to offset requirements in accordance with Part II A 1 c of this general permit shall submit a registration statement with the department at the time ~~he~~ the owner makes application for an individual permit with the department or prior to commencing a discharge, whichever occurs first, and thereafter upon the reissuance of this general permit in accordance with Part III M.

2. All other categories of discharges are excluded from registration under this general permit.

H. Registration statement.

1. The registration statement shall contain the following information:

- a. Name, mailing address and telephone number, email address, and fax number of the owner (and facility operator, if different from the owner) applying for permit coverage;
- b. Name (or other identifier), address, city or county, contact name, phone number, email address, and fax number for the facility for which the registration statement is submitted;
- c. VPDES permit numbers for all permits assigned to the facility, or pursuant to which the discharge is authorized;
- d. If applying for an aggregated wasteload allocation in accordance with Part I B 2 of this permit, a list of all affected facilities and the VPDES permit numbers assigned to these facilities;
- e. For new and expanded facilities, a plan to offset new or increased delivered total nitrogen and delivered total phosphorus loads, including the amount of wasteload allocation acquired. Wasteload allocations or credits sufficient to offset projected nutrient loads must be provided for period of at least five years; and
- f. For existing facilities, the amount of a facility's wasteload allocation transferred to or from another facility to offset new or increased delivered total nitrogen and delivered total phosphorus loads from a new discharge or expansion.

2. The registration statement shall be submitted to the DEQ Central Office, Office of VPDES Permits. Following notification from the department of the start date for the required electronic submission of Notices of Intent to Discharge forms (i.e., registration statements), as provided for in 9VAC25-31-1020, such form submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. At least three months' notice shall be provided between the notification from the department and the date after which such forms must be submitted electronically.

3. An amended registration statement shall be submitted to DEQ immediately upon the acquisition or transfer of a facility's wasteload allocation to offset new or increased delivered total nitrogen and delivered total phosphorus loads from a new discharge or expansion.

I. Public notice for registration statements proposing modifications or incorporations of new wasteload allocations or delivery factors.

1. All public notices issued pursuant to a proposed modification or incorporation of a (i) new wasteload allocation to offset new or increased delivered total nitrogen and delivered total phosphorus loads from a new discharge or expansion or (ii) delivery factor shall be published once a week for two consecutive weeks in a local newspaper of

general circulation serving the locality where the facility is located informing the public that the owner of the facility intends to apply for coverage under this general permit. At a minimum, the notice shall include:

- a. A statement of the owner's intent to register for coverage under this general permit;
- b. A brief description of the facility and its location;
- c. The amount of wasteload allocation that will be acquired or transferred if applicable;
- d. The delivery factor for a new discharge or expansion;
- e. If applicable, any proposed nonpoint source to point source trading ratio less than 2:1 proposed under Part II B 1 b (1);
- f. A statement that the purpose of the public participation is to acquaint the public with the technical aspects of the facility and how the standards and the requirements of this chapter will be met, to identify issues of concern, to facilitate communication, and to establish a dialogue between the owner and persons who may be affected by the discharge from the facility;
- g. An announcement of a 30-day comment period and the name, telephone number, and address of the owner's representative who can be contacted by the interested persons to answer questions;
- h. The name, telephone number, and address of the DEQ representative who can be contacted by the interested persons to answer questions, or where comments shall be sent; and
- i. The location where copies of the documentation to be submitted to the department in support of this general permit notification and any supporting documents can be viewed and copied.

2. The owner shall place a copy of the documentation and support documents in a location accessible to the public in the vicinity of the proposed facility.

3. The public shall be provided 30 days to comment on the technical and the regulatory aspects of the proposal. The comment period will begin on the date the notice is published in the local newspaper.

J. Compliance with wasteload allocations.

1. Methods of compliance. The owner of the permitted facility shall comply with its wasteload allocation contained in the registration list maintained by the department. The owner of the permitted facility shall be in compliance with its wasteload allocation if:

- a. The annual mass load is less than or equal to the applicable wasteload allocation assigned to the facility in this general permit (or permitted design capacity for expanded facilities without allocations);
- b. The owner of the permitted facility acquires sufficient point source nitrogen or phosphorus credits in accordance

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with subdivision 2 of this subsection; provided, however, that the acquisition of nitrogen or phosphorus credits pursuant to this section shall not alter or otherwise affect the individual wasteload allocations for each permitted facility; or

c. In the event he is unable to meet the individual wasteload allocation pursuant to subdivision 1 a or 1 b of this subsection, the owner of the permitted facility acquires sufficient nitrogen or phosphorus credits through payments made into the Nutrient Offset Fund pursuant to subdivision 3 of this subsection; provided, however, that the acquisition of nitrogen or phosphorus credits pursuant to this section shall not alter or otherwise affect the individual wasteload allocations for each permitted facility.

2. Credit acquisition from owners of permitted facilities. A permittee may acquire point source nitrogen credits or point source phosphorus credits from one or more owners of permitted facilities only if:

a. The credits are generated and applied to a compliance obligation in the same calendar year;

b. The credits are generated by one or more permitted facilities in the same tributary, except that owners of permitted facilities in the Eastern Shore Basin may also acquire credits from owners of permitted facilities in the Potomac and Rappahannock tributaries. Owners of Eastern Shore Basin facilities may acquire credits from the owners of Potomac tributary facilities at a trading ratio of 1:1. A trading ratio of 1.3:1 shall apply to the acquisition of credits from the owners of a Rappahannock tributary facility by the owner of an Eastern Shore Basin facility;

c. The exchange or acquisition of credits does not affect any requirement to comply with local water quality-based limitations as determined by the board;

d. The credits are acquired no later than June 1 immediately following the calendar year in which the credits are applied;

e. The credits are generated by a facility that has been constructed, and has discharged from treatment works whose design flow or equivalent industrial activity is the basis for the facility's wasteload allocations (until a facility is constructed and has commenced operation, such credits are held, and may be sold, by the Nutrient Offset Fund; and

f. No later than June 1 immediately following the calendar year in which the credits are applied, the permittee certifies on a credit exchange notification form supplied by the department that he has acquired sufficient credits to satisfy his compliance obligations. The permittee shall comply with the terms and conditions contained in the credit exchange notification form submitted to the department.

3. Credit acquisitions from the Nutrient Offset Fund. Until such time as the board finds that no allocations are reasonably available in an individual tributary, permittees that cannot meet their total nitrogen or total phosphorus effluent limit may acquire nitrogen or phosphorus credits through payments made into the Nutrient Offset Fund established in § 10.1-2128.2 of the Code of Virginia only if, no later than June 1 immediately following the calendar year in which the credits are to be applied, the permittee certifies on a form supplied by the department that he has diligently sought, but has been unable to acquire, sufficient credits to satisfy his compliance obligations through the acquisition of point source nitrogen or phosphorus credits with other permitted facilities, and that he has acquired sufficient credits to satisfy his compliance obligations through one or more payments made in accordance with the terms of this general permit. Such certification may include, ~~but not be limited to,~~ providing a record of solicitation or demonstration that point source allocations are not available for sale in the tributary in which the permittee's facility is located. Payments to the Nutrient Offset Fund shall be in the amount of ~~\$4.60~~ \$5.08 for each pound of nitrogen and ~~\$10.10~~ \$11.15 for each pound of phosphorus and shall be subject to the following requirements:

a. The credits are generated and applied to a compliance obligation in the same calendar year.

b. The credits are generated in the same tributary, except that owners of permitted facilities in the Eastern Shore Basin may also acquire credits from the owners of facilities that discharge to the Potomac and Rappahannock tributaries. Owners of Eastern Shore Basin facilities may acquire credits from the owners of facilities that discharge to a Potomac tributary at a trading ratio of 1:1. A trading ratio of 1.3:1 shall apply to the acquisition of credits from owners of facilities that discharge to a Rappahannock tributary by the owners of an Eastern Shore Basin facility.

c. The acquisition of credits does not affect any requirement to comply with local water quality-based limitations, as determined by the board.

4. This general permit neither requires nor prohibits a municipality or regional sewerage authority's development and implementation of trading programs among industrial users, which are consistent with the pretreatment regulatory requirements at 40 CFR Part 403 and the municipality's or authority's individual VPDES permit.

## Part II

### SPECIAL CONDITIONS APPLICABLE TO NEW AND EXPANDED FACILITIES

A. Offsetting mass loads discharged by new and expanded facilities.

1. An owner of a new or expanded facility shall comply with the applicable requirements of this section as a condition of the facility's coverage under this general permit.

a. An owner of a facility authorized by a VPDES permit first issued before July 1, 2005, that expands the facility to discharge 40,000 gallons or more per day, or an equivalent load, shall demonstrate to the department that he has acquired wasteload allocations sufficient to offset any increase in his delivered total nitrogen and delivered total phosphorus loads resulting from any expansion beyond his permitted capacity as of July 1, 2005.

b. An owner of a facility authorized by a VPDES permit first issued on or after July 1, 2005, to discharge 40,000 gallons or more per day, or an equivalent load, shall demonstrate to the department that he has acquired wasteload allocations sufficient to offset his delivered total nitrogen and delivered total phosphorus loads.

c. An owner of a facility treating domestic sewage authorized by a VPDES permit with a discharge greater than 1,000 gallons per day up to and including 39,999 gallons per day that did not commence the discharge of pollutants prior to January 1, 2011, shall demonstrate to the department that he has acquired wasteload allocations sufficient to offset his delivered total nitrogen and delivered phosphorus loads prior to commencing the discharge, except when the facility is for short-term temporary use only as determined by the department or when treatment of domestic sewage is not the primary purpose of the facility.

2. Offset calculations shall address the proposed discharge that exceeds:

a. The applicable wasteload allocation assigned to discharges from the facility in this general permit, for expanding significant dischargers with a wasteload allocation listed in 9VAC25-720-50 C, 9VAC25-720-60 C, 9VAC25-720-70 C, 9VAC25-720-110 C, and 9VAC25-720-120 C of the Water Quality Management Planning Regulation;

b. The permitted design capacity, for all other expanding dischargers; and

c. Zero, for facilities with a new discharge.

3. An owner of multiple facilities that discharge into the same tributary, and assigned an aggregate mass load limit in accordance with Part I B 2 of this general permit, that undertakes construction of new or expanded facilities shall be required to acquire wasteload allocations sufficient to offset any increase in delivered total nitrogen and delivered total phosphorus loads resulting from any expansion beyond the aggregate mass load limit assigned these facilities.

**B. Acquisition of wasteload allocations.** ~~wasteload~~ Wasteload allocations required by this section to offset new or increased delivered total nitrogen and delivered total phosphorus loads shall be acquired in accordance with this section.

1. Such allocations may be acquired from one or a combination of the following:

a. Acquisition of all or a portion of the wasteload allocations or point source nitrogen or point source phosphorus credits from the owners of one or more permitted facilities, based on delivered pounds by the respective trading parties as listed by the department;

b. Acquisition of credits certified by the board pursuant to § 62.1-44.19:20 of the Code of Virginia. Credits used to offset new or increased nutrient loads under this subdivision shall be:

(1) Subject to a trading ratio of two pounds reduced for every pound to be discharged if certified as a nonpoint source credit by the board pursuant to § 62.1-44.19:20 of the Code of Virginia. On a case-by-case basis the board may approve nonpoint source to source trading ratios of less than 2:1 (but not less than 1:1) when the applicant demonstrates factors that ameliorate the presumed 2:1 uncertainty ratio for credits generation by nonpoint sources such as:

(a) When direct and representative monitoring of the pollutant loadings from a nonpoint source is performed in a manner and at a frequency similar to that performed at VPDES point sources and there is consistency in the effectiveness of the operation of the nonpoint source best management practice (BMP) approaching that of a conventional point source.

(b) When nonpoint source credits are generated from land conservation that ensures permanent protection through a conservation easement or other instrument attached to the deed and when load reductions can be reliably determined;

(2) Calculated using best management practices efficiency rates and attenuation rates, as established by the latest science and relevant technical information, and approved by the board;

(3) Based on appropriate delivery factors, as established by the latest science and relevant technical information, and approved by the board;

(4) Demonstrated to have achieved reductions beyond those already required by or funded under federal or state law, or by Virginia's Chesapeake Bay TMDL Watershed Implementation Plan;

(5) Generated in accordance with conditions of the facility's individual VPDES permit; and

(6) In the case of credits generated by land use conversions and urban source reduction controls (BMPs), the credits shall represent nutrient reductions beyond those in place as of July 1, 2005;

c. Until such time as the board finds that no allocations are reasonably available in an individual tributary, acquisition of allocations through payments made into the Nutrient Offset Fund established in § 10.1-2128.2 of the Code of Virginia; or

d. Acquisition of allocations through such other means as may be approved by the department on a case-by-case

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basis. This includes allocations granted by the board to an owner of a facility that is authorized by a VPA permit to land apply domestic sewage if:

- (1) The VPA permit was issued before July 1, 2005;
- (2) The allocation does not exceed the facility's permitted design capacity as of July 1, 2005;
- (3) The waste treated by the facility that is covered under the VPA permit will be treated and discharged pursuant to a VPDES permit for a new discharge; and
- (4) The owner installs state-of-the-art nutrient removal technology at such a facility.

2. Acquisition of allocations or point source nitrogen or point source phosphorus credits is subject to the following conditions:

- a. The allocations or credits shall be generated and applied to an offset obligation in the same calendar year in which the credit is generated;
- b. The allocations or credits shall be generated in the same tributary;
- c. Such acquisition does not affect any requirement to comply with local water quality-based limitations, as determined by the board;
- d. The allocations are authenticated (i.e., verified to have been generated) by the permittee as required by the facility's individual VPDES permit, utilizing procedures approved by the board, no later than February 1 immediately following the calendar year in which the allocations are applied; and
- e. If obtained from the owner of a permitted point source, the allocations shall be generated by a facility that has been constructed, and has discharged from treatment works whose design flow or equivalent industrial activity is the basis for the facility's wasteload allocations.
- f. Such allocations or credits shall be secured for a period of five years with each registration under the general permit.

3. Priority of options. The board shall give priority to allocations or credits acquired in accordance with subdivisions 1 a, b, and d of this subsection. The board shall approve allocations acquired in accordance with subdivision 1 c of this subsection only after the owner has demonstrated that he has made a good faith effort to acquire sufficient allocations in accordance with subdivisions 1 a and 1 b of this subsection, and that such allocations are not reasonably available taking into account timing, cost and other relevant factors. Such demonstration may include, ~~but not be limited to,~~ providing a record of solicitation, or other demonstration that point source allocations or nonpoint source allocations are not available for sale in the tributary in which the permittee's facility discharge is located.

4. Annual allocation acquisitions from the Nutrient Offset Fund. The cost for each pound of nitrogen and each pound of phosphorus shall be determined at the time payment is made to the Nutrient Offset Fund, based on the higher of (i) the estimated cost of achieving a reduction of one pound of nitrogen or phosphorus at the facility that is securing the allocation, or comparable facility, for each pound of allocation acquired; or (ii) the average cost, as determined by the department on an annual basis, of reducing two pounds of nitrogen or phosphorus from nonpoint sources in the same tributary for each pound of allocation acquired.

## Part III

### CONDITIONS APPLICABLE TO ALL VPDES PERMITS

#### A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.
3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.
4. Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-45 (Certification for Noncommercial Environmental Laboratories) or 1VAC30-46 (Accreditation for Commercial Environmental Laboratories).

#### B. Records.

1. Records of monitoring information shall include:
  - a. The date, exact place, and time of sampling or measurements;
  - b. The individuals who performed the sampling or measurements;
  - c. The dates and times analyses were performed;
  - d. The individuals who performed the analyses;
  - e. The analytical techniques or methods used; and
  - f. The results of such analyses.
2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report, or request for coverage. This period of



retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee or as requested by the board.

### C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.

2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved, or specified by the department.

3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted on the DMR or reporting form specified by the department.

4. Calculations for all limitations that require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information that the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating coverage under this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from the discharge on the quality of state waters or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department, upon request, copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized discharges. Except in compliance with this permit or another permit issued by the board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or
2. Otherwise alter the physical, chemical, or biological properties of such state waters and make them detrimental to

the public health, to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee that discharges or causes or allows a discharge of sewage, industrial waste, other wastes, or any noxious or deleterious substance into or upon state waters in violation of Part III F, or that discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part III F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate, and prevent a recurrence of the present discharge or any future discharge not authorized by this permit.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include, but are not limited to, any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and
4. Flooding or other acts of nature.

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I. Reports of noncompliance. The permittee shall report any noncompliance that may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this paragraph:

- a. Any unanticipated bypass; and
- b. Any upset that causes a discharge to surface waters.

2. A written report shall be submitted within five days and shall contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The board may waive the written report on a case-by-case basis for reports of noncompliance under Part III I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under Part III I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part III I 2.

NOTE: The immediate (within 24 hours) reports required in Part III G, H, and I may be made to the department's regional office. Reports may be made by telephone, FAX, or online at <http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/MakingaReport.aspx> <https://portal.deq.virginia.gov/prep/Report/Create>. For reports outside normal working hours, a message may be left and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.

4. Where the permittee becomes aware that it failed to submit any relevant facts in a permit registration statement or submitted incorrect information in a permit registration statement or in any report to the department, the permittee shall promptly submit such facts or information.

J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under § 306 of the Clean Water Act (33 USC § 1251 et seq.) that are applicable to such source; or

(2) After proposal of standards of performance in accordance with § 306 of the Clean Water Act that are applicable to such source, but only if the standards are promulgated in accordance with § 306 of the Clean Water Act within 120 days of their proposal;

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or of disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or of disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for the corporation or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or other actions taken to gather complete and accurate information for permit registration requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal

executive officer of a public agency includes (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits and other information requested by the board shall be signed by a person described in Part III K 1 or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- a. The authorization is made in writing by a person described in Part III K 1;
- b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and
- c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part III K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part III K 2 shall be submitted to the department prior to or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Part III K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; ~~for~~ permit coverage termination, ~~revocation and reissuance, or~~

~~modification~~; or denial of a permit coverage renewal application.

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under § 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least 60 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights or any infringement of federal, state, or local law or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to, any other state law or regulation or under authority preserved by § 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Part III U) and "upset" (Part III V), nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from responsibilities, liabilities, or penalties to which the permittee is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also include effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges, or other pollutants removed in the course of treatment or management

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of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

## U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Part III U 2 and 3.

### 2. Notice.

a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible, at least 10 days before the date of the bypass.

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part III I.

### 3. Prohibition of bypass.

a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part III U 2.

b. The board may approve an anticipated bypass after considering its adverse effects if the board determines that it will meet the three conditions listed in Part III U 3 a.

## V. Upset.

1. An upset, defined in 9VAC25-31-10, constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Part III V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for

noncompliance, is not a final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and that the permittee can identify the cause or causes of the upset;

b. The permitted facility was at the time being properly operated;

c. The permittee submitted notice of the upset as required in Part III I; and

d. The permittee complied with remedial measures required under Part III S.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The permittee shall allow the director, or an authorized representative, including an authorized contractor acting as a representative of the administrator, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours ~~and~~ or whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, or notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of ~~permits~~ permit coverage. ~~Permits are~~ Permit coverage is not transferable to any person except after notice to the department. Coverage under this permit may be automatically transferred to a new permittee if:

1. The current permittee notifies the department within 30 days of the transfer of the title to the facility or property,

unless permission for a later date has been granted by the board;

2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

3. The board does not notify the existing permittee and the proposed new permittee of its intent to deny the new permittee coverage under the permit. If this notice is not received, the transfer is effective on the date specified in the agreement described in Part III Y 2.

Z. Severability. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

VA.R. Doc. No. R20-6288; Filed February 8, 2021, 3:49 p.m.

## TITLE 12. HEALTH

### STATE BOARD OF HEALTH

#### Final Regulation

**Title of Regulation: 12VAC5-230. State Medical Facilities Plan (amending 12VAC5-230-10, 12VAC5-230-420, 12VAC5-230-610, 12VAC5-230-620).**

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

**Effective Date: March 31, 2021.**

**Agency Contact: Erik Bodin, Director of COPN, MCHIP, and Cooperative Agreement Division, Virginia Department of Health, 9960 Mayland Drive, Suite 401, Richmond, VA 23233, telephone (804) 367-1889, or email [erik.bodin@vdh.virginia.gov](mailto:erik.bodin@vdh.virginia.gov).**

**Summary:**

*The regulatory action updates the State Medical Facilities Plan to (i) correct the definition of cardiac catheterization; (ii) add definitions for simple therapeutic, complex therapeutic, and diagnostic cardiac catheterizations; (iii) update the definition of diagnostic equivalent procedure to reflect the differentiation between the types of cardiac catheterization; (iv) add new review criteria for projects relating to cardiac catheterization and the new differentiation; and (v) makes appropriate changes to the occupancy standard utilized for determining the need for new nursing home beds. The proposed amendment in 12VAC5-230-610 to change "can" to "shall" regarding the exception in subsection A was not adopted in the final regulation by the State Board of Health.*

**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.

**12VAC5-230-10. Definitions.**

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

"Acute psychiatric services" means hospital-based inpatient psychiatric services provided in distinct inpatient units in general hospitals or freestanding psychiatric hospitals.

"Acute substance abuse disorder treatment services" means short-term hospital-based inpatient treatment services with access to the resources of (i) a general hospital, (ii) a psychiatric unit in a general hospital, (iii) an acute care addiction treatment unit in a general hospital licensed by the Department of Health, or (iv) a chemical dependency specialty hospital with acute care medical and nursing staff and life support equipment licensed by the Department of ~~Mental Behavioral Health, Mental Retardation and Substance Abuse~~ Developmental Services.

"Bassinet" means an infant care station, including warming stations and isolettes.

"Bed" means that unit, within the complement of a medical care facility, subject to COPN review as required by Article 1.1 (§ 32.1-102.1 et seq.) of the Code of Virginia and designated for use by patients of the facility or service. For the purposes of this chapter, bed does include cribs and bassinets used for pediatric patients; but does not include cribs and bassinets in the newborn nursery or neonatal special care setting.

"Cardiac catheterization" means ~~a~~ an invasive procedure where a flexible tube is inserted into the patient through an extremity blood vessel and advanced under fluoroscopic guidance into the heart chambers or coronary arteries. ~~Cardiac A cardiac~~ cardiac catheterization may include therapeutic intervention, be conducted for diagnostic or therapeutic purposes but does not include a simple right heart catheterization for monitoring purposes as might be performed in an electrophysiology laboratory, pulmonary angiography as an isolated procedure, or cardiac pacing through a right electrode catheter.

"Commissioner" means the State Health Commissioner.

"Competing applications" means applications for the same or similar services and facilities that are proposed for the same health planning district, or same health planning region for projects reviewed on a regional basis, and are in the same batch review cycle.

"Complex therapeutic cardiac catheterization" means the performance of cardiac catheterization for the purpose of correcting or improving certain conditions that have been determined to exist in the heart or great arteries or veins of the

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heart, specifically catheter-based procedures for structural treatment to correct congenital or acquired structural or valvular abnormalities.

"Computed tomography" or "CT" means a noninvasive diagnostic technology that uses computer analysis of a series of cross-sectional scans made along a single axis of a bodily structure or tissue to construct an image of that structure.

"Continuing care retirement community" or "CCRC" means a retirement community consistent with the requirements of Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia.

"COPN" means a Medical Care Facilities Certificate of Public Need for a project as required in Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia.

"COPN program" means the Medical Care Facilities Certificate of Public Need Program implementing Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia.

"DEP" means diagnostic equivalent procedure, a method for weighing the relative value of various cardiac catheterization procedures as follows: a diagnostic ~~procedure~~ cardiac catheterization equals 1 DEP, a simple therapeutic procedure cardiac catheterization equals 2 DEPs, a same session procedure (diagnostic and simple therapeutic) equals 3 DEPs, and a ~~pediatric procedure~~ complex therapeutic cardiac catheterization equals ~~2~~ 5 DEPs. A multiplier of 2 will be applied for a pediatric procedure (i.e., a pediatric diagnostic cardiac catheterization equals 2 DEPs, a pediatric simple therapeutic cardiac catheterization equals 4 DEPs, and a pediatric complex therapeutic cardiac catheterization equals 10 DEPs.)

"Diagnostic cardiac catheterization" means the performance of cardiac catheterization for the purpose of detecting and identifying defects in the great arteries or veins of the heart or abnormalities in the heart structure, whether congenital or acquired.

"Direction" means guidance, supervision, or management of a function or activity.

"Gamma knife®" means the name of a specific instrument used in stereotactic radiosurgery.

"Health planning district" means the same contiguous areas designated as planning districts by the Virginia Department of Housing and Community Development or its successor.

"Health planning region" means a contiguous geographic area of the Commonwealth as designated by the State Board of Health with a population base of at least 500,000 persons, characterized by the availability of multiple levels of medical care services, reasonable travel time for tertiary care, and congruence with planning districts.

"Health system" means an organization of two or more medical care facilities, including ~~but not limited to~~ hospitals, that are under common ownership or control and are located within the same health planning district, or health planning region for projects reviewed on a regional basis.

"Hospital" means a medical care facility licensed as an inpatient hospital or outpatient surgical center by the Department of Health or as a psychiatric hospital by the Department of Mental Behavioral Health, Mental Retardation, and Substance Abuse Developmental Services.

"ICF/MR" means an intermediate care facility for the mentally retarded.

"Indigent" means any person whose gross family income is equal to or less than 200% of the federal Nonfarm Poverty Level or income levels A through E of 12VAC5-200-10 and who is uninsured.

"Inpatient" means a patient who is hospitalized longer than 24 hours for health or health related services.

"Intensive care beds" or "ICU" means inpatient beds located in the following units or categories:

1. General intensive care units are those units where patients are concentrated by reason of serious illness or injury regardless of diagnosis. Special lifesaving techniques and equipment are immediately available and patients are under continuous observation by nursing staff;
2. Cardiac care units, also known as Coronary Care Units or CCUs, are units staffed and equipped solely for the intensive care of cardiac patients; and
3. Specialized intensive care units are any units with specialized staff and equipment for the purpose of providing care to seriously ill or injured patients based on age selected categories of diagnoses, including units established for burn care, trauma care, neurological care, pediatric care, and cardiac surgery recovery; but does not include bassinets in neonatal special care units.

"Lithotripsy" means a noninvasive therapeutic procedure to (i) crush renal and biliary stones using shock waves; (i.e., renal lithotripsy) or (ii) treat certain musculoskeletal conditions and ~~to~~ relieve the pain associated with tendonitis; (i.e., orthopedic lithotripsy).

"Long-term acute care hospital" or "LTACH" means an inpatient hospital that provides care for patients who require a length of stay greater than 25 days and is, or proposes to be, certified by the Centers for Medicare and Medicaid Services as a long-term care inpatient hospital pursuant to 42 CFR Part 412. An LTACH may be either a ~~free-standing~~ freestanding facility or located within an existing or host hospital.

"Magnetic resonance imaging" or "MRI" means a noninvasive diagnostic technology using a nuclear spectrometer to produce electronic images of specific atoms

and molecular structures in solids, especially human cells, tissues and organs.

"Medical rehabilitation" means those services provided consistent with 42 CFR 412.23 ~~and 412.24~~.

"Medical/surgical" means those services available for the care and treatment of patients not requiring specialized services.

"Minimum survival rates" means the base percentage of transplant recipients who survive at least one year or for such other period of time as specified by the United Network for Organ Sharing (UNOS).

"Neonatal special care" means care for infants in one or more of the higher service levels designated in 12VAC5-410-443 ~~of the Rules and Regulations for the Licensure of Hospitals~~.

"Nursing facility" means those facilities or components thereof licensed to provide long-term nursing care.

"Obstetrical services" means the distinct organized program, equipment and care related to pregnancy and the delivery of newborns in inpatient facilities.

"Off-site replacement" means the relocation of existing beds or services from an existing medical care facility site to another location within the same health planning district.

"Open heart surgery" means a surgical procedure requiring the use or immediate availability of a heart-lung bypass machine or "pump." The use of the pump during the procedure distinguishes "open heart" from "closed heart" surgery.

"Operating room" means a room used solely or principally for the provision of surgical procedures involving the administration of anesthesia, multiple personnel, recovery room access, and a fully controlled environment.

"Operating room use" means the amount of time a patient occupies an operating room and includes room preparation and cleanup time.

"Operating room visit" means one session in one operating room in an inpatient hospital or outpatient surgical center, which may involve several procedures. Operating room visit may be used interchangeably with "operation" or "case."

"Outpatient" means a patient who visits a hospital, clinic, or associated medical care facility for diagnosis or treatment, but is not hospitalized 24 hours or longer.

"Pediatric" means patients younger than 18 years of age. Newborns in nurseries are excluded from this definition.

"Perinatal services" means those resources and capabilities that all hospitals offering general level newborn services as described in 12VAC5-410-443 ~~of the Rules and Regulations for the Licensure of Hospitals~~ must provide routinely to newborns.

"PET/CT scanner" means a single machine capable of producing a PET image with a concurrently produced CT

image overlay to provide anatomic definition to the PET image. For the purpose of granting a COPN, the State Board of Health pursuant to § 32.1-102.2 A 6 of the Code of Virginia has designated PET/CT as a specialty clinical service. A PET/CT scanner shall be reviewed under the PET criteria as an enhanced PET scanner unless the CT unit will be used independently. In such cases, a PET/CT scanner that will be used to take independent PET and CT images will be reviewed under the applicable PET and CT services criteria.

"Planning horizon year" means the particular year for which bed or service needs are projected.

"Population" means the census figures shown in the most current series of projections published by a demographic entity as determined by the commissioner.

"Positron emission tomography" or "PET" means a noninvasive diagnostic or imaging modality using the computer-generated image of local metabolic and physiological functions in tissues produced through the detection of gamma rays emitted when introduced ~~radio-nuclides~~ radionuclides decay and release positrons. A PET device or scanner may include an integrated CT to provide anatomic structure definition.

"Primary service area" means the geographic territory from which 75% of the patients of an existing medical care facility originate with respect to a particular service being sought in an application.

"Procedure" means a study or treatment or a combination of studies and treatments identified by a distinct ~~ICD-9~~ ICD-10 or CPT code performed in a single session on a single patient.

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

"Radiation therapy" means treatment using ionizing radiation to destroy diseased cells and for the relief of symptoms. Radiation therapy may be used alone or in combination with surgery or chemotherapy.

"Relevant reporting period" means the most recent 12-month period, prior to the beginning of the applicable batch review cycle, for which data is available from VHI or a demographic entity as determined by the commissioner.

"Rural" means territory, population, and housing units that are classified as "rural" by the Bureau of the Census of the ~~United States~~ U.S. Department of Commerce, Economic and Statistics Administration.

"Simple therapeutic cardiac catheterization" means the performance of cardiac catheterization for the purpose of correcting or improving certain conditions that have been determined to exist in the heart, specifically catheter-based treatment procedures for relieving coronary artery narrowing.



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"SMFP" means the state medical facilities plan as contained in Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia used to make medical care facilities and services needs decisions.

"Stereotactic radiosurgery" or "SRS" means the use of external radiation in conjunction with a stereotactic guidance device to very precisely deliver a therapeutic dose to a tissue volume. SRS may be delivered in a single session or in a fractionated course of treatment up to five sessions.

"Stereotactic radiotherapy" or "SRT" means more than one session of stereotactic radiosurgery.

"Substance abuse disorder treatment services" means services provided to individuals for the prevention, diagnosis, treatment, or palliation of chemical dependency, which may include attendant medical and psychiatric complications of chemical dependency. Substance abuse disorder treatment services are licensed by the Department of ~~Mental Behavioral Health, Mental Retardation, and Substance Abuse Developmental Services~~.

"Supervision" means to direct and watch over the work and performance of others.

"Use rate" means the rate at which an age cohort or the population uses medical facilities and services. The rates are determined from periodic patient origin surveys conducted for the department by the regional health planning agencies, or other health statistical reports authorized by Chapter 7.2 (§ 32.1-276.2 et seq.) of Title 32.1 of the Code of Virginia.

"VHI" means the health data organization defined in § 32.1-276.4 of the Code of Virginia and under contract with the Virginia Department of Health.

## **12VAC5-230-420. Nonemergent cardiac catheterization.**

~~Proposals to provide elective interventional cardiac procedures such as PTCA, transseptal puncture, transthoracic left ventricle puncture, myocardial biopsy or any valvuloplasty procedures, diagnostic pericardiocentesis or therapeutic procedures should be approved only when open heart surgery services are available on-site in the same hospital in which the proposed non-emergent cardiac service will be located.~~

A. Simple therapeutic cardiac catheterization. Proposals to provide simple therapeutic cardiac catheterization are not required to offer open heart surgery service available on-site in the same hospital in which the proposed simple therapeutic service will be located. However, these programs shall adhere to the requirements described in subdivisions 1 through 9 of this subsection.

The programs shall:

1. Participate in the Virginia Heart Attack Coalition, the Virginia Cardiac Services Quality Initiative, and the Action Registry-Get with the Guidelines or National Cardiovascular Data Registry to monitor quality and outcomes;

2. Adhere to strict patient-selection criteria;

3. Perform annual institutional volumes of 300 cardiac catheterization procedures, of which at least 75 should be [ PCI percutaneous coronary intervention (PCI) ] or as dictated by American College of Cardiology (ACC)/American Heart Association (AHA) Guidelines for Cardiac Catheterization and Cardiac Catheterization Laboratories effective 1991;

4. Use only AHA/ACC-qualified operators who meet the standards for training and competency;

5. Demonstrate appropriate planning for program development and complete both a primary PCI development program and an elective PCI development program that includes routine care process and case selection review;

6. Develop and maintain a quality and error management program;

7. Provide PCI 24 hours a day, seven days a week;

8. Develop and maintain necessary agreements with a tertiary facility that must agree to accept emergent and nonemergent transfers for additional medical care, cardiac surgery, or intervention; and

9. Develop and maintain agreements with an ambulance service capable of advanced life support and intra-aortic balloon pump transfer that guarantees a 30-minute or less response time.

B. Complex therapeutic cardiac catheterization. Proposals to provide complex therapeutic cardiac catheterization should be approved only when open heart surgery services are available on-site in the same hospital in which the proposed complex therapeutic service will be located. Additionally, these complex therapeutic cardiac catheterization programs will be required to participate in the Virginia Cardiac Services Quality Initiative and the Virginia Heart Attack Coalition.

## **12VAC5-230-610. Need for new service.**

A. A health planning district should be considered to have a need for additional nursing facility beds when:

1. The bed need forecast exceeds the current inventory of existing and authorized beds for the health planning district; and

2. The ~~average~~ median annual occupancy of all existing and authorized Medicaid-certified nursing facility beds in the health planning district was at least 93%, and the average annual occupancy of all existing and authorized Medicaid-certified nursing facility beds in the health planning district was at least 90%, excluding the bed inventory and utilization of the Virginia Veterans Care Centers.

Exception: When there are facilities that have been in operation less than ~~three years~~ one year in the health planning district, their occupancy [ can ~~shall~~ ] be excluded from the

calculation of average occupancy ~~if the facilities had an annual occupancy of at least 93% in one of its first three years of operation.~~

B. No health planning district should be considered in need of additional beds if there are unconstructed beds designated as Medicaid certified. This presumption of "no need" for additional beds extends for three years from the issuance date of the certificate.

C. The bed need forecast will be computed as follows:

$$PDBN = (UR64 \times PP64) + (UR69 \times PP69) + (UR74 \times PP74) + (UR79 \times PP79) + (UR84 \times PP84) + (UR85 \times PP85)$$

Where:

PDBN = Planning district bed need.

UR64 = The nursing home bed use rate of the population aged 0 to 64 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.

PP64 = The population aged 0 to 64 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.

UR69 = The nursing home bed use rate of the population aged 65 to 69 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.

PP69 = The population aged 65 to 69 projected for the health planning district three years from the current year as most recently published by ~~the~~ a demographic program as determined by the commissioner.

UR74 = The nursing home bed use rate of the population aged 70 to 74 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.

PP74 = The population aged 70 to 74 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.

UR79 = The nursing home bed use rate of the population aged 75 to 79 in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.

PP79 = The population aged 75 to 79 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.

UR84 = The nursing home bed use rate of the population aged 80 to 84 in the health planning district as determined in

the most recent nursing home patient origin study authorized by VHI.

PP84 = The population aged 80 to 84 projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.

UR85 = The nursing home bed use rate of the population aged 85 and older in the health planning district as determined in the most recent nursing home patient origin study authorized by VHI.

PP85 = The population aged 85 and older projected for the health planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.

Health planning district bed need forecasts will be rounded as follows:

| Health Planning District Bed Need | Rounded Bed Need |
|-----------------------------------|------------------|
| 1–29                              | 0                |
| 30–44                             | 30               |
| 45–84                             | 60               |
| 85–104                            | 90               |
| 105–134                           | 120              |
| 135–164                           | 150              |
| 165–194                           | 180              |
| 195–224                           | 210              |
| 225                               | 240              |

Exception: When a health planning district has:

1. Two or more nursing facilities;
2. Had ~~an average a median~~ annual occupancy rate in excess of 93% of all existing and authorized Medicaid-certified nursing facility beds and an annual average occupancy rate of at least 90% of all existing and authorized Medicaid-certified nursing facility beds for each of the most recent two years for which bed utilization has been reported to VHI; and
3. Has a forecasted bed need of 15 to 29 beds, then the bed need for this health planning district will be rounded to 30.

D. No new freestanding nursing facilities of less than 90 beds should be authorized. However, consideration may be given to a new freestanding facility with fewer than 90 nursing facility beds when the applicant can demonstrate that such a facility is justified based on a locality's preference for such smaller facility and there is a documented poor distribution of nursing facility beds within the health planning district.

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E. When evaluating the capital cost of a project, consideration may be given to projects that use the current methodology as determined by the Department of Medical Assistance Services.

F. Preference may be given to projects that replace outdated and functionally obsolete facilities with modern facilities that result in the more cost-efficient resident services in a more aesthetically pleasing and comfortable environment.

## **12VAC5-230-620. Expansion of services.**

Proposals to increase an existing nursing facility's bed capacity should not be approved unless the facility has been operated for at least two years and the average annual occupancy of the facility's existing beds was at least ~~93%~~ 90% in the relevant reporting period as reported to VHI.

Note: Exceptions will be considered for facilities that operated at less than ~~93%~~ 90% average annual occupancy in the most recent year for which bed utilization has been reported when the facility offers short stay services causing an average annual occupancy lower than ~~93%~~ 90% for the facility.

## DOCUMENTS INCORPORATED BY REFERENCE (12VAC5-230)

[ACC/AHA Guidelines for Cardiac Catheterization and Cardiac Catheterization Laboratories, American College of Cardiology/American Heart Association Ad Hoc Task Force on Cardiac Catheterization, JACC Vol. 18 No. 5, November 1, 1991: 1149-82](#)

VA.R. Doc. No. R15-4417; Filed February 10, 2021, 11:05 a.m.

## **Final Regulation**

**Title of Regulation:** **12VAC5-371. Regulations for the Licensure of Nursing Facilities (amending 12VAC5-371-410, 12VAC5-371-420).**

**Statutory Authority:** §§ 32.1-127 and 32.1-127.001 of the Code of Virginia.

**Effective Date:** March 31, 2021.

**Agency Contact:** Rebekah E. Allen, Senior Policy Analyst, Department of Health, 9960 Mayland Drive, Suite 401, Richmond, VA 23233, telephone (804) 367-2102, FAX (804) 527-4502, or email [regulatorycomment@vdh.virginia.gov](mailto:regulatorycomment@vdh.virginia.gov).

### **Summary:**

*The amendments conform the regulation to § 32.1-127.001 of the Code of Virginia, which requires the State Board of Health to adopt minimum standards for design and construction that are consistent with the current edition of the Guidelines for Design and Construction of Hospital and Health Care Facilities issued by the American Institute of Architects Academy of Architecture for Health. The American Institute of Architects Academy of Architecture for Health has become the Facility Guidelines Institute (FGI). The latest edition of guidelines published by the FGI for nursing facilities is the 2018 edition of Guidelines for Design and Construction of Residential Health, Care, and Support*

*Facilities. Changes to the proposed regulation restore the requirement for an entity to attain an occupancy and use certification.*

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

## **12VAC5-371-410. Architectural drawings and specifications.**

A. All construction of new buildings and additions, renovations ~~or~~ alterations, ~~or~~ repairs of existing buildings for occupancy as a nursing facility shall conform to state and local codes, zoning ~~and building~~ ordinances, and the Virginia Uniform Statewide Building Code (13VAC5-63).

In addition, nursing facilities shall be designed and constructed ~~according to Part~~ consistent with Parts 1 and 2 [ ~~sections section~~ ] ~~4.1 through 4.2~~ 3.1 [ and 3.2 ] of Part 4 3 of the ~~2010~~ [ 2014 2018 ] Guidelines for Design and Construction of Residential Health, Care, and Support Facilities of the Facility Guidelines Institute (formerly of the American Institute of Architects). ~~However, the requirements of the Uniform Statewide Building Code and local zoning and building ordinances shall take precedence pursuant to § 32.1-127.001 of the Code of Virginia.~~

B. Architectural drawings and specifications for all new construction or for additions, alterations or renovations to any existing building, shall be dated, stamped with ~~licensure~~ professional seal, and signed by the architect. The architect shall certify that the drawings and specifications were prepared to conform to ~~building code requirements~~ the Virginia Uniform Statewide Building Code and be consistent with Parts 1 and 2 and [ ~~sections section~~ ] 3.1 [ and 3.2 ] of Part 3 of the [ 2014 2018 ] Guidelines for Design and Construction of Residential Health, Care, and Support Facilities of the Facility Guidelines Institute. [ ~~The certification shall be forwarded to the OLC.~~ ]

C. Additional approval may include a Certificate of Public Need.

D. Upon completion of the construction, the nursing facility shall maintain a complete set of legible "as built" drawings showing all construction, fixed equipment, and mechanical and electrical systems, as installed or built.

## **12VAC5-371-420. [ Building inspection and classification. (Repealed.) ]**

All buildings shall be inspected and approved as required by the appropriate building regulatory entity. Approval shall be a Certificate of Use and Occupancy indicating the building is classified for its proposed licensed purpose. ]

## DOCUMENTS INCORPORATED BY REFERENCE (12VAC5-371)

Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, [ 2014 2018 ] Edition, ~~Facilities Guideline~~ Facility Guidelines Institute (formerly of

~~the American Institute of Architects Academy of Architecture~~), 2010 Edition; <http://www.fgiguilines.org>

Guidelines for Preventing Health Care-Associated Pneumonia, 2003, MMWR 53 (RR03), Advisory Committee on Immunization Practices, Centers for Disease Control and Prevention

Prevention and Control of Influenza, MMWR 53 (RR06), Advisory Committee on Immunization Practices, Centers for Disease Control and Prevention

VA.R. Doc. No. R13-3898; Filed February 2, 2021, 3:58 p.m.

### Fast-Track

**Title of Regulation:** **12VAC5-391. Regulations for the Licensure of Hospice (amending 12VAC5-391-330, 12VAC5-391-340, 12VAC5-391-350, 12VAC5-391-380, 12VAC5-391-440).**

**Statutory Authority:** §§ 32.1-12 and 32.1-162.5 of the Code of Virginia.

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

**Public Comment Deadline:** March 31, 2021.

**Effective Date:** April 15, 2021.

**Agency Contact:** Rebekah E. Allen, Senior Policy Analyst, Virginia Department of Health, 9960 Mayland Drive, Suite 401, Richmond, VA 23233, telephone (804) 367-2102, FAX (804) 527-4502, or email [regulatorycomment@vdh.virginia.gov](mailto:regulatorycomment@vdh.virginia.gov).

**Basis:** Section 32.1-12 of the Code of Virginia gives the State Board of Health the responsibility to make, adopt, promulgate, and enforce such regulations as may be necessary to carry out the provisions of Title 32.1 of the Code of Virginia. Section 32.1-162.5 of the Code of Virginia requires the board to adopt regulations governing the activities and services provided by hospices as may be necessary to protect the public health, safety and welfare.

**Purpose:** This regulation is being amended due to public comments and the professional opinions of subject matter experts within the agency. The board is required by the General Assembly to promulgate regulations for the licensure of hospice in order to protect the health, safety, and welfare of citizens utilizing hospices. This regulatory change removes the requirement that the medical director of a hospice have admitting privileges at one or more hospitals and nursing facilities that provide inpatient service to the hospice's patients. Public comment indicated that this requirement was difficult for hospices to meet and disqualified candidates that would otherwise have been suitable. Subject matter experts within the agency agreed that this requirement was burdensome to hospices and did not improve protection of the public health, safety, and welfare. The regulatory change is also intended to update outdated references to other documents and citations.

**Rationale for Use of Fast-Track Rulemaking Process:** The rulemaking is expected to be noncontroversial because all public comments received during periodic review supported the repeal of subsection B of 12VAC5-391-330, and the agency's subject matter experts believe that repeal would not jeopardize the protection of public health, safety, and welfare. Further, the additional updates to the regulation do not alter the intent of the regulation or the requirements placed on regulated entities.

**Substance:** The board has repealed subsection B of 12VAC5-391-330. Updates were made to references to Board of Nursing regulation sections; to the requirements for personal care aide training; to Department of Health Professions references; and to the current edition of the Guidelines for Design and Construction of Residential Health, Care, and Support Facilities. A document regarding personal care aide training that is no longer referenced in the regulation is removed from the documents incorporated by reference list.

**Issues:** The primary advantages are to hospices and their administrators, who will face less burdensome requirements in employing a medical director. Subject matter experts within the agency have determined that there are no disadvantages to repealing the requirement that hospice medical directors have admitting privileges at hospitals or nursing homes. Further, more up-to-date regulations will ensure that the industry is regulated accurately and efficiently, and will reduce confusion among regulated entities. There are no disadvantages to the public. There are no advantages or disadvantages to the agency or to the Commonwealth.

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

Summary of the Proposed Amendments to Regulation. The Virginia Board of Health (Board) proposes to: 1) eliminate the requirement that the medical director have admitting privileges at one or more hospitals and nursing facilities that provide inpatient service to the hospice program's patients, 2) set out requirements that would allow hospice programs to set up in-house training for volunteer home attendants, 3) make clarifying changes, and 4) correct citations and remove obsolete language.

Background. The Board conducted a periodic review<sup>1</sup> of 12VAC5-391 Regulations for the Licensure of Hospices, in which it decided to amend the regulation.

The current regulation lists six options for home attendants to qualify to work at a hospice. The first five options are for either paid or volunteer home attendants. Under the regulation volunteer home attendants can also qualify through the sixth option, which is that the individual have satisfactorily completed training using the Personal Care Aide Training Curriculum, dated 2003, of the Department of Medical Assistance Services (DMAS). According to the Virginia Department of Health (VDH), this training is no longer available. The Board proposes to remove this obsolete option and set out requirements that would allow hospice programs to set up in-house training for volunteer home attendants.

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**Estimated Benefits and Costs.** Public comments have indicated that the requirement that the medical director have admitting privileges at one or more hospitals and nursing facilities that provide inpatient service to the hospice programs patients has made it difficult for hospices to find qualified medical directors. The proposal to remove this requirement may therefore reduce hiring costs for some hospices. Subject matter experts from VDH believe that repealing this requirement would not jeopardize public health, safety, and welfare.

Since the DMAS training for personal care aides is no longer available, volunteer home attendants must currently qualify to serve hospices by one of the five options available to paid home attendants. VDH believes that the proposal to allow hospice programs to set up in-house training for volunteer home attendants would likely have a positive impact on a hospices ability to have qualified volunteers.

**Businesses and Other Entities Affected.** The proposals potentially affect the 133 licensed hospice agencies in Virginia.<sup>2</sup> No proposal would increase costs for businesses or other entities. No adverse impact is indicated.

**Small Businesses Affected.** Types and Estimated Number of Small Businesses Affected. According to VDH, an estimated 18 of the hospices are independently owned and operated and have fewer than 500 full-time employees, therefore statutorily qualifying as small businesses.<sup>3</sup>

**Costs and Other Effects.** The proposal to no longer require that the medical director have admitting privileges at one or more hospitals and nursing facilities that provide inpatient service to the hospice programs patients may reduce the cost for small hospices to hire medical directors.

**Alternative Method that Minimizes Adverse Impact.** No proposal adversely impacts small businesses.

**Localities<sup>4</sup> Affected.<sup>5</sup>** The proposals do not disproportionately affect any particularly locality nor appear to introduce additional costs for local governments.

**Projected Impact on Employment.** The proposals do not appear to substantively affect total employment.

**Effects on the Use and Value of Private Property.** The proposal to no longer require that the medical director have admitting privileges at one or more hospitals and nursing facilities that provide inpatient service to the hospice programs patients may reduce the cost for hospices to hire medical directors, commensurately increasing their value.

The proposals do not affect real estate development costs.

<sup>5</sup>§ 2.2-4007.04 "defines particularly affected" as bearing disproportionate material impact."

**Agency's Response to Economic Impact Analysis:** The Virginia Department of Health has reviewed and concurs with the Department of Planning and Budget's economic impact analysis.

**Summary:**

*The amendments (i) repeal a requirement that a hospice's medical director have admitting privileges at one or more hospitals or nursing homes that provide inpatient service to the hospice's patients; (ii) update references to other regulations and personal aide training curriculum; and (iii) update the documents incorporated by reference.*

**12VAC5-391-330. Medical direction.**

A. There shall be a medical director, who shall be a physician licensed by the Virginia Board of Medicine, responsible for the overall direction and management of the medical component of care. The individual shall have training and experience in the psychological and medical needs of the terminally ill.

~~B. The medical director shall have admitting privileges at one or more hospitals and nursing facilities that provide inpatient service to the hospice program's patients.~~

~~C. B.~~ The duties and responsibilities of the medical director shall include at least the following:

1. Consulting with attending physicians regarding pain and symptom management;
2. Reviewing patient eligibility for hospice services according to the law and the hospice program's admission policies;
3. Acting as a medical resource to the IDG;
4. Coordinating with attending physicians to assure a continuum of medical care in cases of emergency or in the event the attending physician is unable to retain responsibility for the patient's care;
5. Acting as medical liaison with physicians in the community; and
6. Determining, in consultation with the patient's physician, when a patient can no longer remain at home and should be moved to a congregate living facility of the patient's choosing.

**12VAC5-391-340. Nursing services.**

A. All nursing services shall be provided directly or under the supervision of a registered nurse, currently licensed by the Virginia Board of Nursing, who has education and experience in the needs of the terminally ill. Duties and responsibilities of the supervising nurse shall include:

1. Assuring that nursing services delivered are provided according to established hospice program policies;

<sup>1</sup>See [https://townhall.virginia.gov/l/GetFile.cfm?File=C:\TownHall\docroot\Review\1473\PRReview\\_VDH\\_1473\\_v1.pdf](https://townhall.virginia.gov/l/GetFile.cfm?File=C:\TownHall\docroot\Review\1473\PRReview_VDH_1473_v1.pdf)

<sup>2</sup>Data source: VDH

<sup>3</sup>Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

<sup>4</sup>Locality can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.



2. Assuring that nursing services are available 24 hours a day, 7 days a week and that licensed practical nurses and home attendants work under the direct supervision of a registered nurse;

3. Participating in the development and implementation of orientation and in-service training hospice programs for all levels of nursing staff employed by the hospice program;

4. Acting as nurse liaison with staff and other agencies, hospice programs and individuals that have contractual agreements to provide nursing services;

5. Participating in quality improvement reviews and evaluations of the nursing services provided; and

6. Directing or supervising the delivery of nursing services.

B. Nursing services shall include, ~~but are not limited to:~~

1. Assessing a patient's needs and admission for service as appropriate;

2. Working with the IDG to develop a plan of care;

3. Implementing the plan of care;

4. Obtaining physician's orders when necessary;

5. Providing those services requiring substantial and specialized nursing skill;

6. Educating the patient and patient's family in the care of the patient, including pain management;

7. Evaluating the outcome of services;

8. Coordinating and communicating the patient's physical or medical condition to the IDG;

9. Preparing clinical notes; and

10. Supervising licensed practical nurses and home attendants providing delegated nursing services.

C. A registered nurse shall coordinate the implementation of each patient's plan of care.

D. If nursing duties are delegated, the hospice program shall develop and implement an organizational plan pursuant to ~~18VAC90-20-420~~ 18VAC90-19-240 through ~~18VAC90-20-460~~ of the Virginia Administrative Code 18VAC90-19-280.

E. Licensed practical nurses shall be currently licensed by the Virginia Board of Nursing.

F. The services provided by a licensed practical nurse may include, ~~but are not limited to:~~

1. Delivering nursing services according to the hospice program's policies and standard nursing practices;

2. Assisting the registered nurse in performing specialized procedures;

3. Assisting the patient with activities of daily living, including the teaching of self-care techniques;

4. Preparing equipment and supplies for treatment that requires adherence to sterile or aseptic techniques; and

5. Preparing clinical notes.

**12VAC5-391-350. Home attendant services.**

A. Services of the home attendants may include, ~~but are not limited to:~~

1. Assisting patients with (i) activities of daily living; (ii) ambulation and prescribed exercise; (iii) other special duties with appropriate training and demonstrated competency;

2. Administration of normally self-administered drugs in a patient's private residence as allowed by § 54.1-3408 of the Virginia Drug Control Act (Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia);

3. Taking and recording vital signs as indicated in the plan of care;

4. Measuring and recording fluid intake and output;

5. Recording and reporting to the health care professional changes in the patient's physical condition, behavior or appearance;

6. Documenting services and observations in the medical record; and

7. Performing any other duties that the attendant is qualified to do by additional training and demonstrated competency, within state guidelines.

B. Prior to the initial delivery of services, the home attendant shall receive specific written instructions for the patient's care from the appropriate health care professional responsible for the care.

C. Home attendants shall work under the supervision of the appropriate health care professional responsible for the patient's care.

D. The nurse responsible for supervising the home attendant shall make visits to the patient's home as frequently as necessary, but not less than every two weeks. The results of each visit shall be documented in the medical record.

E. Relevant in-service education or training for home attendants shall consist of at least 12 hours annually. In-service training may be in conjunction with on-site supervision.

F. Home attendants shall be able to speak, read and write English and shall meet one of the following qualifications before providing services to the hospice program's patients:

1. Have satisfactorily completed a nursing education hospice program preparing for registered nurse licensure or practical nurse licensure;

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2. Have satisfactorily completed a nurse aide education hospice program approved by the Virginia Board of Nursing;
3. Have certification as a nurse aide issued by the Virginia Board of Nursing;
4. Be successfully enrolled in a nursing education hospice program preparing for registered nurse or practical nurse licensure and have currently completed at least one nursing course that includes clinical experience involving patient care; or
5. Have satisfactorily passed a competency evaluation that meets the criteria of 42 CFR 484.36 (b); ~~or,~~
6. ~~Have satisfactorily completed training using the "Personal Care Aide Training Curriculum," dated 2003, of the Department of Medical Assistance Services. However, the training is permissible for volunteers only.~~

If the home attendant is a volunteer, the home attendant shall meet one of the qualifications listed in subdivisions 1 through 5 of this subsection or have satisfactorily completed training provided by a hospice program or other entity that meets the requirements of subsection G.

G. Hospice programs may develop a 40-hour training program for volunteers. The program shall:

1. Include education addressing:
  - a. Goals of personal care;
  - b. Prevention of skin breakdown;
  - c. Physical and biological aspects of aging;
  - d. Physical and emotional needs of older adults;
  - e. Orientation to types of physical disabilities;
  - f. Personal care and rehabilitative services;
  - g. Body mechanics;
  - h. Home management;
  - i. Safety and accident prevention in the home;
  - j. Policies and procedures regarding accidents or injuries;
  - k. Food, nutrition, and meal preparation;
  - l. Special considerations in preparation of special diets;
  - m. Care of the home and personal belongings; and
  - n. Documentation requirements for Medicaid individuals.
2. Be conducted by a registered nurse who meets the requirements in 18VAC90-26-30.
3. Issue and maintain certificates of completion containing:
  - a. The instructor's printed name and signature;
  - b. The participant's printed name; and
  - c. The date of completion of the program.

## **12VAC5-391-380. Dietary or nutritional counseling.**

Dietary or nutritional counselors shall meet the requirements of ~~18VAC75-30 pursuant to~~ Chapter 27.1 (§ 54.1-2730 et seq.) of Title 54.1 of the Code of Virginia and have at least two years experience in a health care food or nutrition delivery system.

## **12VAC5-391-440. General facility requirements.**

A. All construction of new buildings and additions, renovations or alterations of existing buildings for occupancy as a hospice facility shall conform to state and local codes, zoning and building ordinances and the Uniform Statewide Building Code.

In addition, hospice facilities shall be designed and constructed according to section 4.2 of Part 4 of the ~~2006~~ 3.2 of Part 3 of the 2018 Guidelines for Design and Construction of Health Care Residential Health, Care, and Support Facilities of the American Institute of Architects. ~~However, the requirements of the Uniform Statewide Building Code and local zoning and building ordinances shall take precedence. the Facility Guidelines Institute.~~

B. All buildings shall be inspected and approved as required by the appropriate regional state fire marshal's office or building and fire regulatory official. Approval shall be a Certificate of Use and Occupancy indicating the building is classified for its proposed licensed purpose.

C. The facility must have space for private patient family visiting and accommodations for family members after a patient's death. Patients shall be allowed to receive guests, including small children, at any hour.

D. Patient rooms shall not exceed two beds per room and must be at grade level or above, enclosed by four ceiling-high walls. Each room shall be equipped for adequate nursing care, the comfort and privacy of patients, and with a device for calling the staff member on duty.

E. Designated guest rooms for family members or patient guests and beds for use by employees of the facility shall not be included in the bed capacity of a hospice facility provided such beds and locations are identified and used exclusively by staff, volunteers or patient guests.

Employees shall not utilize patient rooms nor shall bedrooms for employees be used by patients.

F. Waste storage shall be located in a separate area outside or easily accessible to the outside for direct pickup or disposal. The use of an incinerator shall require permitting from the nearest regional permitting office for the Department of Environmental Quality.

G. The facility shall provide or arrange for under written agreement, laboratory, x-ray, and other diagnostic services, as ordered by the patient's physician.



H. There shall be a plan implemented to assure the continuation of essential patient support services in case of power outages, water shortage, or in the event of the absence from work of any portion of the workforce resulting from inclement weather or other causes.

I. No part of a hospice facility may be rented, leased or used for any purpose other than the provision of hospice care at the facility.

J. A separate and distinct entrance shall be provided if the program intends to administer and provide its community-based hospice care from the facility so that such traffic and noise shall be diverted away from patient care areas.

K. The hospice facility shall maintain a complete set of legible "as built" drawings showing all construction, fixed equipment, and mechanical and electrical systems, as installed or built.

**DOCUMENTS INCORPORATED BY REFERENCE (12VAC5-391)**

~~Personal Care Aide Training Curriculum, 2003, Department of Medical Assistance Services.~~

~~2006 Guidelines for Design and Construction of Health Care Facilities, The Facility Guidelines Institute, The American Institute of Architects Academy of Architecture for Health, 1-800-242-3837.~~

2018 Guidelines for Design and Construction of Residential Health, Care, and Support Facilities, The Facility Guidelines Institute.

VA.R. Doc. No. R21-6102; Filed February 2, 2021, 12:15 p.m.

**Fast-Track Regulation**

**Title of Regulation:** **12VAC5-408. Certificate of Quality Assurance of Managed Care Health Insurance Plan Licensees (amending 12VAC5-408-10, 12VAC5-408-170).**

**Statutory Authority:** §§ 32.1-12 and 32.1-137.3 of the Code of Virginia.

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

**Public Comment Deadline:** March 31, 2021.

**Effective Date:** April 15, 2021.

**Agency Contact:** Rebekah E. Allen, Senior Policy Analyst, Virginia Department of Health, 9960 Mayland Drive, Suite 401, Richmond, VA 23233, telephone (804) 367-2102, FAX (804) 527-4502, or email [regulatorycomment@vdh.virginia.gov](mailto:regulatorycomment@vdh.virginia.gov).

**Basis:** This regulation is promulgated under the authority of §§ 32.1-12 and 32.1-137.3 of the Code of Virginia. Section 32.1-12 grants the State Board of Health the legal authority to make, adopt, promulgate, and enforce such regulations as may be necessary to carry out the provisions of Title 32.1 of the Code of Virginia. Section 32.1-137.3 directs the Department of

Health (VDH) to promulgate regulations governing the quality of care provided to covered persons by a managed care health insurance plan licensee.

**Purpose:** Chapter 703 of the 2018 Acts of Assembly adds § 38.2-3407.10:1 to the Code of Virginia, creating the statutory requirements for reimbursement for services rendered during pendency of a physician's credentialing application, as described in this action. VDH is subject to the legislative mandate to promulgate regulations consistent with the act. Managed Care Health Insurance Plan (MCHIP) licensees employ or otherwise contract with and credential providers other than physicians. As such, and under the authority of § 32.1-137.2 of the Code of Virginia, the provisions regarding reimbursement were expanded to include other credentialed providers in addition to physicians. The change will update a portion of the credentialing process to conform to the statute and will allow new provider applicants to begin seeing covered persons.

The regulatory action is necessary to protect public health, safety, or welfare because requiring MCHIP licensees to reimburse newly credentialed providers at in-network rates for health care services provided to covered persons during the period in which the new provider applicant's completed credentialing application was pending encourages provider applicants to accept patients who otherwise would have less choice in health care providers.

**Rationale for Use of Fast-Track Rulemaking Process:** Chapter 703 of the 2018 Acts of Assembly requires VDH to revise and reenact the regulations promulgated pursuant to § 32.1-137.1 of the Code of Virginia. As this action is being used to conform to the intent of a statutory mandate, VDH believes the proposed regulatory action will be noncontroversial, allowing use of the fast-track rulemaking process.

**Substance:** The definitions of "health care provider" or "provider," "managed care plan," "new provider applicant," and "participating provider" are added. Provisions are repealed that required the entire credentialing process to be completed before a provider could begin seeing covered persons or enter into a contractual relationship with the MCHIP licensee and text conforming to § 38.2-3407.10:1 are added.

**Issues:** The primary advantages are to (i) providers applying for credentialing by an MCHIP licensee that may render services to covered persons and seek reimbursement for that care and (ii) MCHIP-covered persons who will be able to be treated by those providers earlier in the credentialing process. The Code of Virginia and regulatory change protect patients from having to pay for services rendered by a new provider applicant if the applicant is subsequently not approved to be credentialed as part of the MCHIP's network of participating providers. As covered persons of an MCHIP will have expanded access to providers, the advantage to VDH for promulgating this regulatory change is the promotion of the public's access to health care. There are no known disadvantages to the public or the Commonwealth.

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

Summary of the Proposed Amendments to Regulation. The Board of Health (Board) proposes to allow physicians and non-physician health care providers to provide their services while their application for credentialing to a managed care health insurance plan licensee (MCHIP) is pending. After a provider has been credentialed (otherwise known as being in network), the Board also proposes to permit retroactive provider reimbursement for services rendered, starting on the date the providers credentialing application was received by the MCHIP.

Background. In the past, health care providers were not allowed to be reimbursed for services provided to covered patients during the period in which their application for credentialing was being reviewed by the MCHIP (the pendency period). Chapter 703 of the 2018 Acts of Assembly<sup>1</sup> amended the Code of Virginia by adding § 38.2-3407.10:1 to allow physicians to receive reimbursement, at the contracted in-network rates, for covered persons seen during the pendency. This reimbursement would be made after the application had been approved by the MCHIP. At the present time, such physician practice is allowed under the authority of the 2018 legislation.

Additionally, the Board is exercising its authority under § 32.1-137.2(C) of the Code of Virginia to also allow non-physician health care providers to be reimbursed for services they provided during the pendency of the credentialing process and upon approval of their credentialing application, to receive reimbursement at the contracted in-network rates for covered persons seen during the pendency. This regulation would allow such non-physician health care provider practice in a similar fashion to that of physician providers. According to the Virginia Department of Health (VDH), the non-physician health care providers may include any of the professions regulated by the Department of Health Professions except the professions regulated by the Board of Pharmacy.

Credentialing is already required and is a part of an incentive arrangement intended to influence the cost or level of health care services between the MCHIP and one or more health care providers with respect to the delivery of health care services, and must also include minimum standards of professional licensure or certification. During the credentialing process, the MCHIP verifies the validity and history of the applicant's professional license or certification, status of hospital privileges, education and training, and practice or work history among other things, to ensure that physicians meet the MCHIPs standards. The credentialing process is required to be completed within 120 days or within 150 days if the application is incomplete or requires additional information.

According to VDH, once a health care provider is credentialed, they would enter into a contract with the MCHIP that not only addresses reimbursement for services, but also requires the provider to take part in the MCHIPs quality assurance program

that monitors quality of care and performance metrics of providers.

Credentialing benefits the MCHIPs in that it enables them to ensure that providers have the minimum professional competence to render high quality care. It also allows them to take into account any disciplinary issues related to professional licensure and any previous quality of care issues.

Credentialing also benefits the providers because being credentialed (that is, being deemed to be in-network) allows them to access a patient population that may otherwise have chosen a different provider with more preferential cost-sharing arrangements. As a part of being in network, a health care provider agrees to charge specific rates for services, which is often lower than the market/out-of-pocket rate; however, they are guaranteed to receive this rate along with a greater access to MCHIP covered patients. A non-credentialed provider (i.e., one who is out-of-network) can submit a claim for reimbursement by the MCHIP, but will be reimbursed at a less preferential rate. The remaining balance is billed to the patient; however, the health care provider is not guaranteed to collect the outstanding balance. Hence, unless a patient's preference for that specific provider outweighs financial considerations, an out-of-network provider will typically not have access to the patient population covered by a particular MCHIP.

Estimated Benefits and Costs. The 2018 legislation provided an option to physicians to start providing their services and receive reimbursement from their MCHIP the in-network rate during the pendency of their application subject to certain conditions. To receive the in-network reimbursement, the legislation requires the applicant physician to provide a written or electronic notification to the patient in advance of treatment, stating that the carrier is in the process of obtaining and verifying credentialing information. The legislation also allows MCHIPs to reimburse physicians at the in-network rates only if the physician is eventually credentialed. In the event that credentialing is denied, the MCHIP would not be required to remit the in-network rate and the patient would not be responsible for any of the charges for the service other than the in-network coinsurance, copayment, or the deductible. The Board proposes the same rules for the non-physician health care providers.

Under the new rules, a health care provider would have the option to start providing services in an MCHIPs network as soon as their completed application has been received. In doing so, the provider can start building a volume of receivables from the MCHIP, but is also taking a risk of forgoing in-network reimbursement rates if the credentialing is denied. However, we can reliably infer that in providing services, the provider reveals that the expected benefits to him are greater than the potential loss of in-network reimbursement rates.<sup>2</sup> On the other hand, the MCHIP has to evaluate the application once it is submitted, but this requirement is not new and has existed before. In addition, the MCHIP would not be required to remit the in-network rate to the provider if the credentialing is

eventually denied. Thus, the MCHIPs do not appear to be worse off either.

The proposed rules also do not appear to make the patients any worse off. First, any provider applicant would have to have a license to practice their profession and it appears that an MCHIP may require higher standards than the license requires, but not lower. Second, the provider applicant would be required to provide disclosures to the patients in advance of any treatment that their credentials are currently being evaluated. Third, in the event credentialing is denied, the patient would only be responsible for paying the in-network coinsurance, copayments, or deductibles, not the out-of-network charges, which are typically higher, for the services provided by that health care provider.

In summary, the health care provider and the patient would both need to consent for provision of services during the credentialing process, and the MCHIPs do not appear to be any worse off. Further, the proposed rules are beneficial in that they allow the health care providers to start providing their services sooner. Such a practice may expedite the provision of services by new MCHIP providers and improve access to care.

**Businesses and Other Entities Affected.** There are approximately 96 MCHIPs. According to VDH, these plans contract with approximately 90 percent of the regulated health care providers. However, there is no data on the number of credentialing applications received by MCHIPs in a given time period. Also, some patients may be affected to the extent they consent to receive services from a provider whose credentialing application is pending.

**Localities<sup>3</sup> Affected.**<sup>4</sup> The proposed amendments are unlikely to affect any locality more than others. The proposed amendments do not appear to impose costs on localities.

**Projected Impact on Employment.** The proposed amendments would allow the health care providers to start providing services 120 days to 150 days earlier than otherwise would be, which would add to the supply of medical and dental services.

**Effects on the Use and Value of Private Property.** The proposed amendments would allow a health care provider to start building its receivables while the credentialing process is underway and may add to the asset value of the providers business.

Real estate development costs do not appear to be affected.

**Adverse Effect on Small Businesses.**<sup>5</sup> The proposed amendments do not appear to adversely affect small businesses.

<sup>1</sup><http://lis.virginia.gov/cgi-bin/legp604.exe?181 ful CHAP0703>

<sup>2</sup>Prior to the 2018 legislation, in 2016, the Medical Society of Virginia submitted a petition for rulemaking requesting substantially the same changes on behalf of their nearly 11,000 members including physicians, medical students and physician assistants to address the issues with significant delays in delivering care to patients as a result of the credentialing process. See <https://townhall.virginia.gov/l/viewpetition.cfm?petitionid=236>.

<sup>3</sup>Locality can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>4</sup>§ 2.2-4007.04 defines particularly affected" as bearing disproportionate material impact.

<sup>5</sup>Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.

**Agency's Response to Economic Impact Analysis:** The Virginia Department of Health has reviewed and concurs with the Department of Planning and Budget's economic impact analysis.

**Summary:**

*Pursuant to Chapter 703 of the 2018 Acts of Assembly, the amendments conform the regulation to § 38.2-3407.10:1 of the Code of Virginia, which requires health insurance carriers that credential physicians in their networks to establish protocols and procedures for reimbursing new provider applicants for health care services provided to covered persons during the period in which the applicant's completed credentialing application is pending, provided that the new provider applicant is ultimately approved by the health insurance carrier. Amendments also extend the protocols and procedures to cover nonphysician providers, allowing them to submit claims to the carrier for services provided during that time period. Carriers are not required to reimburse the new provider applicant for any care rendered if the credentialing application is not approved or the carrier is otherwise unwilling to contract with the new provider applicant. If payment is made by the carrier to a new provider applicant or any entity that employs or engages the new provider applicant for a covered service, the patient is only responsible for any copayment, coinsurance, or deductibles permitted under the insurance contract with the carrier or participating provider agreement with the new provider applicant.*

**12VAC5-408-10. Definitions.**

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

"Adverse decision" means a utilization review determination by the utilization review entity that a health service rendered or proposed to be rendered was not or is not medically necessary, when such determination may result in noncoverage of the health service or health services. When the policy, contract, plan, certificate, or evidence of coverage includes coverage for prescription drugs and the health service rendered or proposed to be rendered is a prescription for the alleviation of cancer pain, any adverse decision shall be made within 24 hours of the request for coverage.

"Appeal" means a formal request by a covered person or a provider on behalf of a covered person for reconsideration of a

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decision, such as a final adverse decision, a benefit payment, a denial of coverage, or a reimbursement for service.

"Basic health care services" means those health care services, as applicable to the type of managed care health insurance plan, described in § 38.2-5800 of the Code of Virginia which are required to be provided, arranged, paid for, or reimbursed by the managed care health insurance plan licensee for its covered persons.

"Board" means the Board of Health.

"Bureau of Insurance" means the State Corporation Commission acting pursuant to Title 38.2 of the Code of Virginia.

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

"Certificate" means a certificate of quality assurance.

"Complaint" means a written communication from a covered person primarily expressing a grievance. A complaint may pertain to the availability, delivery, or quality of health care services including claims payments, the handling or reimbursement for such services, or any other matter pertaining to the covered person's contractual relationship with the MCHIP.

"Covered person" means an individual residing in the Commonwealth, whether a subscriber, policyholder, enrollee, or member, of a managed care health insurance plan (MCHIP), who is entitled to health services or benefits provided, arranged for, paid for, or reimbursed pursuant to an MCHIP.

"Delegated service entity" means the entity with which an MCHIP licensee contracts to provide one or more of the services listed in 12VAC5-408-320 A for one or more of its MCHIPs, pursuant to and in accordance with the provisions of Part VI (12VAC5-408-320 et seq.) of this chapter, inclusive.

"Department" means the Virginia Department of Health.

"Emergency services" means those health care services as defined in § 38.2-3438 of the Code of Virginia.

"Evidence of coverage" means any certificate, individual or group agreement or contract, or identification card or related document issued in conjunction with the certificate, agreement or contract, issued to a covered person setting out the coverage and other rights to which a covered person is entitled.

"Final adverse decision" means a utilization review determination made by a physician advisor or peer of the treating health care provider in a reconsideration of an adverse decision, and upon which a provider or patient may base an appeal.

"Health care data reporting system" means the state contracted integrated system for the collection and analysis of data used by consumers, employers, providers, and purchasers

of health care to continuously assess and improve the quality of health care in the Commonwealth.

"Health care provider" or "provider" has the same meaning ascribed to the term in § 32.1-127.1:03 B of the Code of Virginia.

"Health care services" means services as defined in § 38.2-3438 of the Code of Virginia.

"Health carrier" means an entity as defined in § 38.2-3438 of the Code of Virginia.

"Managed care health insurance plan" or "MCHIP" means an arrangement for the delivery of health care in which a health carrier, as defined in § 38.2-5800 of the Code of Virginia, undertakes to provide, arrange for, pay for, or reimburse any of the costs of health care services for a covered person on a prepaid or insured basis which (i) contains one or more incentive arrangements, including any credentialing requirements intended to influence the cost or level of health care services between the health carrier and one or more providers with respect to the delivery of health care services and (ii) requires or creates benefit payment differential incentives for covered persons to use providers that are directly or indirectly managed, owned, under contract with or employed by the health carrier. Any health maintenance organization as defined in § 38.2-4300 of the Code of Virginia or health carrier that offers preferred provider contracts or policies as defined in § 38.2-3407 of the Code of Virginia or preferred provider subscription contracts as defined in § 38.2-4209 of the Code of Virginia shall be deemed to be offering one or more managed care health insurance plans. For the purposes of this definition, the prohibition of balance billing by a provider shall not be deemed a benefit payment differential incentive for covered persons to use providers who are directly or indirectly managed, owned, under contract with or employed by the health carrier. A single managed care health insurance plan may encompass multiple products and multiple types of benefit payment differentials; however, a single managed care health insurance plan shall encompass only one provider network or set of provider networks.

"Managed care health insurance plan licensee" or "MCHIP licensee" means a health carrier subject to licensure by the Bureau of Insurance and to quality assurance certification by the department under Title 38.2 of the Code of Virginia who is responsible for a managed care health insurance plan in accordance with Chapter 58 (§ 38.2-5800 et seq.) of Title 38.2 of the Code of Virginia.

"Managed care plan" means a health benefit plan, as defined in § 38.2-3407.10:1 of the Code of Virginia, that requires a covered person to use, or creates incentives, including financial incentives, for a covered person to use health care providers managed, owned, under contract with, or employed by the MCHIP licensee.

"Material" means that which has an effective influence or bearing on, or is pertinent to, the issue in question.

"Medical necessity" or "medically necessary" means appropriate and necessary health care services which are rendered for any condition which, according to generally accepted principles of good medical practice, requires the diagnosis or direct care and treatment of an illness, injury, or pregnancy-related condition, and are not provided only as a convenience.

"Nationally recognized accrediting body" means an organization that sets national standards specifically governing healthcare quality assurance processes, utilization review, provider credentialing, as well as other areas covered by this chapter and provides accreditation to managed care health insurance plans pursuant to national standards. The following entities shall be considered nationally recognized accrediting bodies:

1. The American Accreditation HealthCare Commission/URAC;
2. The National Committee for Quality Assurance (NCQA);
3. The Joint Commission on Accreditation of Healthcare Organizations, (JCAHO); and
4. Other nationally recognized accrediting bodies with national standards as described above that are accepted by the department.

"Network" means a group of providers as defined in § 38.2-3438 of the Code of Virginia.

"New provider applicant" means a provider that has submitted a completed credentialing application to an MCHIP licensee.

"Participating provider" means a provider that is managed, under contract with, or employed by an MCHIP licensee and who has agreed to provide health care services to covered persons with an expectation of receiving payments, other than coinsurance, copayments, or deductibles, directly or indirectly from the MCHIP licensee.

"Person" means any individual, aggregate of individuals, association, business, company, corporation, joint-stock company, Lloyds type of organization, other organization, partnership, receiver, reciprocal or inter-insurance exchange, trustee or society.

"Plan of correction" means an MCHIP'S written plan that outlines the action the MCHIP will take to address compliance issues identified during an administrative review or on-site examination conducted by the department.

"Preferred provider organization" or "PPO" means an arrangement in which a health carrier, as defined in § 38.2-5800 of the Code of Virginia, undertakes to provide, arrange for, pay for, or reimburse any of the costs of health care

services, on an insured basis, which creates incentives, including financial incentives, for a covered person to use health care providers directly or indirectly managed, owned, under contract with, or employed by the health carrier, but shall not include a health maintenance organization as defined in § 38.2-4300 of the Code of Virginia.

"Quality assurance program" means the systems, standards and processes including, but not limited to, reasonable and adequate systems to assess, measure, and improve the health status of covered persons, necessary to obtain a certificate of quality assurance from the department in accordance with this chapter and in accordance with § 32.1-137.2 C of the Code of Virginia.

"Service area" means a geographic area as defined in § 38.2-5800 of the Code of Virginia.

"Timely" means the provision of services so as not to impair or jeopardize the integrity of the covered persons' diagnosis or outcomes of illness.

"Treating health care provider" means a licensed health care provider who renders or proposes to render health care services to a covered person.

"Utilization review" means a system for reviewing the necessity, appropriateness, and efficiency of hospital, medical or other health care services rendered or proposed to be rendered to a patient or group of patients for the purpose of determining whether such services should be covered or provided by an insurer, health services plan, managed care health insurance plan licensee, or other entity or person. For purposes of this chapter, "utilization review" shall include, but not be limited to, preadmission, concurrent and retrospective medical necessity determination, and review related to the appropriateness of the site at which services were or are to be delivered. "Utilization review" shall not include (i) review of issues concerning insurance contract coverage or contractual restrictions on facilities to be used for the provision of services, (ii) any review of patient information by an employee of or consultant to any licensed hospital for patients of such hospital, or (iii) any determination by an insurer as to the reasonableness and necessity of services for the treatment and care of an injury suffered by an insured for which reimbursement is claimed under a contract of insurance covering any classes of insurance defined in §§ 38.2-117 through 38.2-119, 38.2-124 through 38.2-126, 38.2-130 through 38.2-132 and 38.2-134 of the Code of Virginia.

"Utilization review entity" means a person or entity performing utilization review.

"Utilization review plan" means a written procedure for performing a utilization review.

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## **12VAC5-408-170. Provider credentialing and recredentialing.**

A. The MCHIP licensee shall establish and maintain a comprehensive credentialing verification program to ensure its providers meet the minimum standards of professional licensure or certification. Written supporting documentation for providers who have completed their residency or fellowship requirements for their specialty area more than 12 months prior to the credentialing decision shall include:

1. Current valid license and history of licensure or certification;
2. Status of hospital privileges, if applicable;
3. Valid DEA certificate, if applicable;
4. Information from the National Practitioner Data Bank, as available;
5. Education and training, including post graduate training, if applicable;
6. Specialty board certification status, if applicable;
7. Practice or work history covering at least the past five years; and
8. Current, adequate malpractice insurance and malpractice history of at least the past five years.

B. The MCHIP licensee may grant provisional credentialing for providers who have completed their residency or fellowship requirements for their specialty area within 12 months prior to the credentialing decision. Written supporting documentation necessary to provisionally credential a practitioner shall include:

1. Primary source verification of a current, valid license to practice prior to granting the provisional status;
2. Written confirmation of the past five years of malpractice claims or settlements, or both, from the malpractice carrier or the results of the National Practitioner Data Bank query prior to granting provisional status; and
3. A completed application and signed attestation.

C. Providers provisionally credentialed may remain so for 60 calendar days.

D. Policies for credentialing and recredentialing shall include:

1. Criteria used to credential and recredential;
2. Process used to make credentialing and recredentialing decisions;
3. Type of providers, including network providers, covered under the credentialing and recredentialing policies;
4. Process for notifying providers of information obtained that varies substantially from the information provided by the provider;

5. Process for receiving input from participating providers to make recommendations regarding the credentialing and recredentialing process; and

6. A requirement that the MCHIP licensee notify the applicant within 60 calendar days of receipt of an application if information is missing or if there are other deficiencies in the application. The MCHIP licensee shall complete the credentialing process within 90 calendar days of the receipt of all such information requested by the MCHIP licensee or, if information is not requested from the applicant, within 120 calendar days of receipt of an application. The department may impose administrative sanctions upon an MCHIP licensee for failure to complete the credentialing process as provided herein if it finds that such failure occurs with such frequency as to constitute a general business practice.

The policies shall be made available to participating providers and applicants upon written request.

E. A provider fully credentialed by an MCHIP licensee, who changes his place of employment or his nonMCHIP licensee employer, shall, if within 60 calendar days of such change and if practicing within the same specialty, continue to be credentialed by that MCHIP licensee upon receipt by the MCHIP licensee of the following:

1. The effective date of the change;
2. The new tax ID number and copy of W-9, as applicable;
3. The name of the new practice, contact person, address, telephone and fax numbers; and
4. Other such information as may materially differ from the most recently completed credentialing application submitted by the provider to the MCHIP licensee.

This provision shall not apply if the provider's prior place of employment or employer had been delegated credentialing responsibility by the MCHIP licensee.

Nothing in this section shall be construed to require an MCHIP licensee to contract or recontract with a provider.

~~F. The appropriate credentialing process shall be completed before the provider:~~

- ~~1. Begins seeing covered persons;~~
- ~~2. Enters into the employment or contractual relationship with the MCHIP licensee; and~~
- ~~3. Is included in the listing of health care providers as a participating provider in any marketing and covered person materials.~~

~~G. E.~~ The providers shall be recredentialed at least every three years. Recredentialing documentation shall include:

1. Current valid license or certification;
2. Status of hospital privileges, if applicable;

3. Current valid DEA registration, if applicable;
4. Specialty board eligibility or certification status, if applicable;
5. Data from covered person complaints and the results of quality reviews, utilization management reviews and covered persons satisfaction surveys, as applicable; and
6. Current, adequate malpractice insurance and history of malpractice claims and professional liability claims resulting in settlements or judgments.

~~H.~~ G. All information obtained in the credentialing process shall be subject to review and correction of any erroneous information by the health care provider whose credentials are being reviewed. Nothing in the previous sentence shall require an MCHIP or MCHIP licensee to disclose to a provider, or any other person or party, information or documents: (i) that the MCHIP or the MCHIP licensee, itself, develops or causes to be developed as part of the MCHIP's credentialing process or (ii) that are privileged under applicable law. The department may require the MCHIP licensee to provide a copy of its credentialing policies.

~~I.~~ H. Providers shall be required by the MCHIP licensee to notify the MCHIP of any changes in the status of any credentialing criteria.

~~J.~~ I. The MCHIP licensee shall not refuse to initially credential or refuse to reverify the credentials of a health care provider solely because the provider treats a substantial number of patients who require expensive or uncompensated care.

~~K.~~ J. The MCHIP licensee shall have policies and procedures for altering the conditions of the provider's participation with the MCHIP licensee. The policies shall include actions to be taken to improve performance prior to termination and an appeals process for instances when the MCHIP licensee chooses to alter the condition of provider participation based on issues of quality of care or service, except in circumstances where ~~an~~ a covered person's health has been jeopardized. Providers shall have complete and timely access to all data and information used by the licensee to identify or determine the need for altering the conditions of participation.

~~L.~~ K. The MCHIP licensee shall retain the right to approve new providers and sites based on quality issues, and to terminate or suspend individual providers. Termination or suspension of individual providers for quality of care considerations shall be supported by documented records of noncompliance with specific MCHIP expectations and requirements for providers. The provider shall have a prescribed system of appeal of this decision available to them as prescribed in the contract between the MCHIP or its delegated service entity and the provider.

~~M.~~ L. Providers shall be informed of the appeals process. Profession specific providers actively participating in the

MCHIP plan shall be included in reviewing appeals and making recommendations for action.

~~N.~~ M. The MCHIP licensee shall notify appropriate authorities when a provider's application or contract is suspended or terminated because of quality deficiencies by the health care provider whose credentials are being reviewed.

~~O.~~ N. There shall be an organized system to manage and protect the confidentiality of personnel files and records. Records and documents relating to a provider's credentialing application shall be retained for at least seven years.

O. The MCHIP licensee shall establish protocols and procedures for reimbursing new provider applicants, after being credentialed by the MCHIP licensee, for health care services provided to covered persons during the period in which the new provider applicant's completed credentialing application was pending. At a minimum, the protocols and procedures shall:

1. Apply only if the new provider applicant's credentialing application is approved by the MCHIP licensee;

2. Permit provider reimbursement for services rendered from the date the new provider applicant's completed credentialing application is received for consideration by the MCHIP licensee;

3. Apply only if a contractual relationship exists between the MCHIP licensee and the new provider applicant or entity for whom the new provider applicant is employed or engaged; and

4. Require that any reimbursement be paid at the in-network rate that the new provider applicant would have received had the provider been, at the time the covered health care services were provided, a credentialed participating provider in the network for the applicable managed care plan.

P. Nothing in this section shall require:

1. Reimbursement of provider-rendered services that are not benefits or services covered by the MCHIP licensee's managed care plan.

2. An MCHIP licensee to pay reimbursement at the contracted in-network rate for any covered health care services provided by the new provider applicant if the new provider applicant's credentialing application is not approved or the MCHIP licensee is otherwise not willing to contract with the new provider applicant.

Q. Payments made or retroactive denials of payments made under this section shall be governed by § 38.2-3407.15 of the Code of Virginia.

R. If a payment is made by the MCHIP licensee to a new provider applicant or any entity that employs or engages a new provider applicant under this section for a covered service, the patient shall only be responsible for any coinsurance,



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copayments, or deductibles permitted under the insurance contract with the MCHIP licensee or participating provider agreement with the provider.

S. A new provider applicant, in order to submit claims to the MCHIP licensee pursuant to this section, shall provide written or electronic notice to covered persons in advance of treatment that:

1. The provider has submitted a credentialing application to the MCHIP licensee of the covered person; and

2. The MCHIP licensee is in the process of obtaining and verifying the written documentation from the new provider applicant pursuant to subsection A of this section.

The written or electronic notice shall conform to the requirements in § 38.2-3407.10:1 G of the Code of Virginia.

VA.R. Doc. No. R21-5941; Filed February 1, 2021, 3:19 p.m.

## Fast-Track

**Title of Regulation: 12VAC5-410. Regulations for the Licensure of Hospitals in Virginia (amending 12VAC5-410-441).**

**Statutory Authority:** §§ 32.1-12 and 32.1-127 of the Code of Virginia.

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

**Public Comment Deadline:** March 31, 2021.

**Effective Date:** April 15, 2021.

**Agency Contact:** Rebekah E. Allen, Senior Policy Analyst, Virginia Department of Health, 9960 Mayland Drive, Suite 401, Richmond, VA 23233, telephone (804) 367-2102, FAX (804) 527-4502, or email [regulatorycomment@vdh.virginia.gov](mailto:regulatorycomment@vdh.virginia.gov).

**Basis:** Section 32.1-12 of the Code of Virginia gives the State Board of Health the responsibility to make, adopt, promulgate, and enforce such regulations as may be necessary to carry out the provisions of Title 32.1 of the Code of Virginia. Section 32.1-127 of the Code of Virginia requires the board to adopt regulations that include minimum standards for hospitals, nursing homes and certified nursing facilities.

**Purpose:** This regulation is being amended due to the changes to § 32.1-143.01 of the Code of Virginia. The board is required by § 32.1-127 of the Code of Virginia to promulgate regulations for the licensure of hospitals in order to protect the health, safety, and welfare of citizens receiving care in hospitals. The goal of the regulatory change is to conform the regulations to the statute. It is intended to increase maternity patients' knowledge and awareness of certain information that protects the health, safety, and welfare of new mothers and their infants.

**Rationale for Use of Fast-Track Rulemaking Process:** Chapter 433 of the 2019 Acts of Assembly amended and reenacted § 32.1-134.01 of the Code of Virginia to add perinatal anxiety to

the list of information hospitals are required to make available to maternity patients, the father of the infant, and other relevant family members or caretakers prior to such patients' discharge. The existing list of information from that Code section is not currently included in the hospital regulations.

As the rulemaking is being utilized to conform to the statute and no new requirements are being developed, it is expected to be noncontroversial.

**Substance:** A new provision is added to require the information pursuant to § 32.1-134.01 of the Code of Virginia be provided.

**Issues:** This action is being used to conform the regulations to existing requirements in the statute. The advantage to the public and the Commonwealth is that the regulations are in compliance with legislative changes enacted by the 2019 General Assembly. There are no disadvantages to the public, the agency, or the Commonwealth.

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

Summary of the Proposed Amendments to Regulation. One of the requirements of 2VAC5-410 Regulations for the Licensure of Hospitals in Virginia is that the governing board of the hospital adopt written policies and procedures for the management of obstetric patients, to be approved by the medical and nursing staff assigned to the obstetric service. The regulation lists the minimum required contents of the policies and procedures. In addition, § 32.1-134.01 of the Code of Virginia states that prior to releasing each maternity patient, certain specified information be provided. The State Board of Health proposes to add the provision of the information specified in § 32.1-134.01 of the Code of Virginia to the list of minimum required contents of the policies and procedures.

Background. Section 32.1-134.01 of the Code of Virginia states that:

Every licensed nurse midwife, licensed midwife, or hospital providing maternity care shall, prior to releasing each maternity patient, make available to such patient and, if present, to the father of the infant and other relevant family members or caretakers, information about the incidence of postpartum blues, perinatal depression, and perinatal anxiety; information to increase awareness of shaken baby syndrome and the dangers of shaking infants; and information about safe sleep environments for infants that is consistent with current information available from the American Academy of Pediatrics. This information shall be discussed with the maternity patient and the father of the infant and other relevant family members or caretakers who are present at discharge.

Estimated Benefits and Costs. To the extent that the specified information is not already being consistently conveyed to maternity patients and their relevant family members and caretakers, and to the extent that mandating that the provision of this information is added to hospitals written policies and procedures increases the frequency that the information is

conveyed, the proposal may be beneficial to the wellbeing of new mothers and babies. Adding the provision of the information specified in § 32.1-134.01 to the policies and procedures would likely require minimal staff time for hospitals.

**Businesses and Other Entities Affected.** The proposal affects the 106 inpatient hospitals and 63 outpatient surgical hospitals licensed by the Virginia Department of Health (VDH). A minimal amount of staff time would be required to add the provision of specified information to the written policies and procedures.

**Small Businesses Affected. Types and Estimated Number of Small Businesses Affected**

VDH estimates that three of the outpatient surgical hospitals meet the statutory definition of small business.<sup>1</sup>

**Costs and Other Effects.** As discussed, a minimal amount of staff time would be required to add the provision of specified information to the written policies and procedures.

**Alternative Method that Minimizes Adverse Impact.** There are no clear alternative methods that both reduce adverse impact and meet the intended policy goals.

**Localities<sup>2</sup> Affected.<sup>3</sup>** The proposal does not disproportionately affect any particularly locality nor appear to introduce additional costs for local governments.

**Projected Impact on Employment.** The proposal does not appear to substantively affect total employment.

**Effects on the Use and Value of Private Property.** The proposal appears to neither substantively affect the use and value of private property, nor affect real estate development costs.

<sup>1</sup>Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

<sup>2</sup>Locality can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>3</sup>§ 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

**Agency's Response to Economic Impact Analysis:** The Virginia Department of Health has reviewed and concurs with the Department of Planning and Budget economic impact analysis.

**Summary:**

*Pursuant to Chapter 433 of the 2019 Acts of Assembly, the amendment adds perinatal anxiety to the list of information hospitals are required to make available to maternity patients, the father of the infant, and other relevant family members or caretakers prior to such patients' discharge.*

**12VAC5-410-441. Obstetric service requirements; medical direction; physician consultation and coverage; nurse staffing and coverage; policies and procedures.**

A. ~~he~~ The governing body shall appoint a physician as medical director of the organized obstetric service who meets the qualifications specified in the medical staff bylaws.

1. If the medical director is not a board certified obstetrician or board eligible in obstetrics, the hospital shall have a written agreement with one or more board-certified or board-eligible obstetricians to provide consultation on a 24-hour basis. Consultation may be by telephone.

2. The duties and responsibilities of the medical director of obstetric services shall include ~~but not be limited to:~~

- a. The general supervision of the quality of care provided patients admitted to the service;
- b. The establishment of criteria for admission to the service;
- c. The adherence to standards of professional practices and policies and procedures adopted by the medical staff and governing body;
- d. The development of recommendations to the medical staff on standards of professional practice and staff privileges;
- e. The identification of clinical conditions and medical or surgical procedures that require physician consultation; and
- f. Arranging conferences, at least quarterly, to review obstetrical surgical procedures, complications and infant and maternal mortality and morbidity. Infant mortality and morbidity shall be discussed jointly between the obstetric and newborn service staffs.

B. A physician with obstetrical privileges capable of arriving on-site within 30 minutes of notification shall be on a 24-hour on-call duty roster.

C. A physician with obstetrical privileges shall be accessible for patient treatment within 10 minutes during the administration of an oxytocic agent to an antepartum patient.

D. A physician or a certified nurse-midwife, under the supervision of a physician with obstetrical privileges, shall be in attendance for each delivery. Physician supervision of the nurse-midwife shall be in compliance with the regulations of the Boards of Nursing and Medicine.

E. A physician shall be in attendance during all high-risk deliveries. High-risk deliveries shall be defined by the obstetric service medical staff.

F. A physician or a nurse skilled in neonatal cardiopulmonary resuscitation (CPR) shall be available in the hospital at all times.

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G. A current roster of physicians, with a delineation of their obstetrical, newborn, pediatric, medical and surgical staff privileges, shall be posted at each nurses' station in the obstetric suite and in the emergency room.

H. A copy of the 24-hour on-call duty schedule, including the list of on-call consulting physicians, shall be posted at each nurses' station in the obstetric suite and in the emergency room.

I. An occupied unit of the obstetrics service shall be supervised by a registered nurse 24 hours a day.

J. If the postpartum unit is organized as a separate nursing unit, staffing shall be based on a formula of one nursing personnel for every six to eight obstetric patients. Staffing shall include at least one registered nurse for the unit for each duty shift.

K. If the postpartum and general care newborn units are organized as combined rooming-in or modified rooming-in units, staffing shall be based on a formula of one nursing personnel for every four mother-baby units. The rooming-in units shall be staffed at all times with no less than two nursing personnel each shift. At least one of the two nursing personnel on each shift shall be a registered nurse.

L. A registered nurse shall be in attendance at all deliveries. The nurse shall be available on-site to monitor the mother's general condition and that of the fetus during labor, at least one hour after delivery, and longer if complications occur.

M. Nurse staffing of the labor and delivery unit shall be scheduled to ensure that the total number of nursing personnel available on each shift is equal to one half of the average number of deliveries in the hospital during a 24-hour period.

N. At least one of the personnel assigned to each shift on the obstetrics unit shall be a registered nurse. At no time when the unit is occupied shall the nursing staff on any shift be less than two staff members.

O. Patients placed under analgesia or anesthesia during labor or delivery shall be under continuous observation by a registered nurse or a licensed practical nurse for at least one hour after delivery.

P. To ensure adequate nursing staff for labor, delivery, and postpartum units during busy or crisis periods, duty schedules shall be developed in accordance with the following nurse/patient ratios:

1. 1:1 to 2 Antepartum testing
2. 1:2 Laboring patients
3. 1:1 Patients in second stage of labor
4. 1:1 Ill patients with complications
5. 1:2 Oxytocin induction or augmentation of labor
6. 1:2 Coverage of epidural anesthesia

7. 1:1 Circulation for cesarean delivery

8. 1:6 to 8 Antepartum/postpartum patients without complications

9. 1:2 Postoperative recovery

10. 1:3 Patients with complications, but in stable condition

11. 1:4 Mother-newborn care

Q. Student nurses, licensed practical nurses and nursing aides who assist in the nursing care of obstetric patients shall be under the supervision of a registered nurse.

R. At least one registered nurse trained in obstetric and neonatal care shall be assigned to the care of mothers and infants at all times.

S. At least one member of the nursing staff on each shift who is skilled in cardiopulmonary resuscitation of the newborn must be immediately available to the delivery suite.

T. All nursing personnel assigned to the obstetric service shall have orientation to the obstetrical unit.

U. The governing body shall adopt written policies and procedures for the management of obstetric patients approved by the medical and nursing staff assigned to the service.

1. The policies and procedures shall include, ~~but not be limited to,~~ the following:

- a. Criteria for the identification and referral of high-risk obstetric patients;
- b. The types of birthing alternatives, if offered, by the hospital;
- c. The monitoring of patients during antepartum, labor, delivery, recovery and postpartum periods with or without the use of electronic equipment;
- d. The use of equipment and personnel required for high-risk deliveries, including multiple births;
- e. The presence of family members or chosen companions during labor, delivery, recovery, and postpartum periods;
- f. The reporting, to the Department of Health, of all congenital defects;
- g. The care of patients during labor and delivery to include the administration of Rh O(D) immunoglobulin to Rh negative mothers who have met eligibility criteria. Administration of RH O(D) immunoglobulin shall be documented in the patient's medical record;
- h. The provision of family planning information, to each obstetric patient at time of discharge, in accordance with § 32.1-134 of the Code of Virginia;
- i. The use of specially trained paramedical and nursing personnel by the obstetrics and newborn service units;
- j. A protocol for hospital personnel to use to assist them in obtaining public health, nutrition, genetic and social services for patients who need those services;

- k. The use of anesthesia with obstetric patients;
- l. The use of radiological and electronic services, including safety precautions, for obstetric patients;
- m. The management of mothers who utilize breast milk with their newborns. Breast milk shall be collected in aseptic containers, dated, stored under refrigeration and consumed or disposed of within 24 48 hours of collection if the breast milk has not been frozen. This policy pertains to breast milk collected while in the hospital or at home for hospital use;
- n. Staff capability to perform cesarean sections within 30 minutes of notice;
- o. Emergency resuscitation procedures for mothers and infants;
- p. The treatment of volume shock in mothers;
- q. Training of hospital staff in discharge planning for identified substance abusing, postpartum women and their infants; ~~and~~
- r. Written discharge planning for identified substance abusing, postpartum women and their infants. The discharge plans shall include appropriate referral sources available in the community or locality for mother and infants such as:
  - (1) Substance abuse treatment services; and
  - (2) Comprehensive early intervention services for infants and toddlers with disabilities and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 USC § 1471 et seq.
  - (3) The discharge planning process shall be coordinated by a health care professional and shall include, to the extent possible:
    - (a) The father of the infant; and
    - (b) Any family members who may participate in the follow-up care of the mother or infant.

The discharge plan shall be discussed with the mother and documented in the medical record; and

s. The provision of information pursuant to § 32.1-134.01 of the Code of Virginia about the incidence of postpartum blues, perinatal depression, and perinatal anxiety; information to increase awareness of shaken baby syndrome and the dangers of shaking infants; and information about safe sleep environments for infants that is consistent with current information from the American Academy of Pediatrics.

2. The obstetric service shall adopt written policies and procedures for the use of the labor, delivery and recovery rooms (LDR)/Labor, delivery, recovery and postpartum rooms (LDRP) that include, but are not limited to the following:

- a. The philosophy, goals and objectives for the use of the LDR/LDRP rooms;

- b. Criteria for patient eligibility to use the LDR/LDRP rooms;
- c. Identification of high-risk conditions which disqualify patients from use of the LDR/LDRP rooms;
- d. Patient care in LDR/LDRP rooms, including ~~but not limited to~~, the following:
  - (1) Defining vital signs, the intervals at which they shall be taken, and requirements for documentation; and
  - (2) Observing, monitoring, and assessing the patient by a registered nurse, certified nurse midwife, or physician;
- e. The types of analgesia and anesthesia to be used in LDR/LDRP rooms;
- f. Specifications of conditions of labor or delivery requiring transfer of the patient from LDR/LDRP rooms to the delivery room;
- g. Specification of conditions requiring the transfer of the mother to the postpartum unit or the newborn to the nursery;
- h. Criteria for early or routine discharge of the mother and newborn;
- i. The completion of medical records;
- j. The presence of family members or chosen companions in the delivery room or operating room in the event that the patient is transferred to the delivery room or operating room;
- k. The number of visitors allowed in the LDR/LDRP room, and their relationship to the mother; and
- l. Infection control, including, ~~but not limited to~~, gowning and attire to be worn by persons in the LDR/LDRP room, upon leaving it, and upon returning.

VA.R. Doc. No. R21-6145; Filed February 3, 2021, 1:05 p.m.

**Final**

**REGISTRAR'S NOTICE:** The State Board of Health is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The 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: 12VAC5-410. Regulations for the Licensure of Hospitals in Virginia (amending 12VAC5-410-10, 12VAC5-410-230, 12VAC5-410-1170).**

**Statutory Authority:** §§ 32.1-12 and 32.1-127 of the Code of Virginia.

**Effective Date:** March 31, 2021.

**Agency Contact:** Rebekah E. Allen, Senior Policy Analyst, Virginia Department of Health, 9960 Mayland Drive, Suite 401, Richmond, VA 23233, telephone (804) 367-2102, FAX

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# Regulations

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(804) 527-4502, or email [regulatorycomment@vdh.virginia.gov](mailto:regulatorycomment@vdh.virginia.gov).

## Summary:

*Pursuant to Item 300 F of Chapter 56 of the 2020 Acts of Assembly, Special Session I, the amendments require every medical care facility licensed by the Virginia Department of Health, excluding nursing homes, to permit a person with a disability who requires assistance as a result of such disability to be accompanied by a designated support person at any time during which health care services are provided during the COVID-19 public health emergency and add a definition for "designated support person."*

## 12VAC5-410-10. Definitions.

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

"Board" means the State Board of Health.

"Chief executive officer" means a job descriptive term used to identify the individual appointed by the governing body to act in its behalf in the overall management of the hospital. Job titles may include administrator, superintendent, director, executive director, president, vice-president, and executive vice-president.

"Commissioner" means the State Health Commissioner.

"Consultant" means one who provides services or advice upon request.

"Department" means an organized section of the hospital.

"Designated support person" means a person who is knowledgeable about the needs of a person with a disability and who is designated, orally or in writing, by the individual with a disability, the individual's guardian, or the individual's care provider to provide support and assistance, including physical assistance, emotional support, assistance with communication or decision-making, or any other assistance necessary as a result of the person's disability, to the person with a disability at any time during which health care services are provided.

"Direction" means authoritative policy or procedural guidance for the accomplishment of a function or activity.

"Facilities" means building(s), equipment, and supplies necessary for implementation of services by personnel.

"Full-time" means a 37-1/2 to 40 hour work week.

"General hospital" means institutions as defined by § 32.1-123 of the Code of Virginia with an organized medical staff; with permanent facilities that include inpatient beds; and with medical services, including physician services, dentist services and continuous nursing services, to provide diagnosis and treatment for patients who have a variety of medical and dental

conditions that may require various types of care, such as medical, surgical, and maternity.

"Home health care department/service/program" means a formally structured organizational unit of the hospital that is designed to provide health services to patients in their place of residence and meets Part II (12VAC5-381-150 et seq.) of the regulations adopted by the board for the licensure of home care organizations in Virginia.

"Medical" means pertaining to or dealing with the healing art and the science of medicine.

"Nursing care unit" means an organized jurisdiction of nursing service in which nursing services are provided on a continuous basis.

"Nursing home" means an institution or any identifiable component of any institution as defined by § 32.1-123 of the Code of Virginia with permanent facilities that include inpatient beds and whose primary function is the provision, on a continuing basis, of nursing and health related services for the treatment of patients who may require various types of long term care, such as skilled care and intermediate care.

"Nursing services" means patient care services pertaining to the curative, palliative, restorative, or preventive aspects of nursing that are prepared or supervised by a registered nurse.

"Office of Licensure and Certification" or "OLC" means the Office of Licensure and Certification of the Virginia Department of Health.

"Organized" means administratively and functionally structured.

"Organized medical staff" means a formal organization of physicians and dentists with the delegated responsibility and authority to maintain proper standards of medical care and to plan for continued betterment of that care.

"Outpatient hospital" means institutions as defined by § 32.1-123 of the Code of Virginia that primarily provide facilities for the performance of surgical procedures on outpatients. Such patients may require treatment in a medical environment exceeding the normal capability found in a physician's office, but do not require inpatient hospitalization.

"Ownership/person" means any individual, partnership, association, trust, corporation, municipality, county, governmental agency, or any other legal or commercial entity that owns or controls the physical facilities and/or manages or operates a hospital.

"Rural hospital" means any general hospital in a county classified by the federal Office of Management and Budget (OMB) as rural, any hospital designated as a critical access hospital, any general hospital that is eligible to receive funds under the federal Small Rural Hospital Improvement Grant Program, or any general hospital that notifies the commissioner of its desire to retain its rural status when that

hospital is in a county reclassified by the OMB as a metropolitan statistical area as of June 6, 2003.

"Service" means a functional division of the hospital. Also used to indicate the delivery of care.

"Special hospital" means institutions as defined by § 32.1-123 of the Code of Virginia that provide care for a specialized group of patients or limit admissions to provide diagnosis and treatment for patients who have specific conditions (e.g., tuberculosis, orthopedic, pediatric, maternity).

"Special care unit" means an appropriately equipped area of the hospital where there is a concentration of physicians, nurses, and others who have special skills and experience to provide optimal medical care for patients assigned to the unit.

"Staff privileges" means authority to render medical care in the granting institution within well-defined limits, based on the individual's professional license and the individual's experience, competence, ability, and judgment.

"Unit" means a functional division or facility of the hospital.

### **12VAC5-410-230. Patient care management.**

A. All patients shall be under the care of a member of the medical staff.

B. Each hospital shall have a plan that includes effective mechanisms for the periodic review and revision of patient care policies and procedures.

C. Each hospital shall establish a protocol relating to the rights and responsibilities of patients based on Joint Commission on Accreditation of Healthcare Organizations' 2000 Hospital Accreditation Standards, January 2000. The protocol shall include a process reasonably designed to inform patients of their rights and responsibilities. Patients shall be given a copy of their rights and responsibilities upon admission.

D. No medication or treatment shall be given except on the signed order of a person lawfully authorized by state statutes.

1. Hospital personnel, as designated in medical staff bylaws, rules and regulations, or hospital policies and procedures, may accept emergency telephone and other verbal orders for medication or treatment for hospital patients from physicians and other persons lawfully authorized by state statute to give patient orders.

2. As specified in the hospital's medical staff bylaws, rules and regulations, or hospital policies and procedures, emergency telephone and other verbal orders shall be signed within a reasonable period of time not to exceed 72 hours, by the person giving the order, or, when such person is not available, cosigned by another physician or other person authorized to give the order.

E. Each hospital shall have a reliable method for identification of each patient, including newborn infants.

F. Each hospital shall include in its visitation policy a provision allowing each adult patient to receive visits from any individual from whom the patient desires to receive visits, subject to other restrictions contained in the visitation policy including the patient's medical condition and the number of visitors permitted in the patient's room simultaneously.

G. If the Governor has declared a public health emergency related to the novel coronavirus (COVID-19), each hospital shall allow a person with a disability who requires assistance as a result of such disability to be accompanied by a designated support person at any time during which health care services are provided.

1. In any case in which health care services are provided in an inpatient setting, and the duration of health care services in such inpatient setting is anticipated to last more than 24 hours, the person with a disability may designate more than one designated support person. However, no hospital shall be required to allow more than one designated support person to be present with a person with a disability at any time.

2. A designated support person shall not be subject to any restrictions on visitation adopted by such hospital. However, such designated support person may be required to comply with all reasonable requirements of the hospital adopted to protect the health and safety of patients and staff of the hospital.

3. Every hospital shall establish policies applicable to designated support persons and shall:

a. Make such policies available to the public on a website maintained by the hospital; and

b. Provide such policies, in writing, to the patient at such time as health care services are provided.

H. Each hospital that is equipped to provide life-sustaining treatment shall develop a policy to determine the medical or ethical appropriateness of proposed medical care, which shall include:

1. A process for obtaining a second opinion regarding the medical and ethical appropriateness of proposed medical care in cases in which a physician has determined proposed care to be medically or ethically inappropriate;

2. Provisions for review of the determination that proposed medical care is medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the proposed health care of the patient;

3. Requirements for a written explanation of the decision of the interdisciplinary medical review committee, which shall be included in the patient's medical record; and

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4. Provisions to ensure the patient, the patient's agent, or the person authorized to make the patient's medical decisions in accordance with § 54.1-2986 of the Code of Virginia is informed of the patient's right to obtain the patient's medical record and the right to obtain an independent medical opinion and afforded reasonable opportunity to participate in the medical review committee meeting.

The policy shall not prevent the patient, the patient's agent, or the person authorized to make the patient's medical decisions from obtaining legal counsel to represent the patient or from seeking other legal remedies, including court review, provided that the patient, the patient's agent, person authorized to make the patient's medical decisions, or legal counsel provide written notice to the chief executive officer of the hospital within 14 days of the date of the physician's determination that proposed medical treatment is medically or ethically inappropriate as documented in the patient's medical record.

H. I. Each hospital shall establish a protocol requiring that, before a health care provider arranges for air medical transportation services for a patient who does not have an emergency medical condition as defined in 42 USC § 1395dd(e)(1), the hospital shall provide the patient or the patient's authorized representative with written or electronic notice that the patient (i) may have a choice of transportation by an air medical transportation provider or medically appropriate ground transportation by an emergency medical services provider and (ii) will be responsible for charges incurred for such transportation in the event that the provider is not a contracted network provider of the patient's health insurance carrier or such charges are not otherwise covered in full or in part by the patient's health insurance plan.

I. J. Each hospital shall provide written information about the patient's ability to request an estimate of the payment amount for which the participant will be responsible pursuant to § 32.1-137.05 of the Code of Virginia. The written information shall be posted conspicuously in public areas of the hospital, including admissions or registration areas, and included on any website maintained by the hospital.

J. K. Each hospital shall establish protocols to ensure that any patient scheduled to receive an elective surgical procedure for which the patient can reasonably be expected to require outpatient physical therapy as a follow-up treatment after discharge is informed that the patient:

1. Is expected to require outpatient physical therapy as a follow-up treatment; and
2. Will be required to select a physical therapy provider prior to being discharged from the hospital.

## **12VAC5-410-1170. Policy and procedures manual.**

A. Each outpatient surgical hospital shall develop a policy and procedures manual that shall include provisions covering the following items:

1. The types of emergency and elective procedures that may be performed in the facility.
2. Types of anesthesia that may be used.
3. Admissions and discharges, including:
  - a. Criteria for evaluating the patient before admission and before discharge; and
  - b. Protocols to ensure that any patient scheduled to receive an elective surgical procedure for which the patient can reasonably be expected to require outpatient physical therapy as a follow-up treatment after discharge is informed that the patient:
    - (1) Is expected to require outpatient physical therapy as a follow-up treatment; and
    - (2) Will be required to select a physical therapy provider prior to being discharged from the hospital.
4. Written informed consent of patient prior to the initiation of any procedures.
5. Procedures for housekeeping and infection control and prevention.
6. Disaster preparedness.
7. Facility security.

B. A copy of approved policies and procedures and revisions thereto shall be made available to the OLC upon request.

C. Each outpatient surgical hospital shall establish a protocol relating to the rights and responsibilities of patients based on Joint Commission on Accreditation of Healthcare Organizations' Standards for Ambulatory Care (2000 Hospital Accreditation Standards, January 2000). The protocol shall include a process reasonably designed to inform patients of their rights and responsibilities. Patients shall be given a copy of their rights and responsibilities upon admission.

D. If the Governor has declared a public health emergency related to the novel coronavirus (COVID-19), each outpatient surgical hospital shall allow a person with a disability who requires assistance as a result of such disability to be accompanied by a designated support person at any time during which health care services are provided.

1. A designated support person shall not be subject to any restrictions on visitation adopted by such outpatient surgical hospital. However, such designated support person may be required to comply with all reasonable requirements of the outpatient surgical hospital adopted to protect the health and safety of patients and staff of the outpatient surgical hospital.

2. Every outpatient surgical hospital shall establish policies applicable to designated support persons and shall:

- a. Make such policies available to the public on a website maintained by the outpatient surgical hospital; and



b. Provide such policies, in writing, to the patient at such time as health care services are provided.

E. Each outpatient surgical hospital shall obtain a criminal history record check pursuant to § 32.1-126.02 of the Code of Virginia on any compensated employee not licensed by the Board of Pharmacy whose job duties provide access to controlled substances within the outpatient surgical hospital pharmacy.

VA.R. Doc. No. R21-6587; Filed February 4, 2021, 12:48 p.m.

**DEPARTMENT OF MEDICAL ASSISTANCE SERVICES**

**Emergency Regulation**

**Title of Regulation:** 12VAC30-60. Standards Established and Methods Used to Assure High Quality Care (amending 12VAC30-60-5, 12VAC30-60-140).

**Statutory Authority:** § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

**Effective Dates:** April 1, 2021, through September 30, 2022.

**Agency Contact:** Emily McClellan, Regulatory Supervisor, Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804)786-1680, or email [emily.mcclellan@dmass.virginia.gov](mailto:emily.mcclellan@dmass.virginia.gov).

**Preamble:**

*Section 2.2-4011 of the Code of Virginia states that agencies may adopt emergency regulations in situations in which Virginia statutory law or the appropriation act requires that a regulation be effective in 280 days or less from its enactment, and the regulation is not exempt under the provisions of § 2.2-4006 A 4 of the Code of Virginia.*

*Item 303 X 1 of Chapter 2 of the 2018 Acts of Assembly and Item 303 X 1 of Chapter 854 of the 2019 Acts of Assembly, require the Department of Medical Assistance Services to make programmatic changes in the provision of community mental health services to ensure appropriate utilization and cost efficiency and to consider all available options including utilization review. The emergency action clarifies the documentation requirements for service authorization, including service authorization for community mental health and rehabilitative services.*

**CHAPTER 60**

**STANDARDS ESTABLISHED AND METHODS USED TO ASSURE HIGH QUALITY CARE**

**PREFACE:** The content of this regulation has been promulgated under the requirements of the Virginia Administrative Process Act. This regulation is subject to federal approval. Prior to use, check with the agency regulatory coordinator for any changes or updates not reflected in this Code.

The following chapter is a description of the standards and the methods that will be used to assure that the medical and remedial care and services are of high quality.

**12VAC30-60-5. Applicability of utilization review requirements.**

A. In accordance with the requirements in 42 CFR Part 456 concerning utilization control of Medicaid services, the Department of Medical Assistance Services (DMAS) or its contractor shall implement utilization control measures, including service authorization requirements, post-payment reviews, quality management reviews, and other reviews to monitor quality and appropriate utilization of Medicaid services. These ~~utilization~~ requirements shall apply to all Medicaid covered services unless otherwise specified.

B. Some Medicaid covered services require an approved service authorization prior to service delivery in order to be considered for reimbursement ~~to occur~~. Service authorization means the process to approve specific services for an enrolled Medicaid, FAMIS Plus, or FAMIS individual by a DMAS service authorization contractor prior to service delivery and reimbursement in order to validate that the service requested is medically necessary and meets DMAS and DMAS contractor criteria for reimbursement. Service authorization does not guarantee payment for the service.

1. To obtain service authorization, all providers' information supplied to the Department of Medical Assistance Services (DMAS) providers shall supply DMAS or its contractor shall be with information supporting the medical necessity for the requested service that is fully substantiated throughout documented in individuals' medical records.

~~C.~~ 2. Providers shall be required to maintain documentation detailing all relevant information about the Medicaid individuals who are in the provider's care. Such documentation shall fully disclose the extent of services provided in order to support requests for service authorization and the provider's claims for reimbursement for services rendered. This documentation shall be written, signed, and dated at the time the services are rendered unless specified otherwise.

3. Continued authorization requests shall include the documentation requirements in subdivisions 1 and 2 of this subsection, as well as documentation of the individual's current status and the individual's progress, or lack of progress, toward goals and objectives in the ISP.

~~D.~~ C. Providers shall maintain documentation that demonstrates that individuals providing services have the required qualifications established by DMAS, the Department of Health Professions (DHP), or the Department of Behavioral Health and Developmental Services (DBHDS).

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~~E. DMAS, or its contractor, shall perform reviews of the utilization of all Medicaid covered services pursuant to 42 CFR 440.260 and 42 CFR Part 456.~~

~~F. D. DMAS or its contractor shall recover expenditures made for covered services when providers' documentation does not comport with standards specified in all applicable laws, regulations, and provider agreement requirements.~~

~~G. E. Providers who are determined not to be in compliance with DMAS applicable laws, regulations, or provider agreement requirements shall be subject to 12VAC30-80-130 for the repayment of those overpayments to DMAS.~~

~~H. Utilization review requirements specific to community mental health services and residential treatment services, including therapeutic group homes and psychiatric residential treatment facilities (PRTFs), as set out in 12VAC30-50-130 and 12VAC30-50-226, shall be as follows:~~

~~1. To apply to be reimbursed as a Medicaid provider, the required Department of Behavioral Health and Developmental Services (DBHDS) license shall be either a full, annual, triennial, or conditional license.~~

~~2. Health care entities with provisional licenses shall not be reimbursed as Medicaid providers.~~

~~3. Reimbursement shall not be permitted to health care entities that fail to enter into a provider contract with DMAS or its contractor for a service prior to rendering that service or fail to maintain a current Medicaid Provider Enrollment Agreement. If services are provided through a managed care organization (MCO), services shall not be reimbursed unless the provider is also enrolled with the MCO as a Medicaid provider.~~

~~Payments shall not be permitted to health care entities that either hold provisional licenses or fail to enter into a provider contract with DMAS or its contractor for a service prior to rendering that service.~~

~~4. DMAS or its contractor shall apply a national standardized set of medical necessity criteria in use in the industry or an equivalent standard authorized in advance by DMAS. Services that fail to meet medical necessity criteria shall be denied service authorization.~~

~~5. Service providers shall maintain documentation to establish that services are rendered by individuals with appropriate qualifications and credentials, including proof of licensure or registration through DHP if applicable. Qualified mental health professional eligibles, as defined by DBHDS, shall maintain documentation of supervision and of progress toward the requirements for DHP registration as a qualified mental health professional child or progress toward the requirements for DHP registration as a qualified mental health professional adult as those terms are defined by DBHDS.~~

## **12VAC30-60-140. Community mental health services.**

A. In accordance with the requirements in 42 CFR Part 456 concerning utilization control of Medicaid services, the Department of Medical Assistance Services (DMAS) or its contractor shall implement utilization control measures for all community mental health services, including service authorization requirements, post-payment reviews, quality management reviews, and other reviews to monitor quality and appropriate utilization of Medicaid services. Utilization control measures for these services shall be performed in accordance with the general requirements of 12VAC30-60-5 and this section, as well as the more specific requirements contained in 12VAC30-60-61 and 12VAC30-60-143.

### B. Service authorization.

1. Initial service authorization requests shall: (i) document how the individual's behaviors within the last 30 calendar days demonstrate that each of the medical necessity criteria for the service have been met, (ii) document how the individual's behaviors within the last 30 calendar days support the need for the number of service units and the span of dates requested, and (iii) demonstrate individualized and comprehensive treatment planning.

2. Continued authorization requests shall include the documentation requirements in subdivision 1 of this subsection, as well as documentation of the individual's current status and the individual's progress, or lack of progress, toward goals and objectives in the ISP.

C. Utilization review general requirements. Utilization reviews shall be conducted, at a minimum annually for each enrolled provider, by the Department of Medical Assistance Services (DMAS) DMAS or its contractor. During each review, an appropriate sample of the provider's total Medicaid population will be selected for review. An expanded review shall be conducted if an appropriate number of exceptions or problems are identified.

B. D. The review by DMAS or its contractor shall include the following items:

1. Medical or clinical necessity of the delivered service;

2. The admission to service and level of care was appropriate;

3. The services were provided by appropriately qualified individuals as defined in the Amount, Duration, and Scope of Services found in 12VAC30-50; and

4. Delivered services as documented are consistent with recipients' Individual Service Plans, invoices submitted, and specified service limitations.

5. To qualify as a Medicaid provider of community mental health services, the provider must have a full, annual, triennial, or conditional license from the Department of Behavioral Health and Developmental Services. Health care

entities with provisional licenses shall not be reimbursed as Medicaid providers of community mental health services.

6. All providers must be enrolled with DMAS. If services are provided to a member enrolled in a Medicaid managed care organization (MCO), the provider shall also follow the MCO enrollment requirements. Once a provider has been enrolled, it shall maintain, and update periodically as DMAS and the MCO requires, current provider enrollment documentation for each Medicaid service that the provider offers.

VA.R. Doc. No. R21-5674; Filed February 8, 2021, 2:08 p.m.

### Fast-Track Regulation

**Title of Regulation: 12VAC30-80. Methods and Standards for Establishing Payment Rate; Other Types of Care (amending 12VAC30-80-30).**

**Statutory Authority:** § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

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

**Public Comment Deadline:** March 31, 2021.

**Effective Date:** April 15, 2021.

**Agency Contact:** Emily McClellan, Regulatory Supervisor, Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, or email [emily.mcclellan@dmass.virginia.gov](mailto:emily.mcclellan@dmass.virginia.gov).

**Basis:** Section 32.1-325 of the Code of Virginia grants the Board of Medical Assistance Services the authority to administer and amend the State Plan for Medical Assistance and to promulgate regulations. Section 32.1-324 of the Code of Virginia grants the Director of the Department of Medical Assistance Services (DMAS) the authority of the board when it is not in session.

**Purpose:** This regulatory change protects the health, safety, and welfare of Medicaid recipients by ensuring that DMAS regulations and DMAS practices are aligned. This ensures transparency for Medicaid providers, Medicaid members, other agencies, and members of the public.

**Rationale for Use of Fast-Track Rulemaking Process:** This regulation is expected to be noncontroversial as the single vendor that has been providing incontinence supplies is aware of the change and understands the need for the change. There are no other entities or individuals that will be adversely affected. Other providers of incontinence supplies and Medicaid members will benefit from a broader array of vendors for these supplies.

**Substance:** This action removes regulatory text that indicates that DMAS reimburses incontinence supplies based on a selective contract with one vendor. DMAS has a one-vendor contract for these supplies that will end on December 31, 2019, and as of January 1, 2020, DMAS will allow multiple vendors to provide incontinence supplies to Medicaid members. The

rate and pricing for incontinence supplies will not change, and the oversight and controls of these providers will remain the same.

**Issues:** The advantage of the regulatory change is potential for reduced risk to DMAS as a result of this regulatory change, as the agency will no longer be relying on a single vendor for these products. Furthermore, competition to offer these supplies could lead to benefits for Medicaid members, such as improvements in the customer service offered by vendors. There are no disadvantages to the public, the agency, or the Commonwealth.

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

**Summary of the Proposed Amendments to Regulation.** The Board of Medical Assistance Services (Board) proposes to remove regulatory text that indicates incontinence supplies for fee-for-service members are purchased from a single vendor.

**Background.** Six years ago, the Virginia Medicaid program started purchasing incontinence supplies for fee-for-service members under a contract with a single vendor. In this action, the Board proposes to remove language that indicates incontinence supplies are purchased from a single vendor because the Board now allows any Medicaid-enrolled supplier to provide these products in the same manner as any other durable medical equipment. This action does not alter the prices Medicaid pays for these supplies.

**Estimated Benefits and Costs.** The current regulatory language indicates that the Virginia Medicaid program reimburses supplies such as adult diapers, pull-ups, liners, and bed pads for its fee-for-service members based on a selective contract with a single vendor. The Department of Medical Assistance Services (DMAS) had a one-vendor contract for these supplies that ended on December 31, 2019. As of January 1, 2020, DMAS started allowing any Medicaid enrolled vendor to provide incontinence supplies to fee-for-service members. The prices for incontinence supplies did not change and the oversight and controls of these providers remains the same. As of December 31, 2019, there were 1,131 members receiving incontinence supplies under the contract. The total dollar amount spent in 2019 for these supplies was \$850,456.<sup>1</sup>

Since the prices remain the same, no fiscal impact is expected from this change. Competition among the enrolled vendors, however, may lead to benefits for Medicaid members, such as improvements in the customer service offered. In addition, the proposed change would remove language that no longer reflects how these supplies are now purchased.

**Businesses and Other Entities Affected.** The proposed amendment affects the vendors providing incontinence supplies to fee-for-service-members and the members that receive them. At the end of 2019, there were 1,131 members receiving these supplies. The proposed change would negatively affect the previous vendor and positively affect the new vendors in terms of volume of sales lost and gained, respectively.<sup>2</sup> An adverse economic impact<sup>3</sup> on the previous

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vendor is indicated because there do not appear to be any offsetting direct benefits to that vendor.

**Small Businesses<sup>4</sup> Affected.** The proposed amendment would adversely affect the previous single source vendor that is, according to DMAS, a small business.

**Types and Estimated Number of Small Businesses Affected.** The proposed amendment negatively affects one small business and would likely positively affect several other small vendors in terms of their sales volume. Since the change in purchase policy occurred at the beginning of this year, it is too early to provide a reliable estimate on the number of new vendors that may choose to start providing these supplies to Virginia Medicaid.

**Costs and Other Effects.** The proposed amendment would introduce competition to the incumbent single source vendor, would likely reduce that vendor's revenues while increasing revenues of other vendors choosing to enroll as a Medicaid provider. An adverse economic impact on the incumbent single source vendor is indicated because there do not appear to be any offsetting direct benefits to that vendor.

**Alternative Method that Minimizes Adverse Impact.** There are no clear alternative methods that both reduce adverse impact and meet the intended policy goals.

**Localities<sup>5</sup> Affected.<sup>6</sup>** The proposed amendments potentially affect members and vendors in all 132 localities but do not introduce costs for local governments. Accordingly, no additional funds would be required.

**Projected Impact on Employment.** The proposed amendment should not have a significant impact on total employment.

**Effects on the Use and Value of Private Property.** Increased competition would negatively affect the asset value of the incumbent vendor as its sales would be expected to decline in a competitive marketplace, and positively affect asset values of new vendors as their sales would be expected to increase. The proposed amendment does not affect real estate development costs.

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<sup>1</sup>Source: DMAS

<sup>2</sup>According to DMAS, incumbent continues to provide its services as an enrolled provider.

<sup>3</sup>Adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined.

<sup>4</sup>Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.

<sup>5</sup>Locality can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>6</sup>§ 2.2-4007.04 defines particularly affected" as bearing disproportionate material impact.

**Agency's Response to Economic Impact Analysis:** The agency has reviewed the economic impact analysis prepared by the

Department of Planning and Budget and raises no issues with this analysis.

**Summary:**

*The amendment removes regulatory text that indicates that the Department of Medical Assistance Services (DMAS) reimburses incontinence supplies based on a selective contract with one vendor. As of January 1, 2020, DMAS will allow multiple vendors to provide incontinence supplies to Medicaid members.*

**12VAC30-80-30. Fee-for-service providers.**

A. Payment for the following services, except for physician services, shall be the lower of the state agency fee schedule (12VAC30-80-190 has information about the state agency fee schedule) or actual charge (charge to the general public). Except as otherwise noted in this section, state developed fee schedule rates are the same for both governmental and private individual practitioners. The state agency fee schedule is published on the Department of Medical Assistance Services (DMAS) website at <http://www.dmas.virginia.gov/#/searchcptcodes>.

1. Physicians' services. Payment for physician services shall be the lower of the state agency fee schedule or actual charge (charge to the general public) except that emergency room services 99282-99284 with a principal diagnosis on the Preventable Emergency Room Diagnosis List shall be reimbursed the rate for 99281. The Preventable Emergency Room Diagnosis List shall be based on the list used for managed care organization clinical efficiency rate adjustments.

2. Dentists' services. Dental services, dental provider qualifications, and dental service limits are identified in 12VAC30-50-190. Dental services are paid based on procedure codes, which are listed in the agency's fee schedule. Except as otherwise noted, state-developed fee schedule rates are the same for both governmental and private individual practitioners.

3. Mental health services.

a. Professional services furnished by nonphysicians as described in 12VAC30-50-150. These services are reimbursed using current procedural technology (CPT) codes. The agency's fee schedule rate is based on the methodology as described in subsection A of this section.

(1) Services provided by licensed clinical psychologists shall be reimbursed at 90% of the reimbursement rate for psychiatrists in subdivision A 1 of this section.

(2) Services provided by independently enrolled licensed clinical social workers, licensed professional counselors, licensed clinical nurse specialists-psychiatric, or licensed marriage and family therapists shall be reimbursed at 75% of the reimbursement rate for licensed clinical psychologists.



- b. Intensive in-home services are reimbursed on an hourly unit of service. The agency's rates are set as of July 1, 2011, and are effective for services on or after that date.
- c. Therapeutic day treatment services are reimbursed based on the following units of service: one unit equals two to 2.99 hours per day; two units equals three to 4.99 hours per day; three units equals five or more hours per day. No room and board is included in the rates for therapeutic day treatment. The agency's rates are set as of July 1, 2011, and are effective for services on or after that date.
- d. Therapeutic group home services (formerly called level A and level B group home services) shall be reimbursed based on a daily unit of service. The agency's rates are set as of July 1, 2011, and are effective for services on or after that date.
- e. Therapeutic day treatment or partial hospitalization services shall be reimbursed based on the following units of service: one unit equals two to three hours per day; two units equals four to 6.99 hours per day; three units equals seven or more hours per day. The agency's rates are set as of July 1, 2011, and are effective for services on or after that date.
- f. Psychosocial rehabilitation services shall be reimbursed based on the following units of service: one unit equals two to 3.99 hours per day; two units equals four to 6.99 hours per day; three units equals seven or more hours per day. The agency's rates are set as of July 1, 2011, and are effective for services on or after that date.
- g. Crisis intervention services shall be reimbursed on the following units of service: one unit equals two to 3.99 hours per day; two units equals four to 6.99 hours per day; three units equals seven or more hours per day. The agency's rates are set as of July 1, 2011, and are effective for services on or after that date.
- h. Intensive community treatment services shall be reimbursed on an hourly unit of service. The agency's rates are set as of July 1, 2011, and are effective for services on or after that date.
- i. Crisis stabilization services shall be reimbursed on an hourly unit of service. The agency's rates are set as of July 1, 2011, and are effective for services on or after that date.
- j. Independent living and recovery services (previously called mental health skill building services) shall be reimbursed based on the following units of service: one unit equals one to 2.99 hours per day; two units equals three to 4.99 hours per day. The agency's rates are set as of July 1, 2011, and are effective for services on or after that date.
4. Podiatry.
5. Nurse-midwife services.
6. Durable medical equipment (DME) and supplies.
- Definitions. The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise:
- "DMERC" means the Durable Medical Equipment Regional Carrier rate as published by the Centers for Medicare and Medicaid Services at <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/DMEPOSFeeSched/DMEPOS-Fee-Schedule.html>.
- "HCPCS" means the Healthcare Common Procedure Coding System, Medicare's National Level II Codes, HCPCS 2006 (Eighteenth edition), as published by Ingenix, as may be periodically updated.
- a. Obtaining prior authorization shall not guarantee Medicaid reimbursement for DME.
- b. The following shall be the reimbursement method used for DME services:
- (1) If the DME item has a DMERC rate, the reimbursement rate shall be the DMERC rate minus 10%. For dates of service on or after July 1, 2014, DME items subject to the Medicare competitive bidding program shall be reimbursed the lower of:
- (a) The current DMERC rate minus 10%; or
- (b) The average of the Medicare competitive bid rates in Virginia markets.
- (2) For DME items with no DMERC rate, the agency shall use the agency fee schedule amount. The reimbursement rates for DME and supplies shall be listed in the DMAS Medicaid Durable Medical Equipment (DME) and Supplies Listing and updated periodically. The agency fee schedule shall be available on the agency website at [www.dmas.virginia.gov](http://www.dmas.virginia.gov).
- (3) If a DME item has no DMERC rate or agency fee schedule rate, the reimbursement rate shall be the manufacturer's net charge to the provider, less shipping and handling, plus 30%. The manufacturer's net charge to the provider shall be the cost to the provider minus all available discounts to the provider. Additional information specific to how DME providers, including manufacturers who are enrolled as providers, establish and document their costs for DME codes that do not have established rates can be found in the relevant agency guidance document.
- c. DMAS shall have the authority to amend the agency fee schedule as it deems appropriate and with notice to providers. DMAS shall have the authority to determine alternate pricing, based on agency research, for any code that does not have a rate.
- ~~d. The reimbursement for incontinence supplies shall be by selective contract. Pursuant to § 1915(a)(1)(B) of the Social Security Act and 42 CFR 431.54(d), the Commonwealth assures that adequate services or devices shall be available under such arrangements.~~

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e. d. Certain durable medical equipment used for intravenous therapy and oxygen therapy shall be bundled under specified procedure codes and reimbursed as determined by the agency. Certain services or durable medical equipment such as service maintenance agreements shall be bundled under specified procedure codes and reimbursed as determined by the agency.

(1) Intravenous therapies. The DME for a single therapy, administered in one day, shall be reimbursed at the established service day rate for the bundled durable medical equipment and the standard pharmacy payment, consistent with the ingredient cost as described in 12VAC30-80-40, plus the pharmacy service day and dispensing fee. Multiple applications of the same therapy shall be included in one service day rate of reimbursement. Multiple applications of different therapies administered in one day shall be reimbursed for the bundled durable medical equipment service day rate as follows: the most expensive therapy shall be reimbursed at 100% of cost; the second and all subsequent most expensive therapies shall be reimbursed at 50% of cost. Multiple therapies administered in one day shall be reimbursed at the pharmacy service day rate plus 100% of every active therapeutic ingredient in the compound (at the lowest ingredient cost methodology) plus the appropriate pharmacy dispensing fee.

(2) Respiratory therapies. The DME for oxygen therapy shall have supplies or components bundled under a service day rate based on oxygen liter flow rate or blood gas levels. Equipment associated with respiratory therapy may have ancillary components bundled with the main component for reimbursement. The reimbursement shall be a service day per diem rate for rental of equipment or a total amount of purchase for the purchase of equipment. Such respiratory equipment shall include oxygen tanks and tubing, ventilators, noncontinuous ventilators, and suction machines. Ventilators, noncontinuous ventilators, and suction machines may be purchased based on the individual patient's medical necessity and length of need.

(3) Service maintenance agreements. Provision shall be made for a combination of services, routine maintenance, and supplies, to be known as agreements, under a single reimbursement code only for equipment that is recipient owned. Such bundled agreements shall be reimbursed either monthly or in units per year based on the individual agreement between the DME provider and DMAS. Such bundled agreements may apply to, but not necessarily be limited to, either respiratory equipment or apnea monitors.

7. Local health services.

8. Laboratory services (other than inpatient hospital). The agency's rates for clinical laboratory services were set as of July 1, 2014, and are effective for services on or after that date.

9. Payments to physicians who handle laboratory specimens, but do not perform laboratory analysis (limited to payment for handling).

10. X-ray services.

11. Optometry services.

12. Reserved.

13. Home health services. Effective June 30, 1991, cost reimbursement for home health services is eliminated. A rate per visit by discipline shall be established as set forth by 12VAC30-80-180.

14. Physical therapy; occupational therapy; and speech, hearing, language disorders services when rendered to noninstitutionalized recipients.

15. Clinic services, as defined under 42 CFR 440.90, except for services in ambulatory surgery clinics reimbursed under 12VAC30-80-35.

16. Supplemental payments for services provided by Type I physicians.

a. In addition to payments for physician services specified elsewhere in this chapter, DMAS provides supplemental payments to Type I physicians for furnished services provided on or after July 2, 2002. A Type I physician is a member of a practice group organized by or under the control of a state academic health system or an academic health system that operates under a state authority and includes a hospital, who has entered into contractual agreements for the assignment of payments in accordance with 42 CFR 447.10.

b. The methodology for determining the Medicare equivalent of the average commercial rate is described in 12VAC30-80-300.

c. Supplemental payments shall be made quarterly no later than 90 days after the end of the quarter.

d. Effective May 1, 2017, the supplemental payment amount for Type I physician services shall be the difference between the Medicaid payments otherwise made for physician services and 258% of Medicare rates.

17. Supplemental payments for services provided by physicians at Virginia freestanding children's hospitals.

a. In addition to payments for physician services specified elsewhere in this chapter, DMAS provides supplemental payments to Virginia freestanding children's hospital physicians providing services at freestanding children's hospitals with greater than 50% Medicaid inpatient utilization in state fiscal year 2009 for furnished services provided on or after July 1, 2011. A freestanding children's hospital physician is a member of a practice group (i) organized by or under control of a qualifying Virginia freestanding children's hospital, or (ii) who has entered into contractual agreements for provision of physician

services at the qualifying Virginia freestanding children's hospital and that is designated in writing by the Virginia freestanding children's hospital as a practice plan for the quarter for which the supplemental payment is made subject to DMAS approval. The freestanding children's hospital physicians also must have entered into contractual agreements with the practice plan for the assignment of payments in accordance with 42 CFR 447.10.

b. Effective July 1, 2015, the supplemental payment amount for freestanding children's hospital physician services shall be the difference between the Medicaid payments otherwise made for freestanding children's hospital physician services and 178% of Medicare rates as defined in the supplemental payment calculation for Type I physician services. Payments shall be made on the same schedule as Type I physicians.

18. Supplemental payments for services provided by physicians affiliated with Eastern Virginia Medical Center.

a. In addition to payments for physician services specified elsewhere in this chapter, the Department of Medical Assistance Services provides supplemental payments to physicians affiliated with Eastern Virginia Medical Center for furnished services provided on or after October 1, 2012. A physician affiliated with Eastern Virginia Medical Center is a physician who is employed by a publicly funded medical school that is a political subdivision of the Commonwealth of Virginia, who provides clinical services through the faculty practice plan affiliated with the publicly funded medical school, and who has entered into contractual arrangements for the assignment of payments in accordance with 42 CFR 447.10.

b. Effective November 1, 2018, the supplemental payment amount shall be the difference between the Medicaid payments otherwise made for physician services and 145% of the Medicare rates. The methodology for determining the Medicare equivalent of the average commercial rate is described in 12VAC30-80-300.

c. Supplemental payments shall be made quarterly, no later than 90 days after the end of the quarter.

19. Supplemental payments for services provided by physicians at freestanding children's hospitals serving children in Planning District 8.

a. In addition to payments for physician services specified elsewhere in this chapter, DMAS shall make supplemental payments for physicians employed at a freestanding children's hospital serving children in Planning District 8 with more than 50% Medicaid inpatient utilization in fiscal year 2014. This applies to physician practices affiliated with Children's National Health System.

b. The supplemental payment amount for qualifying physician services shall be the difference between the Medicaid payments otherwise made and 178% of

Medicare rates but no more than \$551,000 for all qualifying physicians. The methodology for determining allowable percent of Medicare rates is based on the Medicare equivalent of the average commercial rate described in this chapter.

c. Supplemental payments shall be made quarterly no later than 90 days after the end of the quarter. Any quarterly payment that would have been due prior to the approval date shall be made no later than 90 days after the approval date.

20. Supplemental payments to nonstate government-owned or operated clinics.

a. In addition to payments for clinic services specified elsewhere in this chapter, DMAS provides supplemental payments to qualifying nonstate government-owned or government-operated clinics for outpatient services provided to Medicaid patients on or after July 2, 2002. Clinic means a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients. Outpatient services include those furnished by or under the direction of a physician, dentist, or other medical professional acting within the scope of his license to an eligible individual. Effective July 1, 2005, a qualifying clinic is a clinic operated by a community services board. The state share for supplemental clinic payments will be funded by general fund appropriations.

b. The amount of the supplemental payment made to each qualifying nonstate government-owned or government-operated clinic is determined by:

(1) Calculating for each clinic the annual difference between the upper payment limit attributed to each clinic according to subdivision 20 d of this subsection and the amount otherwise actually paid for the services by the Medicaid program;

(2) Dividing the difference determined in subdivision 20 b (1) of this subsection for each qualifying clinic by the aggregate difference for all such qualifying clinics; and

(3) Multiplying the proportion determined in subdivision 20 b (2) of this subsection by the aggregate upper payment limit amount for all such clinics as determined in accordance with 42 CFR 447.321 less all payments made to such clinics other than under this section.

c. Payments for furnished services made under this section will be made annually in a lump sum during the last quarter of the fiscal year.

d. To determine the aggregate upper payment limit referred to in subdivision 20 b (3) of this subsection, Medicaid payments to nonstate government-owned or government-operated clinics will be divided by the "additional factor" whose calculation is described in 12VAC30-80-190 B 2 in regard to the state agency fee schedule for Resource Based Relative Value Scale. Medicaid payments will be estimated using payments for



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dates of service from the prior fiscal year adjusted for expected claim payments. Additional adjustments will be made for any program changes in Medicare or Medicaid payments.

21. Personal assistance services (PAS) or personal care services for individuals enrolled in the Medicaid Buy-In program described in 12VAC30-60-200 or covered under Early and Periodic Screening, Diagnosis, and Treatment (EPSDT), and respite services covered under EPSDT. These services are reimbursed in accordance with the state agency fee schedule described in 12VAC30-80-190. The state agency fee schedule is published on the DMAS website at <http://www.dmas.virginia.gov>. The agency's rates, based upon one-hour increments, were set as of July 1, 2020, and shall be effective for services on and after that date.

22. Supplemental payments to state-owned or state-operated clinics.

a. Effective for dates of service on or after July 1, 2015, DMAS shall make supplemental payments to qualifying state-owned or state-operated clinics for outpatient services provided to Medicaid patients on or after July 1, 2015. Clinic means a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients. Outpatient services include those furnished by or under the direction of a physician, dentist, or other medical professional acting within the scope of his license to an eligible individual.

b. The amount of the supplemental payment made to each qualifying state-owned or state-operated clinic is determined by calculating for each clinic the annual difference between the upper payment limit attributed to each clinic according to subdivision 19 b of this subsection and the amount otherwise actually paid for the services by the Medicaid program.

c. Payments for furnished services made under this section shall be made annually in lump sum payments to each clinic.

d. To determine the upper payment limit for each clinic referred to in subdivision 19 b of this subsection, the state payment rate schedule shall be compared to the Medicare resource-based relative value scale nonfacility fee schedule per Current Procedural Terminology code for a base period of claims. The base period claims shall be extracted from the Medical Management Information System and exclude crossover claims.

B. Hospice services payments must be no lower than the amounts using the same methodology used under Part A of Title XVIII, and take into account the room and board furnished by the facility. As of July 1, 2019, payments for hospice services in a nursing facility are 100% of the rate that would have been paid by the state under the plan for facility services in that facility for that individual. Hospice services

shall be paid according to the location of the service delivery and not the location of the agency's home office.

C. Effective July 1, 2019, the telehealth originating site facility fee shall be increased to 100% of the Medicare rate and shall reflect changes annually based on changes in the Medicare rate. Federally qualified health centers and rural health centers are exempt from this reimbursement change.

VA.R. Doc. No. R21-6135; Filed February 1, 2021, 10:20 a.m.

## Fast-Track Regulation

**Title of Regulation:** 12VAC30-90. Methods and Standards for Establishing Payment Rates for Long-Term Care (amending 12VAC30-90-30, 12VAC30-90-31, 12VAC30-90-36, 12VAC30-90-37, 12VAC30-90-44; adding 12VAC30-90-28).

**Statutory Authority:** § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

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

**Public Comment Deadline:** March 31, 2021.

**Effective Date:** April 15, 2021.

**Agency Contact:** Emily McClellan, Regulatory Supervisor, Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, or email [emily.mcclellan@dmas.virginia.gov](mailto:emily.mcclellan@dmas.virginia.gov).

**Basis:** Section 32.1 325 of the Code of Virginia grants to the Board of Medical Assistance Services the authority to administer and amend the State Plan for Medical Assistance and to promulgate regulations. Section 32.1-324 of the Code of Virginia grants the Director of the Department of Medical Assistance Services (DMAS) the authority of the board when it is not in session.

**Purpose:** These regulatory changes are essential to protect the health, safety, or welfare of citizens in that they give providers information about Medicaid reimbursement when constructing or renovating nursing facilities that require improvements for resident safety and health.

**Rationale for Use of Fast-Track Rulemaking Process:** This action is expected to be noncontroversial because it provides clarity and additional information regarding Medicaid capital reimbursement to nursing facility providers that are undertaking renovations or new construction. DMAS shared the draft regulation with the Virginia Health Care Association, which had no objections.

**Substance:** Item 303 VVV of Chapter 56 of the 2020 Acts of Assembly, Special Session I (the 2019 Appropriations Act) requires DMAS to revise the state plan to clarify payment rules for new nursing homes or renovations that qualify for mid-year rate adjustments, effective July 1, 2019. The changes in this regulatory action meet those requirements.



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prior to the admittance of a resident. New nursing facilities should file a mid-year FRV report when the facility's certificate of occupancy has been issued. The nursing facility shall submit complete pro forma documentation at least 60 days prior to the certificate of occupancy effective date, and the new FRV rate shall be effective at the beginning of the month following the end of the 60 days, subject to confirmation that the new beds are operational.

a. For any facility whose FRV report has less than 12 months of experience, the department shall develop an occupancy schedule as defined in the nursing facility capital payment methodology (12VAC30-90-36) that represents the average statewide occupancy by month of operation for use in calculating the per diem rate in lieu of a minimum occupancy requirement or actual occupancy. After the initial FRV report filing, actual occupancy data shall be used.

b. New facilities shall use the occupancy schedule developed by the Department of Medical Assistance Services (DMAS) to estimate patient days for their first FRV report until actual patient days are available. The occupancy percentage used to calculate estimated patient days shall be based on the number of months remaining within the calendar year from the month of receipt of the certificate of occupancy. For example, if the certificate of occupancy is received in February, then the number of months remaining in the calendar year would be 11, and the occupancy percentage to use would be 85.84% (see Table 1 in 12VAC30-90-36). The estimated patient days would be equal to the occupancy percentage times the annualized bed days available for the report period.

c. DMAS shall have 15 days from the date of the provider's submission to determine if the filing is complete for purposes of setting a rate for a new facility. The facility shall have 15 days from the date the filing is deemed incomplete to submit the required information. The deadline for setting the rate shall be extended for 30 days after the filing is deemed complete.

2. Major renovations. Facilities undergoing major renovations shall file a mid-year FRV report when there is an increase in capital expenditures of at least \$3,000 per total number of beds. The nursing facility shall submit complete pro forma documentation at least 60 days prior to the effective occupancy date and the new rate shall be effective at the beginning of the month following the end of the 60 days, subject to confirmation that the renovated beds are operational. No mid-year rate changes shall be made for an effective date after April 30 of the SFY.

a. Any new beds or major renovations placed in service between the reporting year and the rate year shall be treated as a mid-year rate adjustment. No new FRV rate change will be made after April 30. Rate updates that fall between May 1 and June 30 shall be effective as stated below.

b. DMAS shall have 15 days from the date of the provider's submission to determine if the filing is complete for purposes of setting a rate for a renovated facility. The facility shall have 15 days from the date the filing is deemed incomplete to submit the required information.

c. Providers may propose a phased major renovation subject to approval by DMAS. The phased major renovation may include reductions to available beds. Any modifications to the proposed renovation are also subject to approval by DMAS. Phased major renovations include construction or major renovations that span more than one FRV report period. Only one annual FRV report and one mid-year FRV report can be filed in a SFY to change the plant rate. A mid-year FRV report can be filed only if capital cost per bed increases by a minimum of \$3,000 per bed. Major renovation cost may only be included on Schedule R-1 as it is placed into service. Cost cannot be duplicated throughout the project on Schedule R-1. Major renovations for independent and assisted living are not allowed on the Schedule R-1.

B. The following are applicable to new facilities and facilities undergoing major renovation:

1. DMAS shall annualize real estate taxes, property taxes, and property insurance costs that do not represent a full year's cost.

a. Actual paid tax bills shall be provided to support real estate taxes and personal property taxes. When the taxing authority has not invoiced a new facility, building value per the most recent contractor invoice multiplied by the locality's mill rate shall be used to estimate real estate and tax liability for the period. Only the nursing facility's building value can be included in the calculation.

b. Actual paid insurance premiums shall be provided to support property insurance. For newly constructed nursing facilities, a reasonable estimate from the insurance company can be used to document property insurance cost until the first insurance policy and the premium are incurred. Only the nursing facility's property insurance can be included on the schedule.

2. Costs shall be based on currently available documentation at the time but are subject to audit. DMAS may use any reasonable method to estimate costs for which there is inadequate documentation. Reasonable method includes using tax rates from the taxing authority in the location of the facility, the most recent contractor's invoice to determine building cost, and estimates from insurance companies related to the nursing facility portion of the building. Any adjustments based on subsequent year documentation or audit for a current rate year shall be applied beginning July 1 of the next rate year.

**12VAC30-90-30. Plant cost.**

A. This article describes a capital payment methodology that will be phased out for most nursing facilities by SFY 2012. The terms and timing of the transition to a different methodology are described in 12VAC30-90-29. The methodology that will eventually replace this one for most facilities is described in Article 3 (12VAC30-90-35 et seq.) of this subpart.

B. Plant cost shall include actual allowable depreciation, interest, rent or lease payments for buildings and equipment as well as property insurance, property taxes and debt financing costs allowable under Medicare principles of reimbursement or as defined herein.

C. Effective July 1, 2001, to calculate the reimbursement rate, plant cost shall be converted to a per diem amount by dividing plant cost by the greater of actual patient days or the number of patient days. Patient days shall be computed as the required occupancy percentage of the daily licensed bed complement during the applicable cost reporting period. The required occupancy percentage means the ratio of nursing facility total patient days to total potential patient days for all available licensed beds. The required occupancy percentage for dates of service on or before June 30, 2013, shall be 90%, and for dates of service on or after July 1, 2013, the required occupancy percentage shall be 88%. For facilities with less than 12 months of occupancy experience, the required occupancy percentage shall be determined from the occupancy schedule in 12VAC30-90-36. For facilities that also provide specialized care services, see subdivision 9 of 12VAC30-90-264 for special procedures for computing the number of patient days required to meet the occupancy requirement.

D. Costs related to equipment and portions of a ~~building/facility~~ building or facility not available for patient care related activities are nonreimbursable plant costs.

**12VAC30-90-31. New nursing facilities and bed additions.**

A. Providers shall be required to obtain three competitive bids when (i) constructing a new physical plant or renovating a section of the plant when changing the licensed bed capacity, and (ii) purchasing fixed equipment or major movable equipment related to such projects.

All bids must be obtained in an open competitive market manner, and subject to disclosure to DMAS prior to initial rate setting. (Related parties see 12VAC30-90-51.)

B. Reimbursable costs for building and fixed equipment shall be based upon the 75th percentile square foot costs for NFs published annually in the R.S. Means Building Construction Cost Data as adjusted by the appropriate R.S. Means Square Foot Costs "Location Factor" for Virginia for the locality in which the NF is located. Where the specific location is not listed in the R.S. Means Square Foot Costs "Location Factor" for Virginia, the facility's zip code shall be used to determine the appropriate locality factor from the U.S. Postal Services

National Five Digit Zip Code for Virginia and the R.S. Means Square Foot Costs "Location Factors." The provider shall have the option of selecting the construction cost limit which is effective on the date the Certificate of Public Need (COPN) is issued or the date the NF is licensed. Total cost shall be calculated by multiplying the above 75th percentile square foot cost by 385 square feet (the average per bed square footage). Effective July 1, 2007, the construction cost limit for children's ICF/MR facilities having 50 or more beds shall be calculated using up to 750 square feet per bed. Total costs for building additions shall be calculated by multiplying the square footage of the project by the applicable components of the construction cost in the R.S. Means Square Foot Costs, not to exceed the total per bed cost for a new NF. Reasonable limits for renovations shall be determined by the appropriate costs in the R.S. Means Repair and Remodeling Cost Data, not to exceed the total R.S. Means Building Construction Cost Data 75th percentile square foot costs for NFs. 12VAC30-90-28, Mid-year fair rental value rate determination, provides cost documentation requirements for new and renovated nursing homes.

C. New NFs and bed additions to existing NFs must have prior approval under the state's Certificate of Public Need Law and Licensure regulations in order to receive Medicaid reimbursement.

D. However in no case shall allowable reimbursed costs exceed 110% of the amounts approved in the original COPN, or 100% of the amounts approved in the original COPN as modified by any "significant change" COPN, where a provider has satisfied the requirements of the State Department of Health with respect to obtaining prior written approval for a "significant change" to a COPN which has previously been issued (see 12VAC5-220-10 et seq.).

**12VAC30-90-36. Nursing facility capital payment methodology.**

A. Applicability. The capital payment methodology described in this article shall be applicable to freestanding nursing facilities and specialized care facilities but not to hospital-based facilities. Hospital-based facilities shall continue to be reimbursed under the methodology contained in Article 2 (12VAC30-90-30 et seq.) of this subpart. For purposes of this provision, a hospital-based nursing facility shall be one for which a combined cost report is submitted on behalf of both the hospital and the nursing facility.

B. Definitions. The following words and terms when used in this article shall have the following meaning unless the context clearly indicates otherwise:

"Capital costs" means costs that include the cost elements of depreciation, interest, financing costs, rent and lease costs for property, building and equipment, property insurance and property taxes.

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"Date of acquisition" means the date legal title passed to the buyer. If a legal titling date is not determinable for a nursing facility building, date of acquisition shall be considered to be the date a certificate of occupancy was issued by the appropriate licensing or building inspection agency of the locality where the nursing facility is located.

"Facility average age" means for a facility the weighted average of the ages of all capitalized assets of the facility, with the weights equal to the expenditures for those assets. The calculation of average age shall take into account land improvements, building and fixed equipment, and major movable equipment. The basis for the calculation of average age shall be the schedule of assets submitted annually to the department in accordance with the provisions of this section.

"Facility imputed gross square feet" means a number that is determined by multiplying the facility's number of nursing facility beds licensed by the Virginia Department of Health by the imputed number of gross square feet per bed. The imputed number of gross square feet per bed shall be 461 for facilities of 90 or fewer beds, and 438 for facilities of more than 90 beds. The number of licensed nursing facility beds shall be the number on the last day of the provider's most recent fiscal year end for which a cost report has been filed.

"Factor for land and soft costs" means a factor equaling 1.429 that adjusts the construction cost amount to recognize land and capitalized costs associated with construction of a facility that is not part of the R.S. Means construction cost amount.

"Fixed capital replacement value" means an amount equal to the R.S. Means 75th percentile nursing home construction cost per square foot, times the applicable R.S. Means historical cost index factor, times the factor for land and soft costs, times the applicable R.S. Means location factor times facility imputed gross square feet.

"FRV depreciation rate" means a depreciation rate equal to 2.86% per year.

"Hospital-based facility" means one for which a single combined Medicare cost report is filed that includes the costs of both the hospital and the nursing home.

"Major renovation" means an increase in capital of \$3,000 per bed.

"Movable capital replacement value" means a value equal to \$3,475 per bed in SFY 2001, and shall be increased each July 1 by the same R.S. Means historical cost index factor that is used to calculate the fixed capital replacement value. Each year's updated movable capital replacement value shall be used in the calculation of each provider's rate for the provider year beginning on or after the date the new value becomes effective.

"Occupancy schedule" means a table created to represent the average statewide occupancy by month of operation for use in calculating the per diem rate in lieu of a minimum occupancy requirement or actual occupancy for facilities with less than 12

months of experience. The occupancy schedule is shown in Table 1.

| <u>Table 1. Occupancy Schedule</u> |                             |
|------------------------------------|-----------------------------|
| <u>Initial Operating Period</u>    | <u>Occupancy Percentage</u> |
| <u>3 Months</u>                    | <u>58.10%</u>               |
| <u>4 Months</u>                    | <u>65.68%</u>               |
| <u>5 Months</u>                    | <u>70.01%</u>               |
| <u>6 Months</u>                    | <u>73.69%</u>               |
| <u>7 Months</u>                    | <u>76.69%</u>               |
| <u>8 Months</u>                    | <u>79.23%</u>               |
| <u>9 Months</u>                    | <u>81.60%</u>               |
| <u>10 Months</u>                   | <u>83.88%</u>               |
| <u>11 Months</u>                   | <u>85.84%</u>               |
| <u>12 Months</u>                   | <u>88.00%</u>               |

"R.S. Means 75th percentile nursing construction cost per square foot" means the 75th percentile value published in the 59th Annual Edition of the R.S. Means Building Construction Cost Data, 2001. In the 2000 edition of the R.S. Means publication this value is \$110, which is reported as a January 2000 value.

"R.S. Means historical cost index factor" means the ratio of the two most recent R.S. Means Historical Cost Indexes published in the 59th Annual Edition of the R.S. Means Building Construction Cost Data, 2001. In the 2000 edition of this R.S. Means publication these two values are 117.6 (for 1999) and 115.1 (for 1998). The ratio of these values, and therefore the factor to be used, would be 1.022. This factor would be used to adjust the January 2000 value for the one year of change from January 2000 to January 2001, the mid-point of the prospective rate year (SFY 2001). The resulting cost value that would be used in SFY 2001 is \$112.42. The indexes used in this calculation do not match the time period for which a factor is needed. They relate to 1998 and 1999, while 2000 and 2001 would be ideal. However, R.S. Means does not publish index forecasts, so the most recent available indexes shall be used.

"R.S. Means location factors" means those published in the 22nd Annual Edition of the R.S. Means Square Foot Costs, 2001. The 2000 location factors are shown in ~~the following Table 4 2. They will be updated annually and distributed to providers based upon the most recent available data. The calculation will use the most recently available location factors, which will also be published on the Department of Medical Assistance Services (DMAS) website.~~

| <u>TABLE 4 2.</u><br><u>R.S. MEANS COMMERCIAL CONSTRUCTION COST</u><br><u>LOCATION FACTORS (2000).</u> |                       |                        |
|--|-----------------------|------------------------|
| <u>Zip Code</u>  | <u>Principal City</u> | <u>Location Factor</u> |
| <u>220-221</u>   | <u>Fairfax</u>        | <u>0.90</u>            |

|         |                 |      |
|---------|-----------------|------|
| 222     | Arlington       | 0.90 |
| 223     | Alexandria      | 0.91 |
| 224–225 | Fredericksburg  | 0.85 |
| 226     | Winchester      | 0.80 |
| 227     | Culpeper        | 0.80 |
| 228     | Harrisonburg    | 0.77 |
| 229     | Charlottesville | 0.82 |
| 230–232 | Richmond        | 0.85 |
| 233–235 | Norfolk         | 0.82 |
| 236     | Newport News    | 0.82 |
| 237     | Portsmouth      | 0.81 |
| 238     | Petersburg      | 0.84 |
| 239     | Farmville       | 0.74 |
| 240–241 | Roanoke         | 0.77 |
| 242     | Bristol         | 0.75 |
| 243     | Pulaski         | 0.70 |
| 244     | Staunton        | 0.76 |
| 245     | Lynchburg       | 0.77 |
| 246     | Grundy          | 0.70 |

"Rental rate" means for a prospective year a rate equal to two percentage points plus the yield on U.S. Treasury Bonds with maturity over 10 years, averaged over the most recent three calendar years for which data are available, as published by the Federal Reserve (Federal Reserve Statistical Release H.15 Selected Interest Rates ([www.Federalreserve.gov/releases/](http://www.Federalreserve.gov/releases/))). The rate will be published and distributed to providers annually. Changes in the rental rate shall be effective for the provider's fiscal year beginning on or after July 1. Rental rates may not fall below 9.0% or exceed 11% and will be updated annually on or about July 1 each year. Effective July 1, 2010, through September 30, 2010, the floor for the nursing facility rental rates may not fall below 8.75%. Effective October 1, 2010, through June 30, 2011, the floor for the nursing facility rental rates may not fall below 9.0%. Effective July 1, 2011, through June 30, 2012, the floor for the nursing facility rental rates may not fall below 8.0%. Effective July 1, 2012, through June 30, 2014, the floor for the nursing facility rental rates may not fall below 8.5%. Effective July 1, 2014, the floor for the nursing facility rental rates may not fall below 8.0%. The rate will be published and distributed to providers annually. Changes in the rental rate shall be effective for the provider's

fiscal year beginning on or after July 1. Effective July 1, 2014, the rental rate shall be effective for the state fiscal year.

"Required occupancy percentage" means the ratio of nursing facility total patient days to total potential patient days for all available licensed beds. The required occupancy percentage shall be 90% for dates of service on or before June 30, 2013. The required occupancy percentage for dates of service on or after July 1, 2013, shall be 88%. Facilities whose fair rental value report indicates less than 12 months of experience must use the occupancy schedule shown in Table 1 to determine the required occupancy percentage.

"SFY" means State Fiscal Year (July 1 through June 30).

### C. Fair rental value (FRV) payment for capital.

1. Effective for dates of service on or after July 1, 2001, DMAS shall pay nursing facility capital related costs under a FRV methodology. The payment made under this methodology shall be the only payment for capital related costs, and no separate payment shall be made for depreciation or interest expense, lease costs, property taxes, insurance, or any other capital related cost, including home office capital costs. This payment is considered to cover costs related to land, buildings and fixed equipment, major movable equipment, and any other capital related item. This shall be the case regardless of whether the property is owned or leased by the operator.

2. FRV rate year. The FRV payment rate shall be a per diem rate determined each year for each facility using the most recent available data from settled cost reports, or from other verified sources as specified herein. The per diem rate shall be determined prospectively and shall apply for the entire fiscal year. Each provider shall receive a new capital per diem rate each year effective at the start of the provider's fiscal year, except that the capital per diem rate shall be revised for the rental rate changes effective July 1, 2010, through June 30, 2012. Data elements that are provider specific shall be revised at that time and shall rely on the settled cost report and schedule of assets of the previous year. Data elements that are not provider specific, including those published by R.S. Means and the rental rate, shall be determined annually on or about July 1, and shall apply to provider fiscal years beginning on or after July 1. That is, each July 1 DMAS shall determine the R.S. Means values and the rental rate, and these shall apply to all provider fiscal years beginning on or after July 1. Effective July 1, 2014, the FRV rate year shall be the same as the state fiscal year.

3. Mid-year FRV rate change. ~~Facilities may apply for a mid-year FRV payment rate change for rate years on or after SFY 2015 if putting into service a major renovation or new beds. The nursing facility may submit complete pro forma documentation at least 60 days prior to the effective date and the new rate shall be effective at the beginning of the month following the end of the 60 days. If the initial mid-year FRV~~

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~~rate is not based on final documentation, the nursing facility shall submit final documentation within 60 days of the new rate effective date and DMAS shall review final documentation and modify the rate if necessary effective 90 days after the implementation of the initial new rate. Only one mid-year FRV rate change will be made in any one fiscal year. Mid-year rate changes for an effective date after April 30 of the fiscal year shall be made effective the following July 1. Facilities requiring a mid-year FRV rate change must follow the procedures as specified in 12VAC30-90-28.~~

4. The capital per diem rate for hospital-based nursing facilities shall be the last settled capital per diem.

## **12VAC30-90-37. Calculation of FRV per diem rate for capital; calculation of FRV rental amount; change of ownership.**

### A. Calculation of FRV per diem rate for capital.

1. The facility FRV per diem rate shall be equal to the sum of the facility FRV rental amount and the facility's allowable property tax and insurance cost from the most recent settled cost report, divided by the greater of actual patient days or the required occupancy percentage of the potential patient days for all licensed beds throughout the cost reporting period. For facilities that also provide specialized care services, see subdivision 9 of 12VAC30-90-264 for special procedures for computing the number of patient days required to meet the required occupancy percentage requirement.

2. Effective July 1, 2014, facilities shall be required to submit a calendar year FRV report covering both NF and specialized care beds to be used to set a prospective FRV rate effective the following July 1 for both the NF and the specialized care facility. The calendar year FRV report shall be submitted by the end of February following the end of the calendar year. FRV reports shall be settled within 90 days of filing the FRV report. For late FRV reports, the prospective rate may be effective 90 days after the date of filing even if after July 1. No capital rate shall be paid between July 1 and the effective date of the prospective FRV rate for a late report.

3. New nursing facilities or major renovations that qualify for mid-year FRV rate adjustments must follow pro forma submission procedures as specified in 12VAC30-90-28.

B. Calculation of FRV rental amount. The facility FRV rental amount shall be equal to the facility prospective year total value times the rental rate. Effective July 1, 2014, fair rental value per diem rates for the prospective state fiscal year shall be calculated for all freestanding nursing facilities based on the prior calendar year information aged to the state fiscal year and using R.S. Means factors and rental rates corresponding to the state fiscal year. There shall be no separate calculation for beds subject to or not subject to transition.

1. The facility prospective year total value shall be equal to the facility prospective year replacement value minus FRV depreciation. FRV depreciation equals the prospective year replacement value multiplied by the product of facility average age and the depreciation rate. FRV depreciation cannot exceed 60% of the prospective year replacement value.

2. The facility prospective year replacement value shall be equal to the fixed capital replacement value plus the movable equipment replacement value.

C. Change of ownership. As provided in connection with schedule of assets reporting, the sale of nursing facility assets after June 30, 2000, shall not result in a change to the schedule of assets or to the calculation of average age for purposes of reimbursement under the FRV methodology. Therefore, any sale or transfer of assets after this date shall not affect the FRV per diem rate.

## **12VAC30-90-44. Nursing facility price-based reimbursement methodology.**

A. Effective July 1, 2014, DMAS shall convert nursing facility operating rates in 12VAC30-90-41 to a price-based methodology. The department shall calculate prospective operating rates for direct and indirect costs in the following manner:

1. The department shall calculate the cost per day in the base year for direct and indirect operating costs for each nursing facility. The department shall use existing definitions of direct and indirect costs.

2. The initial base year for calculating the cost per day shall be cost reports ending in calendar year 2011. The department shall rebase prices in fiscal year 2018 and every three years thereafter using the most recent, reliable calendar year cost-settled cost reports for freestanding nursing facilities that have been completed as of September 1. No adjustments will be made to the base year data for purposes of rate setting after that date.

3. Each nursing facility's direct cost per day shall be neutralized by dividing the direct cost per day by the raw Medicaid facility case-mix that corresponds to the base year by facility.

4. Costs per day shall be inflated to the midpoint of the fiscal year rate period using the moving average Virginia Nursing Home inflation index for the fourth quarter of each year (the midpoint of the fiscal year). Costs in the 2011 base year shall be inflated from the midpoint of the cost report year to the midpoint of fiscal year 2012 by prorating fiscal year 2012 inflation and annual inflation after that. Annual inflation adjustments shall be based on the last available report prior to the beginning of the fiscal year and corrected for any revisions to prior year inflation. Effective July 1, 2015,



through June 30, 2016, the inflation adjustment for nursing facility operating rates shall be 0.0%.

5. Prices will be established for the peer groups described in this section using a combination of Medicare wage regions and Medicaid rural and bed size modifications based on similar costs.

6. The following definitions shall apply to direct peer groups. The Northern Virginia peer group shall be defined as localities in the Washington DC-MD-VA MSA as published by the Centers for Medicare and Medicaid Services (CMS) for skilled nursing facility rates. The Other MSAs peer group includes localities in any MSA defined by CMS other than the Northern Virginia MSA and non-MSA designations. The Rural peer groups are non-MSA areas of the state divided into Northern Rural and Southern Rural peer groups based on drawing a line between the following points on the Commonwealth of Virginia map with the coordinates: 37.4203914 Latitude, 82.0201219 Longitude and 37.1223664 Latitude, 76.3457773 Longitude. Direct peer groups are:

- a. Northern Virginia,
- b. Other MSAs,
- c. Northern Rural, and
- d. Southern Rural.

7. The following definitions shall apply to indirect peer groups. The indirect peer group for Northern Virginia is the same as the direct peer group for Northern Virginia. Rest of State peer groups shall be defined as any localities other than localities in the Northern Virginia peer group for nursing facilities with greater than 60 beds or 60 beds or less. Rest of State - Greater than 60 Beds shall be further subdivided into Other MSAs, Northern Rural and Southern Rural peer groups using the locality definitions for direct peer groups. Indirect peer groups are:

- a. Northern Virginia MSA,
- b. Rest of State - Greater than 60 Beds,
- c. Other MSAs,
- d. Northern Rural, and
- e. Southern Rural.

Rest of State - 60 Beds or Less.

8. Any changes to peer group assignment based on changes in bed size or MSA will be implemented for reimbursement purposes the July 1 following the effective date of the change. For rebasings effective on or after July 1, 2020, the department shall move nursing facilities located in the former Danville Metropolitan Statistical Area to the Other MSAs peer group.

9. The direct and indirect price for each peer group shall be based on the following adjustment factors:

a. Direct adjustment factor - 105.000% of the peer group day-weighted median neutralized and inflated cost per day for freestanding nursing facilities. Effective July 1, 2017, the direct adjustment factor shall be 106.8% of the peer group day-weighted median neutralized and inflated cost per day for freestanding nursing facilities.

b. Indirect adjustment factor - 100.735% of the peer group day-weighted median inflated cost per day for freestanding nursing facilities. Effective July 1, 2017, the indirect adjustment factor shall be 101.3% of the peer group day-weighted median inflated cost per day for freestanding nursing facilities.

10. Facilities with costs projected to the rate year below 95% of the price shall have an adjusted price equal to the price minus the difference between the facility's cost and 95% of the unadjusted price. Adjusted prices will be established at each rebasing. New facilities after the base year shall not have an adjusted price until the next rebasing.

11. Special circumstances.

a. Effective July 1, 2017, the department shall increase the direct and indirect operating rates under the nursing facility price based reimbursement methodology by 15% for nursing facilities where at least 80% of the resident population has one or more of the following diagnoses: quadriplegia, traumatic brain injury, multiple sclerosis, paraplegia, or cerebral palsy. In addition, a qualifying facility must have at least 90% Medicaid utilization and a nursing facility case-mix index of 1.15 or higher in fiscal year 2014.

b. Effective July 1, 2017, through June 30, 2020, nursing facilities located in the former Danville Metropolitan Statistical Area shall be paid the operating rates calculated for the Other MSAs peer group.

12. Individual claim payment for direct costs shall be based on each resident's Resource Utilization Group (RUG) during the service period times the facility direct price.

13. Resource Utilization Group (RUG) is a resident classification system that groups nursing facility residents according to resource utilization and assigns weights related to the resource utilization for each classification. The department shall use RUGs to determine facility case-mix for cost neutralization as defined in 12VAC30-90-306 in determining the direct costs used in setting the price and for adjusting the claim payments for residents.

a. The department shall neutralize direct costs per day in the base year using the most current RUG grouper applicable to the base year.

b. The department shall utilize RUG-III, version 34 groups and weights in fiscal years 2015 through 2017 for claim payments.

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c. Beginning in fiscal year 2018, the department shall implement RUG-IV, version 48 Medicaid groups and weights for claim payments.

d. RUG-IV, version 48 weights used for claim payments will be normalized to RUG-III, version 34 weights as long as base year costs are neutralized by the RUG-III 34 group. In that the weights are not the same under RUG-IV as under RUG-III, normalization will ensure that total direct operating payments using the RUG-IV 48 weights will be the same as total direct operating payments using the RUG-III 34 grouper.

B. Transition. The department shall transition to the price-based methodology over a period of four years, blending the adjusted price-based rate with the facility-specific case-mix neutral cost-based rate calculated according to 12VAC30-90-41 as if ceilings had been rebased for fiscal year 2015. The cost-based rates are calculated using the 2011 base year data, inflated to 2015 using the inflation methodology in 12VAC30-90-41 and adjusted to state fiscal year 2015. In subsequent years of the transition, the cost-based rates shall be increased by inflation described in this section.

1. Based on a four-year transition, the rate will be based on the following blend:

- a. Fiscal year 2015 - 25% of the adjusted price-based rate and 75% of the cost-based rate.
- b. Fiscal year 2016 - 50% of the adjusted price-based rate and 50% of the cost-based rate.
- c. Fiscal year 2017 - 75% of the adjusted price-based rate and 25% of the cost-based rate.
- d. Fiscal year 2018 - 100% of the adjusted price-based (fully implemented).

2. During the first transition year for the period July 1, 2014, through October 31, 2014, DMAS shall case-mix adjust each facility's direct cost component of the rates using the average facility case-mix from the two most recent finalized quarters (September and December 2013) instead of adjusting this component claim by claim.

3. Cost-based rates to be used in the transition for facilities without cost data in the base year but placed in service prior to July 1, 2013, shall be determined based on the most recently settled cost data. If there is no settled cost report at the beginning of a fiscal year, then 100% of the price-based rate shall be used for that fiscal year. Facilities placed in service after June 30, 2013, shall be paid 100% of the price-based rate.

4. Effective July 1, 2015, nursing facilities whose licensed bed capacity decreased by at least 30 beds after 2011 and whose occupancy increased from less than 70% in 2011 to more than 80% in 2013 shall be reimbursed the price-based operating rate rather than the transition operating rate.

C. Prospective capital rates shall be calculated in the following manner:

1. Fair rental value (FRV) per diem rates for the fiscal year shall be calculated for all freestanding nursing facilities based on the prior calendar year information aged to the fiscal year and using RS Means factors and rental rates corresponding to the fiscal year as prescribed in 12VAC30-90-36. There will be no separate calculation for beds subject to or not subject to transition.

2. ~~Nursing facilities that put into service a major renovation or new beds may request a mid-year fair rental value per diem rate change~~ FRV per diem rates for new nursing facilities or major renovations that qualify for mid-year rate adjustments shall be calculated as prescribed in 12VAC30-90-28.

~~a. A major renovation shall be defined as an increase in capital of \$3,000 per bed. The nursing facility shall submit complete pro forma documentation at least 60 days prior to the effective date, and the new rate shall be effective at the beginning of the month following the end of the 60 days.~~

~~b. The provider shall submit final documentation within 60 days of the new rate effective date, and the department shall review final documentation and modify the rate if necessary effective 90 days after the implementation of the new rate. No mid-year rate changes shall be made for an effective date after April 30 of the fiscal year.~~

~~3. a.~~ These FRV changes shall also apply to specialized care facilities.

~~4. b.~~ The capital per diem rate for hospital-based nursing facilities shall be the last settled capital per diem.

VA.R. Doc. No. R21-6137; Filed February 1, 2021, 11:40 a.m.

## Final Regulation

Title of Regulation: **12VAC30-120. Waivered Services (adding 12VAC30-120-600 through 12VAC30-120-690).**

Statutory Authority: § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

Effective Date: March 31, 2021.

Agency Contact: Emily McClellan, Regulatory Supervisor, Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, or email [emily.mcclellan@dmas.virginia.gov](mailto:emily.mcclellan@dmas.virginia.gov).

Summary:

*This regulatory action establishes Commonwealth Coordinated Care Plus, the new statewide Medicaid managed long-term services and supports program servicing individuals with complex care needs through an integrated delivery system model across the full continuum of care. The provisions address (i) eligibility and process for*

*enrollment in the program; (ii) covered services; (iii) responsibilities of a managed care organization (MCO) providing covered services; (iv) requirements for continuity of care; (v) payment rates for MCOs; (vi) enrollee appeal and state fair hearing processes; and (vii) provider appeals.*

*Changes to the proposed regulation include clarifications and updates and also include (i) clarifications specific to Medicaid expansion, for example for members, a child's MCO enrollment will be taken into account when assigning adults to an MCO; (ii) adding text to comply with the 21st Century Cures Act and the the Mental Health Parity and Addiction Equity Act; and (iii) making the continuity of care period 30 days.*

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.

**12VAC30-120-600. Definitions.**

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

"Adverse action" means the denial, suspension, or reduction in services or the denial or retraction, in whole or in part, of payment for a service that has already been rendered.

"Adverse benefit determination" means, consistent with 42 CFR 438.400, [ a determination by the participating plan, subcontractor, service provider, or Virginia Department of Medical Assistance Services that constitutes a (i) denial or limited authorization of a service authorization request, including determinations based on the type or level of service, requirements for medical necessity, appropriateness, setting, or effectiveness of a covered benefit; (ii) reduction, suspension, or termination of a previously authorized service; (iii) failure to act on a service request; (iv) denial in whole or in part of a payment for a service; (v) failure by the participating plan to render a decision within the required timeframes; (vi) failure to provide services in a timely manner; (vii) denial of an enrollee's request to dispute a financial liability, including cost sharing, copayments, premiums, deductibles, coinsurance, and other enrollee financial liabilities; or (viii) denial of an enrollee's request to exercise the enrollee's right under 42 CFR 438.52(b)(2)(ii) to obtain services outside of the network any of the following: (i) the denial or limited authorization of a requested service, including determinations based on the type or level of service, requirements for medical necessity, appropriateness, setting, or effectiveness of a covered benefit; (ii) the reduction, suspension, or termination of a previously authorized service; (iii) the denial, in whole or in part, of payment for a service; (iv) the failure to provide services in a timely manner, as defined by the State; (v) the failure of an MCO, PIHP, or PAHP to act within the timeframes provided in 42CFR 438.408(b)(1) and 42 CFR438.408(b)(2) regarding the standard resolution of grievances and appeals; (vi) for a

resident of a rural area with only one MCO, the denial of an enrollee's request to exercise the enrollee's right under 42 CFR 438.52(b)(2)(ii) to obtain services outside the network; or (vii) the denial of an enrollee's request to dispute a financial liability, including cost sharing, copayments, premiums, deductibles, coinsurance, and other enrollee financial liabilities ].

"Appellant" means an applicant for or recipient of Medicaid benefits who seeks to challenge an adverse benefit determination taken by the participating plan, subcontractor, service provider, or DMAS regarding eligibility for services and payment determinations.

"Authorized representative" means the same as set forth in 12VAC30-110-1380 and 12VAC30-110-1390.

"Centers for Medicare and Medicaid Services" or "CMS" means the federal agency of the U.S. Department of Health and Human Services that is responsible for the administration of Titles XVIII, XIX, and XXI of the Social Security Act.

[ "~~Commonwealth Coordinated Care~~" or "~~CCC~~" means the ~~program for the Virginia Medicare Medicaid Financial Alignment Demonstration Model.~~ ]

"Commonwealth Coordinated Care Plus program" or "CCC Plus" means the department's mandatory integrated care initiative for certain qualifying individuals, including dual eligible individuals and individuals receiving long-term services and supports (LTSS). The CCC Plus program includes individuals who receive services through nursing facility (NF) care or from [ the ] four [ of the department's five ] home and community-based services (HCBS) § 1915(c) waivers [ ~~(the Alzheimer's Assisted Living (AAL) Waiver individuals are not eligible for the CCC Plus program)~~ ].

"Continuity of care period" means a set period of time during which the MCO shall ensure a seamless transition from Medicaid FFS, or from another MCO, for all members upon enrollment into a plan.

"Contractor" means a managed care health plan selected by DMAS and contracted to participate in the CCC Plus program.

"Covered services" means the set of required services offered by the participating plan.

"Department of Medical Assistance Services," "department," or "DMAS" means the Virginia Department of Medical Assistance Services, the single state agency for the Medicaid program in Virginia that is responsible for implementation and oversight of CCC Plus.

"Disenrollment" means the process of changing enrollment from one participating plan to another participating plan or the process of being excluded from CCC Plus by the department as described in 12VAC30-120-610.

"Division" or "Appeals Division" means the Appeals Division of the Department of Medical Assistance Services.

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"Dual eligible" means a Medicare [ enrollee member ] who receives Medicare Parts A, B, and D benefits and also receives full Medicaid benefits.

"Effective date" means the date on which a participating plan's coverage begins for [ an enrollee a member ].

[ "Enrollee" means an individual who has enrolled in a participating plan to receive services under CCC Plus.

"Enrollee appeal" means an enrollee's request for review of an adverse benefit determination. ]

"Enrollment" means assignment of an individual to a health plan by the department in accordance with the terms of the contract with the participating plan. This does not include attaining eligibility for the Medicaid program.

"Enrollment broker" means an independent contractor that enrolls individuals in the contractor's plan and is responsible for the operation and documentation of a toll-free individual service helpline. The responsibilities of the enrollment broker include individual education and MCO enrollment and assistance with and tracking of individuals' complaints and their resolutions and may include individual marketing and outreach.

"Enrollment period" means the time that [ an enrollee a member ] is actually enrolled in a participating plan.

[ "Expedited appeal" means the process by which the participating plan must respond to an appeal by an enrollee if a denial of care decision and the subsequent internal appeal by a participating plan may jeopardize life, health, or ability to attain, maintain, or regain maximum function. ]

"External appeal" means an appeal, subsequent to the participating plan internal appeal or reconsideration decision, to the state fair hearing process (for a member appeal) or informal appeals process (for a provider appeal).

"Fee-for-service" or "FFS" means the traditional health care payment system in which physicians and other providers receive a payment for each service they provide.

"Final decision" means a written determination by a department hearing officer from an appeal of an [ informal evidentiary proceeding internal appeal decision ] that is binding on the department, unless modified during or after the judicial process.

"Handbook" means a document prepared by the MCO and provided to the [ enrollee member ] that is consistent with the requirements of 42 CFR 438.10 and the CCC Plus contract and includes information about all the services covered by that plan.

[ "Hearing" means an informal evidentiary proceeding conducted by a department hearing officer during which an enrollee has the opportunity to present the enrollee's concerns

with or objections to the participating plan's internal appeal decision. ]

"Hearing officer" means an impartial decision maker who conducts evidentiary [ state fair ] hearings for [ enrollee member ] appeals on behalf of the department.

"Internal appeal" means [ a an oral or written ] request to the MCO by a member, a member's authorized representative, or a provider acting on behalf of the member and with the member's written consent [ , ] for review of a contractor's adverse benefit determination. The internal appeal is the only level of appeal with the MCO and must be exhausted by a member or deemed exhausted according to 42 CFR 438.408(c)(3) before the member may initiate a state fair hearing.

"Long-term services and supports" or "LTSS" means a variety of services and supports that (i) help elderly [ enrollees members ] and [ enrollees members ] with disabilities who need assistance to perform activities of daily living and instrumental activities of daily living to improve the quality of their lives and (ii) are provided over an extended period, predominantly in homes and communities, but also in facility-based settings such as nursing facilities.

"MCO" means a health plan selected to participate in Virginia's CCC Plus program. "MCO" means the same as "participating plan."

"Medicaid" means the program of medical assistance benefits under Title XIX of the Social Security Act.

[ "Medically complex" means those who have a complex medical or behavioral health condition and a functional impairment, or an intellectual or developmental disability. ]

"Medically necessary" or "medical necessity" means an item or service provided for the diagnosis or treatment of an enrollee's condition consistent with standards of medical practice and in accordance with Virginia Medicaid policy (12VAC30-130-600 et seq.) [ or ] EPSDT criteria (for those younger than 21 years of age) in accordance with 42 CFR 441 Subpart B (§§ 50 through 62), 42 CFR 438.210, and 42 CFR 440.230.

"Medicare" means Title XVIII of the Social Security Act, the federal health insurance program for people age 65 years or older, people younger than 65 years of age who have certain disabilities, and people with end stage renal disease or amyotrophic lateral sclerosis.

"Member" means [ the same as "enrollee" an individual who has enrolled in a participating plan to receive services under CCC plus ].

[ "Member appeal" means a member's request for review of an adverse benefit determination. ]

"Network provider" means a doctor, hospital, or other health care provider that participates or contracts with a participating plan and, as a result, agrees to accept a mutually-agreed upon

payment amount or fee schedule as payment in full for covered services that are rendered to eligible [ enrollees members ].

"Nursing facility" means any skilled nursing facility, skilled care facility, intermediate care facility, nursing care facility, or nursing facility, whether freestanding or a portion of a freestanding medical care facility, that is certified for participation as a Medicare or Medicaid provider, or both, pursuant to Title XVIII and Title XIX of the Social Security Act, as amended, and § 32.1-137 of the Code of Virginia.

[ "Open enrollment" means the time frame in which members are permitted to change from one MCO to another without cause. ]

"Participating plan" means the same as "MCO."

"Previously authorized" means, in relation to continuation of benefits, as described in 42 CFR 438.420, a prior approved course of treatment.

"Primary care provider" means a practitioner who provides preventive and primary medical care and certifies service authorizations and referrals for medically necessary specialty services. Primary care providers may include pediatricians, family and general practitioners, internists, obstetricians or gynecologists, geriatricians, specialists who perform primary care functions (such as surgeons), and clinics, including local health departments, federally qualified health centers, and rural health clinics.

"Program of All-Inclusive Care for the Elderly" or "PACE" means the program in which the PACE provider provides the entire spectrum of health services (preventive, primary, and acute) and long-term services and supports to its [ enrollees members ] without limit as to duration or cost of services pursuant to 12VAC30-50-320 et seq.

"Provider appeal" means an appeal to the department filed by a Medicaid-enrolled or network service provider that has already provided a service to [ an enrollee a member ] and has received an adverse reconsideration decision regarding service authorization, payment, or audit result.

"Reconsideration" means a provider's request to the MCO for review of an adverse action related to service authorization or payment. The MCO's reconsideration decision is a prerequisite to a provider's filing of an appeal to the Appeals Division.

"Remand" means the return of a case by the department's hearing officer to the MCO for further review, evaluation, and action.

"Reverse" means to overturn the MCO's internal appeal decision and to direct that the MCO fully approve the amount, duration, and scope of requested services.

"Social Security Act" means the federal act, codified through Chapter 7 of Title 42 of the United States Code, that established social insurance programs including Medicare and Medicaid.

"State fair hearing" means the DMAS evidentiary hearing [ process ] as administered by the Appeals Division. [ A state fair hearing is conducted by a department hearing officer to allow a member the opportunity to present the member's concerns with, or objections to the participating plan's internal appeal decision. ]

"Subcontractor" means an entity that has contracted with the contractor to perform part of the responsibilities within the CCC Plus program. All subcontractors shall be approved by DMAS.

"Sustain" means to uphold the MCO's appeal decision.

"Withdraw" means a written request from the [ enrollee member ] or the [ enrollee's member's ] authorized representative for the department to terminate the [ enrollee member ] appeal.

## **12VAC30-120-610. CCC Plus mandatory managed care [ enrollees members ]; enrollment process.**

A. The following individuals shall be enrolled in CCC Plus per the CCC Plus § 1915(b) waiver:

1. Dual eligible individuals with Medicare A or B coverage and full Medicaid coverage.

[ 2. Individuals enrolled in the Commonwealth Coordinated Care (CCC) program will transition to CCC Plus in January 2018, which is after the CCC program ends. ]

[ 3. 2. ] Non-dual eligible individuals who receive long-term services and supports through an institution, the CCC Plus waiver [ (formerly known as the EDCD and Technology Assisted waivers) ], Building Independence waiver, Community Living waiver, and Family and Individual Supports waiver.

Those enrolled in the Building Independence, Community Living, and Family and Individual Supports waivers will continue to receive their LTSS including LTSS related transportation services through Medicaid fee-for-service.

[ 4. Individuals enrolled in the department's Medallion Health and Acute Care Program (HAP), except individuals in the Alzheimer's Assisted Living (AAL) waiver; AAL is excluded from CCC Plus.

[ 5. 3. ] All individuals classified as aged, blind, or disabled (ABD) without Medicare and not receiving LTSS. [ The majority of these individuals are currently enrolled in Medallion and will transition to CCC Plus effective January 1, 2018.

4. Individuals who qualify for and enroll under Medicaid expansion who have been identified as medically complex. ]

[ 6. Individuals who have any insurance purchased through the Health Insurance Premium Payment (HIPP) program, as defined in 12VAC30-20-205 and 12VAC30-20-210. ]

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B. The following individuals shall be excluded from enrollment in CCC Plus:

~~[ 1. Individuals enrolled in the Alzheimer's Assisted Living (AAL) waiver. However, individuals with Alzheimer's disease and persons with dementia will be included if they meet other eligibility requirements and are not enrolled in the AAL waiver. The AAL waiver will discontinue on June 30, 2018. At that time, individuals who were enrolled in the AAL waiver may become enrolled in the CCC Plus program if they meet the other eligibility requirements of the program.~~

~~2. 1. ] Individuals enrolled in another DMAS managed care program (e.g., Medallion, FAMIS, and FAMIS MOMS).~~

~~[ 3. 2. ] Individuals enrolled in a PACE program.~~

~~[ 4. 3. ] Newborns whose mothers are CCC Plus [ enrollees members ] on their date of birth.~~

~~[ 5. 4. ] Individuals who are in limited coverage groups, such as:~~

~~a. Dual eligible individuals without full Medicaid benefits, such as:~~

~~(1) Qualified Medicare beneficiaries;~~

~~(2) Special low-income Medicare beneficiaries;~~

~~(3) Qualified disabled working individuals; or~~

~~(4) Qualifying individuals for whom Medicaid pays the Part B premium.~~

~~b. Individuals enrolled in Plan First [ who do not meet eligibility criteria for Medicaid expansion ].~~

~~[ c. Individuals enrolled in the Governor's Access Plan who do not meet eligibility criteria for Medicaid expansion.~~

~~6. 5. ] Individuals enrolled in a Medicaid-approved hospice program at the time of enrollment. However, if an individual enters a hospice program while enrolled in CCC Plus, the member will remain enrolled in CCC Plus.~~

~~[ 7. 6. ] Individuals who live on Tangier Island.~~

~~[ 8. 7. ] Individuals younger than 21 years of age who are approved for DMAS psychiatric residential treatment center (RTC) Level C programs as defined in 12VAC30-130-860. Any individual admitted to an RTC Level C program for behavioral health services will be temporarily excluded from CCC Plus until after they are discharged. RTC Level C services may be transitioned to the CCC Plus program in the future.~~

~~[ 9. 8. ] Individuals with end stage renal disease (ESRD) and in fee-for-service at the time of enrollment will be automatically enrolled into CCC Plus but may request to be disenrolled and remain in fee-for-service. The department will exclude these individuals if requested by the member within the first 90 days of CCC Plus enrollment. However, a~~

~~member who does not request an extension within the first 90 days of CCC Plus enrollment or who develops ESRD while enrolled in CCC Plus will remain in CCC Plus.~~

~~[ 10. 9. ] Individuals who are institutionalized in certain state and private intermediate care facility for individuals with intellectual disabilities (ICF/IID) and mental health facilities as specified in the CCC Plus contract. "Intermediate care facility for individuals with intellectual disabilities" or "ICF/IID" means a facility licensed by the Department of Behavioral Health and Developmental Services in which care is provided to intellectually disabled individuals who are not in need of skilled nursing care, but who need more intensive training and supervision than would be available in a rooming home, boarding home, or group home. Such facilities must comply with Title XIX standards, provide health or rehabilitative services, and provide active treatment to [ enrollees members ] toward the achievement of a more independent level of functioning.~~

~~[ 11. 10. ] Individuals who are patients at nursing facilities operated by the Veterans Administration.~~

~~[ 12. 11. ] Individuals participating in the CMS Independence at Home (IAH) demonstration. However, IAH individuals may enroll in CCC Plus if they choose to disenroll from IAH.~~

~~[ 13. 12. ] Certain individuals in out-of-state placements as specified in the CCC Plus contract.~~

~~[ 14. 13. ] Individuals placed on spenddown. However, spenddown individuals are included if they are residing in a nursing home.~~

~~[ 15. Individuals enrolled in the department's Money Follows the Person Demonstration project. "Money Follows the Person" means a demonstration project administered by DMAS that is designed to create a system of long term services and supports that better enable enrollees to transition from certain long-term care institutions into the community.~~

~~16. 14. ] Incarcerated individuals. Individuals on house arrest are not considered incarcerated.~~

~~[ 17. 15. ] All children enrolled in the Virginia Birth-Related Neurological Injury Compensation Program, established pursuant to Chapter 50 of Title 38.2 (§ 38.2-5000 et seq.) of the Code of Virginia, who shall maintain enrollment in Medicaid fee-for-service.~~

~~[ 16. Individuals who have any insurance purchased through the Health Insurance Premium Payment (HIPP) program, as defined in 12VAC30-20-205 and 12VAC30-20-210.~~

~~17. Individuals who are included in the Medicaid expansion population, but are not identified as medically complex. These individuals are covered through the Medallion program. ]~~

C. Enrollment in CCC Plus will be mandatory for eligible individuals. The department shall have sole authority and responsibility for the enrollment of individuals into the CCC Plus program and for excluding [ enrollees members ] from CCC Plus.

D. There shall be no retroactive enrollment for CCC Plus.

E. The MCO shall notify the [ enrollee member ] of enrollment in the MCO's plan through a letter submitted simultaneously with the handbook. Upon disenrollment from the plan, the MCO shall notify the [ enrollee member ] through a disenrollment notice that coverage in the MCO's plan will no longer be effective.

F. The department reserves the right to revise the CCC Plus intelligent default assignment methodology (as described in subsection I of this section) as needed based upon DMAS sole discretion.

G. Eligible individuals as defined in subsection A of this section shall be enrolled in a CCC Plus contracted health plan through a CCC Plus intelligent assignment methodology as defined by DMAS in the CCC Plus contract.

1. The [ enrollee member ] will be, at a minimum, notified of the [ enrollee's member's ] assigned MCO, right to select another CCC Plus MCO operating in the [ enrollee's member's ] locality, CCC Plus service begin date, and instructions for the individual or the individual's designee to contact DMAS or its enrollment broker to either:

- a. Accept the assigned MCO; or
- b. Select a different CCC Plus MCO that is operating in the individual's locality.

2. If an individual does not contact DMAS or its enrollment broker to accept the assigned MCO or select a different CCC Plus MCO operating in the individual's locality, the individual shall be enrolled into the assigned MCO.

3. For the initial 90 calendar days following the effective date of CCC Plus enrollment, the [ enrollee member ] will be permitted to disenroll from one MCO and enroll in another without cause. This 90-day timeframe applies only to the [ enrollee's member's ] initial start date of enrollment in CCC Plus; it does not reset or apply to any subsequent enrollment periods. After the initial 90-day period following the initial enrollment date, the [ enrollee member ] may not disenroll without cause until the next annual open enrollment period.

4. Open enrollment is a period of time when individuals are able to change from one MCO to another without cause.

- a. Open enrollment will occur at least once every 12 months per 42 CFR 438.56(c)(2) and 42 CFR 438.56(f)(1). The open enrollment will occur during October through December with any changes to take effect the following January 1. [ For individuals not participating in Medicaid expansion, open enrollment will occur from

October 1st to December 18th for a January 1 effective date. Individuals participating through Medicaid expansion will have an open enrollment period from November 1 to December 18th for a January 1 effective date. ]

b. Within 60 days prior to the open enrollment effective date, the department will inform [ enrollees members ] of the opportunity to remain with the current plan or change to another plan without cause. Those individuals who do not choose a new MCO during the open enrollment period shall remain in their current MCO until their next open enrollment effective date.

~~[ H. Individuals transferring from CCC and Medallion 3.0 (other than HAP as described in subdivision A 4 of this section) will transition with a CCC Plus service begin date of January 1, 2018. However, DMAS retains the authority to change this date if deemed necessary by DMAS or CMS. Individuals impacted by a delay will be notified of their new CCC Plus service begin date.~~

[ F. H. ] DMAS shall utilize an intelligent default assignment process to assign eligible individuals, other than the ABD populations described in subdivision A 5 of this section, to a CCC Plus MCO contracted to operate in their locality. If none of the criteria used in the intelligent default assignment process applies to an individual, the individual will be randomly assigned to a CCC Plus MCO operating in the individual's locality. The intelligent default assignment process will, at a minimum, take into account:

1. The individual's previous Medicare and Medicaid MCO enrollment within the past two months if known at the time of assignment [ , the expansion member's child's Medicaid MCO enrollment ]; and

2. Which MCO the individual's current providers are contracted with. This may include the nursing facility an individual is residing in at the time of assignment, adult day health care for CCC Plus Waiver enrolled members, and an individual's private duty nursing provider.

~~[ F. I. ] Consistent with 42 CFR 438.56(d), DMAS must permit an [ enrollee member ] to disenroll at any time for cause.~~

1. [ An enrollee A member ] may disenroll from the [ enrollee's member's ] current plan for the following reasons:

- a. The [ enrollee member ] moves out of the MCO's service area;
- b. The MCO does not, because of moral or religious objections, cover the service the [ enrollee member ] seeks;
- c. The [ enrollee member ] needs related services (e.g., a cesarean section and a tubal ligation) to be performed at the same time; not all related services are available within



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the provider network; and the [enrollee's member's] primary care provider or another provider determines that receiving the services separately would subject the individual to unnecessary risk;

d. The [enrollee member] would have to change residential, institutional, or employment supports provider based on that provider's change in status from an in-network to an out-of-network provider with the MCO and, as a result, the [enrollee member] would experience a disruption in residence or employment; and

e. Other reasons as determined by DMAS, including poor quality of care, lack of access to services covered under this MCO, or lack of access to providers experienced in dealing with the [enrollee's member's] care needs.

2. The [enrollee's member's] request to change from one plan to another outside of open enrollment, or for cause request, may be submitted orally or in writing to the department as provided for in 42 CFR 438.56(d)(1) and cite the reasons why the [enrollee member] wishes to disenroll from one plan and enroll in another. The department will review the request in accordance with cause for disenrollment criteria defined in 42 CFR 438.56(d)(2). The department will respond to "for cause" requests, in writing, within 15 business days of the department's receipt of the request. In accordance with 42 CFR 438.56(e)(2), if the department fails to make a determination by the first day of the second month following the month in which the [enrollee member] files the request, the disenrollment request shall be considered approved and effective on the date of approval. [Enrollees Members] who are dissatisfied with the department's determination of the [enrollee's member's] request to disenroll from one plan and enroll in another for cause shall have the right to appeal through the state fair hearing process in 12VAC30-110.

[K. J.] CCC Plus eligible individuals who have been previously enrolled with a CCC Plus MCO and who regain eligibility for the CCC Plus program within 60 calendar days of the effective date of exclusion or disenrollment will be reassigned to the same MCO whenever possible and without going through the selection or assignment process.

## **[12VAC30-120-615. CCC Plus providers; Medicaid enrollment process.]**

A. All individuals and entities who provide services of any type to CCC Plus members, including health care providers; pharmacies; ordering, referring, and prescribing providers; and providers who do not participate in Medicaid fee-for-service shall abide by all CCC Plus contract requirements regarding Provider Enrollment, pursuant to the 21st Century Cures Act (Pub. L. No. 114-255).

B. Each provider shall be screened and enrolled with DMAS through the DMAS provider enrollment system by December 1, 2019. The MCO shall ensure that all providers are registered

in the DMAS provider enrollment system prior to contracting with the provider.]

## **12VAC30-120-620. MCO responsibilities; sanctions.**

A. The MCO and any of its subcontractors shall abide by all CCC Plus contract requirements, including:

1. The MCO shall provide medically necessary covered services in accordance with the CCC Plus contract.

a. Each MCO and its subcontractors shall have in place and follow written policies and procedures for processing requests for initial and continuing authorizations of service. Each MCO and its subcontractors shall ensure that any decision to deny a service authorization request or to authorize a service in an amount, duration, or scope that is less than requested be made by a health care professional who has appropriate clinical expertise in treating the member's condition or disease. Each MCO and its subcontractors shall have in effect mechanisms to ensure consistent application of review criteria for authorization decisions and shall consult with the requesting provider when appropriate.

b. In accordance with § 1932(f) of the Social Security Act (42 USC § 1396a-2), the contractor shall pay all in-network and out-of-network providers (including Native American health care providers) on a timely basis, consistent with the claims payment procedure described in 42 CFR 447.45 and 42 CFR 447.46 and § 1902(a)(37) of the Social Security Act, upon receipt of all clean claims, for covered services rendered to covered members who are enrolled with the contractor at the time the service was delivered. The MCO may deny claims in whole or in part for not meeting payment criteria established by the MCO.

c. Utilization review and audit. MCOs may perform utilization reviews and audits on their network providers. As a result of such a review or audit, an overpayment may be determined.

2. The MCO shall report data to DMAS per CCC Plus contract requirements, which includes data, claims reports, and quality studies performed by the MCO.

3. The MCO shall maintain records, including written policies and procedures, as required by the CCC Plus contract.

4. The MCO shall furnish such required information to DMAS, the Attorney General of Virginia or the Attorney General's authorized representative, or the State Medicaid Fraud Control Unit upon request and in the form requested.

5. The MCO shall meet standards specified in the CCC Plus contract for sufficiency of provider networks. In accordance with § 1915(b)(4) of the Social Security Act, 42 CFR 431.51, and 42 CFR 438.12b(1), the MCO does not have to contract with any willing provider.

6. The MCO shall conduct monthly checks to screen providers for exclusion.

7. The MCO shall require its providers and subcontractors to fully comply with federal requirements for disclosure of ownership and control, business transactions, and information for persons convicted of crimes against federal related health care programs, including Medicare, Medicaid, and CHIP programs, as described in 42 CFR 455 Subpart B.

8. In accordance with 42 CFR 447.50 through 42 CFR 447.60, the MCO shall not impose any cost sharing obligations on members except as set forth in 12VAC30-20-150 and 12VAC30-20-160 [ ~~and as described in the CCC Plus contract~~ ].

B. Sanctions shall be the same as those set forth in the CCC Plus contract.

C. As provided in 42 CFR 438.210(a)(5)(i), the MCO's medical necessity criteria shall not be more restrictive than the department's criteria.

D. The MCO's coverage rules for contract covered services shall also ensure compliance with federal EPSDT coverage requirements for [ ~~enrollees~~ members ] younger than 21 years of age.

E. The MCO shall provide services at least in equal amount, duration, and scope as available under the Medicaid fee-for-service program and as described in Attachment 5 of the CCC Plus contract.

[ F. The MCO shall not apply any financial requirement or treatment limitation to behavioral health benefits, including mental health or addiction, recovery and treatment benefits, in any classification (inpatient, out-patient, emergency and pharmacy) that is more restrictive than the predominant financial requirement or treatment limitation of that type applied to substantially all medical/surgical benefits in the same classification furnished to members.

G. The MCO shall provide behavioral health benefits to the member in every classification in which medical/surgical benefits are provided.

H. The MCO shall not place limits on behavioral health benefits that is no more restrictive than limits in place under fee-for-service Medicaid.

I. The MCO may cover, in addition to services covered under the state plan, any services necessary for compliance with the requirements for parity in mental health and substance abuse benefits in 42 CFR 438, Subpart K.

J. If a member of the MCO is provided behavioral health benefits in any classification of benefits (inpatient, outpatient, emergency care, or prescription drugs), the behavioral health benefits must be provided to the member in every classification in which medical/surgical benefits are provided.

K. The MCO shall not impose an aggregate lifetime dollar limit on any behavioral health benefit regardless of classification.

L. The MCO may not impose non-quantitative treatment limits (NQTL) for behavioral health benefits in any classification (inpatient, out-patient, emergency care or prescription drugs) unless, under the policies and procedures of the MCO as written and in operation, any processes, strategies, evidentiary standards, or other factors used in applying the NQTL to behavioral health benefits in the classification are comparable to, and are applied no more stringently than, the processes, strategies, evidentiary standards, or other factors used in applying the limitation for medical/surgical benefits in the classification.

M. The MCO shall provide documentation necessary to establish and demonstrate compliance with mental health parity requirements in 42 CFR 438, Subpart K, regarding the provision of behavioral health benefits. ]

**12VAC30-120-625. Continuity of care.**

The MCO shall ensure continuity of care for each member upon enrollment into the member's plan. During the time period set forth in this section, the MCO shall maintain the member's current providers at the Medicaid FFS rate and honor service authorizations (SAs) issued prior to enrollment for the specified time period. The continuity of care period is as follows:

1. Within the first [ ~~90~~ 30 ] calendar days of a member's enrollment, the MCO shall allow a member to maintain the member's current providers, including out-of-network providers. [ ~~For members enrolling effective on or after April 1, 2018, the continuity of care time period will change to a minimum of 30 calendar days.~~ ] The MCO shall extend this timeframe as necessary to ensure continuity of care pending the provider contracting with the MCO or the member's safe and effective transition to a contracted provider. DMAS has sole discretion to extend the continuity of care period timeframe.

2. The MCO shall reimburse nursing facilities and specialized care services (described in 12VAC30-60-40, 12VAC30-60-320, and 12VAC30-60-340) no less than the Medicaid established per diem rate for Medicaid covered days, using the DMAS methodologies, unless the MCO and the provider mutually agree to an alternative payment methodology or value-based payment arrangement; however, the rate paid shall not be less than the current Medicaid fee-for-service rate.

**12VAC30-120-630. Covered services.**

A. The MCO shall, at a minimum, provide all medically necessary Medicaid covered services required under the state plan (12VAC30-50-10 through 12VAC30-50-310, 12VAC30-50-410 through 12VAC30-50-430, and 12VAC30-50-470

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through 12VAC30-50-580) and Elderly and Disabled with Consumer Direction waiver regulations (12VAC30-120-924 and 12VAC30-120-927) and the Technology Assisted waiver regulations (12VAC30-120-1720) and, effective January 1, 2018, community mental health services (12VAC30-50-130 and 12VAC30-50-226).

B. The following services are not covered by the MCO and shall be provided through fee-for-service outside the CCC Plus MCO contract:

1. Dental services (12VAC30-50-190);
2. School health services (12VAC30-50-130);
3. Preadmission screening (12VAC30-60-303);
4. Individual and Developmental Disability Support waiver services (12VAC30-120-700 et seq.);
5. Intellectual Disability Waiver (12VAC30-120-1000 et seq.); or
6. Day Support Waiver (12VAC30-120-1500 et seq.).

C. The Program of All-Inclusive Care for the Elderly, or PACE, is not available to CCC Plus members.

## **12VAC30-120-635. Payment rates for MCOs.**

A. The payment rate to MCOs shall be set by negotiated contracts and in accordance with 42 CFR 438.6 Subpart A through 42 CFR 438.8 and other pertinent federal regulations.

B. In accordance with § 1932(b)(2)(D) of the Social Security Act and State Medicaid Director Letter 06-010, the contractor shall pay noncontracted providers for emergency services no more than the amount that would have been paid if the service had been provided under the state's FFS Medicaid program. The contractor shall reimburse out-of-network providers and providers of emergent or urgent care, as defined by 42 CFR 424.101 and 42 CFR 405.400 respectively, at the Medicaid FFS payment level for that service.

## **12VAC30-120-640. State fair hearing process.**

A. Notwithstanding the provisions of 12VAC30-110-10 through 12VAC30-110-370, this section through 12VAC30-120-690 govern state fair hearings for individuals enrolled in CCC Plus.

B. The Appeals Division maintains an appeals and fair hearings system for [ ~~enrollees~~ members ] (referred to as "appellants" once the appeal process has begun) to challenge appeal decisions rendered by the MCO in response to [ ~~enrollee member~~ ] appeals of adverse benefit determinations related to Medicaid services. Exhaustion of the MCO's appeals process is a prerequisite to requesting a state fair hearing with the department. Appellants who meet the criteria for a state fair hearing shall be entitled to a [ state fair ] hearing before a department hearing officer.

C. The MCO shall conduct an internal appeal [ ~~hearing~~ ], pursuant to 42 CFR Part 431 Subpart E and 42 CFR Part 438 Subpart F, and issue a written decision that includes its findings and information regarding the appellant's right to file an appeal with DMAS for a state fair hearing for Medicaid appeals.

D. [ ~~Enrollees~~ Members ] must be notified in writing of the MCO's internal appeals process in accordance with 42 CFR 438.400 et seq.:

1. With the handbook; and
2. Upon receipt of a notice of adverse benefit determination from the MCO.

E. [ ~~Enrollees~~ Members ] must be notified in writing of their right to an external appeal to DMAS upon receipt of the MCO's final internal appeal decision.

F. An appellant shall have the right to representation by an attorney or an authorized representative at the internal appeal and external appeal before DMAS. [ ~~±~~ ] An authorized representative may be designated to represent the appellant, pursuant to 12VAC30-110-60, 12VAC30-110-1380, and 12VAC30-110-1390, at the internal appeal and external appeal before DMAS. [ ~~The appellant shall designate the authorized representative in a written statement that is signed by the appellant whose Medicaid benefits were adversely affected. If the appellant is physically unable to sign a written statement and proof is submitted to that effect, the department or MCO shall allow a family member or other person acting on the appellant's behalf to be the authorized representative. If the appellant is mentally unable lacks the mental capacity to sign a written statement, the department or MCO shall require written documentation that a family member or other person has been appointed or designated as the appellant's authorized representative.~~ ]

~~2. If the authorized representative is an attorney or a paralegal working under the supervision of an attorney, a signed statement by such attorney or paralegal that the attorney or paralegal is authorized to represent the appellant prepared on the attorney's letterhead shall be accepted as a designation of representation.~~

~~3. An individual of the same law firm as a designated authorized representative shall have the same rights as the designated authorized representative.~~

~~4. An appellant may revoke representation by another person at any time. The revocation is effective when the department receives written notice from the appellant. ]~~

G. Any communication from [ ~~an enrollee~~ a member ] or the [ ~~enrollee's~~ member's ] authorized representative that expresses the [ ~~enrollee's~~ member's ] desire to present his case to a reviewing authority shall constitute an appeal request.

1. This communication should explain the basis for the appeal of the MCO's internal appeal decision.

2. The appellant or the appellant's authorized representative may examine witnesses, documents, or both; provide testimony; submit evidence; and advance relevant arguments during the [ state fair ] hearing.

H. After the MCO's internal appeal process has been exhausted, an appellant may request a state fair hearing by filing an appeal with the Appeals Division via regular mail, fax transmission, telephone, email, in person, or through other commonly available electronic means.

I. Expedited appeals referenced in subsection K of this section may be filed by telephone or any of the methods set forth in subsection H of this section.

J. The appellant [ enrollee member ] has the right to have his benefits continued during the MCO's appeal or the state fair hearing.

1. All of the following requirements must be met in order for benefits to be continued during the MCO and state fair hearing appeals:

- a. The appeal involves the termination, suspension, or reduction of a previously authorized course of treatment;
- b. The services were ordered by an authorized provider;
- c. The original period covered by the initial authorization has not expired; and
- d. The [ enrollee member ] requests that the benefits be continued.

2. For continuation of benefits for an internal appeal with the MCO, the [ enrollee member ] or authorized representative must file the appeal before the effective date of the adverse benefit determination or within 10 calendar days of the mail date of the MCO's notice of the adverse benefit determination.

3. For continuation of benefits for a state fair hearing, the [ enrollee member ] or authorized representative must file the appeal within 10 calendar days of the mail date of the MCO's final appeal decision.

4. The MCO shall also continue benefits for [ enrollees members ] who initiate a state fair hearing directly because of deemed exhaustion of appeals processes due to failure of the MCO to adhere to the notice and timing requirements in 42 CFR 438.408.

5. If the final resolution of the appeal or state fair hearing is adverse to the [ enrollee member ], that is, upholds the MCO's adverse benefit determination, the MCO may recover the costs of services furnished to the [ enrollee member ] while the appeal and the state fair hearing was pending, to the extent they were furnished solely because of the pending appeal.

K. The MCO and the department shall maintain an expedited process for appeals when an appellant's treating provider indicates in making the request on the [ enrollee's member's ]

behalf or supporting the [ enrollee's member's ] request that taking the time for a standard resolution could seriously jeopardize the [ enrollee's member's ] life, physical or mental health, or ability to attain, maintain, or regain maximum function.

1. Resolution of an expedited appeal shall be no longer than 72 hours after the MCO receives the appeal.

2. [ Enrollees Members ] must exhaust the MCO's internal appeals processes prior to filing an expedited appeal request with the department with the exception of those [ enrollees with members who gain ] direct access to state fair hearings because of deemed exhaustion of appeals processes with the MCO [ pursuant to 42 CFR 438.402(c)(1)(i)(A) ].

3. The MCO and the department may extend the timeframes for resolution of an expedited appeal by up to 14 calendar days if the [ enrollee member ] or the [ enrollee's member's ] authorized representative requests the extension, or if the MCO or the department shows that there is a need for additional information and how the delay is in the [ enrollee's member's ] best interest.

4. Requirements following extension. If the MCO extends the timeframes not at the request of the [ enrollee member ], it shall complete the following:

- a. Promptly notify the [ enrollee member ] of the reason for an extension and provide the date the extension expires; and
- b. Resolve the appeal as expeditiously as the [ enrollee's member's ] health condition requires and no later than the date the extension expires.

#### **12VAC30-120-650. Appeal timeframes.**

A. Appeals to the Medicaid state fair hearing process must be filed with the Appeals Division within 120 days of the date of the MCO's final internal appeal decision.

B. It is presumed that appellants will receive the MCO's final internal appeal decision five days after the MCO mails it unless the appellant shows that the appellant did not receive the notice within the five-day period.

C. A request for a state fair hearing on the grounds that the MCO has not acted with reasonable promptness in response to an internal appeal request may be filed at any time until the MCO has acted.

D. The date of filing shall be the date the internal appeal request is received by the MCO, the date the state fair hearing request is received by the Appeals Division, or the postmark date if the state fair hearing request is sent by regular mail.

E. In computing any time period under this chapter, the day of the act or event from which the designated period of time begins to run shall be excluded and the last day included. If a time limit would expire on a Saturday, Sunday, or state or

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federal holiday, it shall be extended until the next regular business day.

F. DMAS shall take final administrative action within 90 days from the date the [ enrollee member ] filed an MCO appeal, not including the number of days the [ enrollee member ] took to subsequently file for a state fair hearing.

G. Exceptions to standard appeal resolution timeframes. Decisions may be issued beyond the standard appeal resolution timeframes when the appellant or the appellant's authorized representative requests or causes a delay. Decisions may also be issued beyond the standard appeal resolution timeframe when any of the following circumstances exist:

1. The appellant or authorized representative requests to reschedule or continue the [ state fair ] hearing;
2. The appellant or authorized representative provides good cause for failing to keep a scheduled [ state fair ] hearing appointment, and the Appeals Division reschedules the [ state fair ] hearing;
3. Inclement weather, unanticipated system outage, or the department's closure prevents the hearing officer's ability to work;
4. Following a [ state fair ] hearing, the hearing officer orders an independent medical assessment as described in 12VAC30-120-670 H 1;
5. The hearing officer leaves the [ state fair ] hearing record open after the [ state fair ] hearing in order to receive additional evidence or argument from the appellant;
6. The hearing officer receives additional evidence from a person other than the appellant or the appellant's authorized representative, and the appellant requests to comment on such evidence in writing or to have the [ state fair ] hearing reconvened to respond to such evidence; or
7. The Appeals Division determines that there is a need for additional information and documents how the delay is in the appellant's best interest.

H. For delays requested or caused by an appellant or the appellant's authorized representative, the delay date for the decision will be calculated as follows:

1. If an appellant or authorized representative requests or causes a delay within 30 days of the request for a [ state fair ] hearing, the 90-day time limit will be extended by the number of days from the date when the first [ state fair ] hearing was scheduled until the date to which the [ state fair ] hearing is rescheduled.
2. If an appellant or authorized representative requests or causes a delay within 31 to 60 days of the request for a [ state fair ] hearing, the 90-day time limit will be extended by 1.5 times the number of days from the date when the first [ state

fair ] hearing was scheduled until the date to which the [ state fair ] hearing is rescheduled.

3. If an appellant or authorized representative requests or causes a delay within 61 to 90 days of the request for a [ state fair ] hearing, the 90-day time limit will be extended by two times the number of days from the date when the first [ state fair ] hearing was scheduled until the date to which the [ state fair ] hearing is rescheduled.

I. Post [ state fair ] hearing delays requested or caused by an appellant or authorized representative (e.g., requests for the record to be left open) will result in a day-for-day delay for the decision date. The department shall provide the appellant and authorized representative with written notice of the reason for the decision delay and the delayed decision date, if applicable.

## **12VAC30-120-660. Pre [ state fair ] hearing decisions.**

A. If the Appeals Division determines that any of the conditions as described in this subsection exist, a [ state fair ] hearing will not be held and the appeal process shall be terminated.

1. A request for appeal may be invalidated if:
  - a. It was not filed within the time limit imposed by 12VAC30-120-650; or
  - b. The individual who filed the appeal ("filer") is not the appellant or parent of a minor appellant, and the Appeals Division sends a letter to the filer requesting proof of the filer's authority to appeal on behalf of the appellant; and
    - (1) The filer did not reply [ within 10 calendar days ] to the request for authorization to represent the appellant [ within 10 calendar days ]; or
    - (2) The filer replied within 10 calendar days of the request, and the Appeals Division determined that the authorization submitted was insufficient to allow the filer to represent the appellant under the provisions of 12VAC30-120-640.
2. A request for appeal may be administratively dismissed if:
  - a. The MCO's internal appeals process was not exhausted prior to the [ enrollee's member's ] request for a state fair hearing;
  - b. The issue of the appeal is not related to the MCO's final internal appeal decision;
  - c. The adverse benefit determination being appealed was not taken by the MCO; or
  - d. The sole issue is a federal or state law requiring an automatic change adversely affecting some or all beneficiaries.
3. An appeal case may be closed if:
  - a. The Appeals Division schedules a [ state fair ] hearing and sends a written schedule letter notifying the appellant or the appellant's authorized representative of the date, time, and location of the [ state fair ] hearing; the appellant

or the appellant's authorized representative fails to appear at the scheduled [ state fair ] hearing; and the Appeals Division sends a letter to the appellant for an explanation as to why he failed to appear; and

(1) The appellant did not reply [ within 10 calendar days ] to the request for an explanation that met good cause criteria [ within 10 calendar days ]; or

(2) The appellant replied within 10 calendar days of the request, and the Appeals Division determined that the reply did not meet good cause criteria.

b. The Appeals Division sends a written schedule letter requesting that the appellant or the appellant's authorized representative provide a telephone number at which he can be reached for a telephonic [ state fair ] hearing, and the appellant or the appellant's authorized representative failed to respond within 10 calendar days to the request for a telephone number at which he could be reached for a telephonic [ state fair ] hearing.

c. The appellant or the appellant's authorized representative withdraws the appeal request. If the appeal request is withdrawn orally, the Appeals Division shall (i) record the individual's statement and telephonic signature and (ii) send the affected individual written confirmation via regular mail or electronic notification, in accordance with the individual's election.

d. The MCO approves the full amount, duration, and scope of services requested.

e. The evidence in the record shows that the MCO's decision was clearly in error and that the case should be fully resolved in the appellant's favor.

**B. Remand to the MCO.** If the hearing officer determines from the record, without conducting a [ state fair ] hearing, that the case might be resolved in the appellant's favor if the MCO obtains and develops additional information, documentation, or verification, the hearing officer may remand the case to the MCO for action consistent with the hearing officer's written instructions pursuant to 12VAC30-110-210 D.

**C.** A letter shall be sent to the appellant or the appellant's authorized representative that explains the determination made on the appeal.

**12VAC30-120-670. [ Hearing State fair hearing ] process and final decision.**

**A.** All [ state fair ] hearings must be scheduled at a reasonable time, date, and place, and the appellant and the appellant's authorized representative shall be notified in writing prior to the hearing.

1. The [ state fair ] hearing location will be determined by the Appeals Division.

2. A [ state fair ] hearing shall be rescheduled at the appellant's request no more than twice unless compelling reasons exist.

3. Rescheduling the [ state fair ] hearing at the appellant's request will result in automatic waiver of the 90-day deadline for resolution of the appeal. The delay date for the decision will be calculated as set forth in 12VAC30-120-650 [ H and ] I.

**B.** The [ state fair ] hearing shall be conducted by a department hearing officer. The hearing officer shall review the complete record for all MCO decisions that are properly appealed; conduct informal, fact-gathering [ state fair ] hearings; evaluate evidence presented; research the issues; and render a written final decision.

**C.** Subject to the requirements of all applicable federal and state laws regarding privacy, confidentiality, disclosure, and personally identifiable information, the appeal record shall be made accessible to the appellant and authorized representative at a convenient place and time before the date of the [ state fair ] hearing, as well as during the [ state fair ] hearing. The appellant and the appellant's authorized representative may examine the content of the appellant's case file and all documents and records the department will rely on at the [ state fair ] hearing except those records excluded by law.

**D.** Appellants who require the attendance of witnesses or the production of records, memoranda, papers, and other documents at the [ state fair ] hearing may request in writing the issuance of a subpoena. The request must be received by the department at least 10 working days before the scheduled [ state fair ] hearing. Such request shall (i) include the witness's or respondent's name, home and work addresses, and county or city of work and residence; and (ii) identify the sheriff's office that will serve the subpoena.

**E.** The hearing officer shall conduct the [ state fair ] hearing; decide on questions of evidence, procedure, and law; question witnesses; and assure that the [ state fair ] hearing remains relevant to the issue being appealed. The hearing officer shall control the conduct of the [ state fair ] hearing and decide who may participate in or observe the [ state fair ] hearing.

**F.** [ ~~Hearings~~ State fair hearings ] shall be conducted in an informal, nonadversarial manner. The appellant or the appellant's authorized representative shall have the right to bring witnesses, establish all pertinent facts and circumstances, present an argument without undue interference, and question or refute the testimony or evidence, including the opportunity to confront and cross-examine agency representatives.

**G.** The rules of evidence shall not strictly apply. All relevant, nonrepetitive evidence may be admitted, but the probative weight of the evidence will be evaluated by the hearing officer.

**H.** The hearing officer may leave the [ state fair ] hearing record open for a specified period of time after the [ state fair ] hearing in order to receive additional evidence or argument from the appellant or the appellant's authorized representative.

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1. At the appellant's option, the hearing officer may order an independent medical assessment when the appeal involves medical issues, such as a diagnosis, an examining physician's report, or a medical review team's decision, and the hearing officer determines that it is necessary to have an assessment by someone other than the person or team who made the original decision (e.g., to obtain more detailed medical findings about the impairments, to obtain technical or specialized medical information, or to resolve conflicts or differences in medical findings or assessments in the existing evidence). A medical assessment ordered pursuant to this chapter shall be at the department's expense, shall not extend any of the timeframes specified in this chapter, shall not disrupt the continuation of benefits, and shall become part of the record.

2. The hearing officer may receive evidence that was not presented by either party if the record indicates that such evidence exists, and the appellant or the appellant's authorized representative requests to submit it or requests that the hearing officer secure it.

3. If the hearing officer receives additional evidence from an entity other than the appellant or the appellant's authorized representative, the hearing officer shall send a copy of such evidence to the appellant and the appellant's authorized representative and give the appellant or the appellant's authorized representative the opportunity to comment on such evidence in writing or to have the [ state fair ] hearing reconvened to respond to such evidence.

4. Any additional evidence received will become a part of the [ state fair ] hearing record, but the hearing officer must determine whether or not it will be used in making the decision.

I. After conducting the [ state fair ] hearing, reviewing the record, and deciding questions of law, the hearing officer shall issue a written final decision that sustains or reverses, in whole or in part, the MCO's adverse benefit determination or remands the case to the MCO for further evaluation consistent with the hearing officer's written instructions. Some decisions may be a combination of these dispositions. The hearing officer's final decision shall be considered as the department's final administrative action pursuant to 42 CFR 431.244(f). The final decision shall include:

1. Identification of the issue;
2. Relevant facts, to include a description of the procedural development of the case;
3. Conclusions of law, regulations, and policy that relate to the issue;
4. Discussions, analysis of the accuracy of the MCO's appeal decision, conclusions, and hearing officer's decision;
5. Further action, if any, to be taken by the MCOs to implement the hearing officer's decision;

6. The deadline date by which further action must be taken; and

7. A cover letter informing the appellant and the appellant's authorized representative of the hearing officer's decision. The letter must indicate that the hearing officer's decision is final, and that the final decision may be appealed directly to circuit court.

J. A copy of the [ state fair ] hearing record shall be forwarded to the appellant and the appellant's authorized representative with the final decision.

K. An appellant who disagrees with the hearing officer's final decision described in this section may seek judicial review pursuant to the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) and Rules of the Supreme Court of Virginia, Part Two A. Written instructions for requesting judicial review must be provided to the appellant or the appellant's authorized representative with the hearing officer's decision, and upon request by the appellant or authorized representative.

## **12VAC30-120-680. Appeals Division records.**

A. No person shall take from the department's custody any original record, paper, document, or exhibit that has been certified to the Appeals Division except as the Appeals Division Director or the director's designee authorizes, or as may be necessary to furnish or transmit copies for other official purposes.

B. Information in the appellant's record can be released only to the appellant, the appellant's authorized representative, the MCO, other entities for official purposes, and other persons named in a release of information authorization signed by an appellant or the appellant's authorized representative.

C. The fees to be charged and collected for any copy of Appeals Division records will be in accordance with Virginia's Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia) or other controlling law.

D. When copies are requested from records in the Appeals Division's custody, the required fee shall be waived if the copies are requested in connection with [ an enrollee's a member's ] own appeal.

## **12VAC30-120-690. Provider appeals.**

A. The Appeals Division maintains an appeal process for network and Medicaid-enrolled providers of Medicaid services that have rendered services to [ enrollees members ] and are requesting to challenge an MCO's reconsideration decision regarding an adverse action affecting service authorization or payment. The MCO's internal reconsideration process is a prerequisite to filing for an external appeal to the department's provider appeal process. The appeal process is available to network and Medicaid-enrolled providers that (i) have rendered services and have been denied payment in whole or



part for Medicaid covered services; (ii) have rendered services and have been denied authorization for the services; and (iii) have received a notice of program reimbursement or overpayment demand from the department or its contractors. Providers that have had their enrollment in the MCO's network denied or terminated by the MCO do not have the right to an external appeal with the Appeals Division.

B. Department provider appeals shall be conducted in accordance with the department's provider appeal regulations (12VAC30-20-500 et seq.), § 32.1-325 et seq. of the Code of Virginia, and the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

C. The department's external appeal decision shall be binding upon the MCO and not subject to further appeal by the MCO.

D. If the provider is successful in its appeal of a reimbursement issue, then the MCO shall reimburse the provider for the appealed issue.

VA.R. Doc. No. R17-4974; Filed February 5, 2021, 2:53 p.m.

### Final Regulation

**Titles of Regulations: 12VAC30-50. Amount, Duration, and Scope of Medical and Remedial Care Services (amending 12VAC30-50-440, 12VAC30-50-490; repealing 12VAC30-50-450).**

**12VAC30-120. Waivered Services (repealing 12VAC30-120-700 through 12VAC30-120-777, 12VAC30-120-1000 through 12VAC30-120-1090, 12VAC30-120-1500 through 12VAC30-120-1550).**

**12VAC30-122. Community Waiver Services for Individuals with Developmental Disabilities (adding 12VAC30-122-10 through 12VAC30-122-570).**

**Statutory Authority:** § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

**Effective Date:** March 31, 2021.

**Agency Contact:** Emily McClellan, Regulatory Supervisor, Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, or email [emily.mcclellan@dmas.virginia.gov](mailto:emily.mcclellan@dmas.virginia.gov).

#### Summary:

*This regulatory action redesigns three of the existing home and community-based waivers as follows: Individual and Family Developmental Disabilities Support Waiver (12VAC30-120-700 et seq.) is changing to the Family and Individual Supports (FIS) Waiver, Intellectual Disability Waiver (12VAC30-120-1000 et seq.) is changing to the Community Living (CL) Waiver, and the Day Support Waiver for Individuals with Mental Retardation (12VAC30-120-1500 et seq.) is changing to the Building Independence (BI) Waiver. The action repeals the existing regulations found in 12VAC30-120-700 et seq., 12VAC30-120-1000 et*

*seq., and 12VAC30-120-1500 et seq. and promulgates a new chapter for the proposed FIS, CL, and BI Waivers in 12VAC30-122.*

*The action combines the target populations of individuals with intellectual disabilities and other developmental disabilities and offers new services that are designed to promote improved community integration and engagement. New services include (i) crisis support (including center-based and community-based) services, (ii) shared living supports, (iii) independent living supports, (iv) supported living residential, (v) community engagement supports, (vi) community coaching supports, (vii) community guide supports, (viii) workplace assistance services, (ix) private duty nursing, and (x) electronic home based supports.*

*The action modifies some existing services and repeals the prevocational service. Current services proposed for retention with modifications include (i) skilled nursing services, (ii) therapeutic consultation, (iii) personal emergency response systems, (iv) assistive technology, (v) environmental modifications, (vi) personal assistance services, (vii) companion services, (viii) respite services, (ix) group day services, (x) group home services, (xi) sponsored residential services, (xii) individual and family caregiver training, (xiii) supported living, (xiv) supported employment, (xv) transition services, and (xvi) services facilitation. For personal assistance services, companion services, and respite services, the proposed action retains the consumer-direction model of service delivery as currently permitted with no further expansion of this model to any of the other existing or new services.*

*Information gathered via the three-part Virginia Individual Developmental Disabilities Eligibility Survey (VIDES) and the Virginia Supplemental Questions plus financial eligibility determination are proposed to be combined with the Supports Intensity Scale<sup>®</sup> service needs assessment instrument through the person-centered planning process to develop each individual's unique individual service plan.*

*The action (i) establishes seven levels of supports to create the most equitable distribution of funding for core waiver services; (ii) uses common definitions of intellectual disability and developmental disability; (iii) establishes standards for a uniform waiting list and criteria for how individuals on the waiting list are provided their choice of available services; (iv) merges the FIS, CL, and BI Waivers target populations under the single definition of developmental disability and the individual eligibility sections into a single set of regulations at 12VAC30-122-30, 12VAC30-122-50, and 12VAC30-122-60; and (v) updates the provisions regarding case management.*

*Changes to the proposed regulation update citations, program components, and descriptions of current practices; clarify requirements, per public comment received on the proposed regulation; and make terms and requirements*

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more consistent. Specific changes to the proposed regulation include (i) adjustments to timelines for waiver slot acceptance or decline; (ii) addition of language treating impact of overseas active duty military service on waiver status; (iii) clarifications to staff competency determination process by adding deemed competency, clarification of personnel record documentation, replacing Levels 6 or 7 with Tier 4, and timelines for competency; (iv) a change to the assessment tool used for children younger than five years of age; (v) inclusion of benefits planning services, community guide services, employment and community transportation services, and peer support services; and (vi) removal of EPDST consideration from skilled nursing services.

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.

## **12VAC30-50-440. Case Support coordination/case management services for individuals with mental retardation intellectual disability.**

A. Target Group. Medicaid eligible individuals who ~~are mentally retarded~~ have an intellectual disability as defined in [ state law § 37.2-100 of the Code of Virginia ].

1. An active client individual for ~~mental retardation case intellectual disability support coordination/case management~~ shall mean ~~an individual~~ a person for whom there is ~~a plan of care~~ an individual support plan (ISP) [ as defined in 12VAC30-122-20 ] in effect ~~which that~~ requires regular direct or client related individual-related contacts or communication or activity with the client individual, the individual's family or caregiver, service providers, significant others, and others including at least one face-to-face contact with the individual every 90 days 90 days. Billing can be submitted for an active client individual only for months in which direct or ~~client related individual-related~~ contacts, activity, or communications occur, [ consistent with the ISP ].

2. The unit of service is one month. There shall be no maximum service limits for ~~ease management support coordination/case management~~ support coordination/case management services except ~~ease management services for~~ as related to individuals residing in institutions or medical facilities. For these individuals, reimbursement for ~~ease management support coordination/case management~~ shall be limited to ~~thirty~~ 30 days immediately preceding discharge. ~~Case management Support coordination/case management~~ for institutionalized individuals who reside in an institution may be billed for no more than two predischarge periods ~~in twelve~~ within 12 months.

B. Services will be provided in the entire ~~State~~ state.

C. Comparability of ~~Services~~ services: Services are not comparable in amount, duration, and scope. Authority of ~~section § 1915(g)(1) of the Social Security Act (the Act)~~ is invoked to provide services without regard to the requirements of § 1902(a)(10)(B) of the Act.

D. Definition of ~~Services~~ services. ~~Mental retardation Intellectual disability support coordination/case management~~ services to be provided include:

1. Assessment and planning services, to include developing ~~a Consumer Service Plan (does an individual support plan (ISP)~~ [ as defined on 12VAC30-122-20 and in accordance with the requirements of the Final Rule found at 42 CFR 441.725 ], which does not include performing medical and psychiatric assessment but does include referral for ~~such assessment~~ assessment;
2. Linking the individual to services and supports specified in the ~~consumer service plan~~ ISP;
3. Assisting the individual directly for the purpose of locating, [ ~~developing~~ identifying ], or obtaining needed services and resources;
4. Coordinating services and service planning with other agencies and providers involved with the individual;
5. Enhancing community integration by contacting other entities to arrange community access and involvement, including opportunities to learn community living skills, and to use vocational, civic, and recreational services;
6. Making collateral contacts with the individual's significant others to promote implementation of the ~~service plan~~ ISP and community ~~adjustment~~ integration;
7. ~~Following up~~ Following up and monitoring to assess ongoing progress and ensuring services are delivered; and
8. Education and counseling ~~which that~~ guides the client individual and develops a supportive relationship that promotes the ~~service plan~~ ISP.

E. Qualifications of providers:

1. [ ~~Services are not comparable in amount, duration, and scope. Authority of § 1915(g)(1) of the Act is invoked to limit~~ ] ~~ease~~ [ support Support ] coordination/case management providers for individuals with mental retardation intellectual disability [ and ] serious/chronic [ serious or chronic mental illness shall be limited ] to the Community Services Boards community services boards [ only to enable them to provide services to ] serious/chronically [ seriously or chronically mentally ill or ] mentally retarded [ individuals with an intellectual disability without regard to the requirements of § 1902(a)(10)(B) of the Act ]. References to providers in this section shall refer to enrolled community services boards.

2. To qualify as a provider of services ~~through~~ enrolled with DMAS for rehabilitative mental retardation case intellectual disability support coordination/case management, the provider of the services ~~must~~ shall meet certain criteria. These criteria shall be:

- a. The provider ~~must~~ shall guarantee that ~~clients~~ individuals have access to emergency services on a 24-hour basis;
- b. The provider ~~must~~ shall demonstrate the ability to serve individuals in need of comprehensive services regardless of the individual's ability to pay or eligibility for Medicaid reimbursement;
- c. The provider ~~must~~ shall have the administrative and financial management capacity to meet state and federal requirements;
- d. The provider ~~must have the ability to~~ shall document and maintain individual case records in accordance with state and federal requirements;

[ e. The provider shall submit the individual support plan in an electronic format in the state DD home and community-based services (HCBS) waiver management system for service authorization and data management for individuals enrolled in any DD HCBS waiver. The provider shall submit evidence to Department of Medical Assistance Services (DMAS) or the Department of Behavioral Health and Developmental Services (DBHDS) in specified format of follow-up and monitoring to assess ongoing progress of the ISP, ensuring services are delivered and health and safety is maintained;

f. The provider shall participate in activities designed to safeguard participants' health and safety in accordance with approved DD HCBS waiver requirements or DBHDS licensing standards; and

g. The provider shall participate in activities designed to assure ongoing compliance by DD HCBS waiver participants' providers of service subject to the Final Rule Settings Requirements found at 42 CFR 441.301(4) and as described in the approved Statewide Transition Plan; ]

[ e. h. ] The services shall be in accordance with the Virginia Comprehensive [ State Plan for ] Mental Health, Mental Retardation and Substance Abuse Services [ Medical Assistance ]; and

[ f. i. ] The provider must be certified licensed as [ a ] ~~mental retardation case~~ [ an intellectual developmental ] disability support coordination/case management agency by the ~~DMHMRSAS~~ Department of Behavioral Health and Developmental Services.

3. Providers may bill for Medicaid ~~mental retardation case~~ intellectual disability support coordination/case management only when the services are provided by qualified ~~mental retardation case managers~~ support coordinators/case managers. The ~~case manager~~ support coordinator/case manager shall possess a combination of

~~mental retardation~~ intellectual disability work experience [ ~~or and~~ ] relevant education ~~which that~~ indicates that the individual incumbent, at entry level, possesses the following knowledge, skills, and abilities listed in this subdivision. The incumbent must have at entry level the following knowledge, skills and abilities. These must be documented ~~or observable~~ in observable and documented during the interview (with appropriate supporting documentation).

a. Knowledge of:

- (1) The definition; and causes of intellectual disability and program philosophy of mental retardation best practices in supporting individuals who have intellectual disability;
- (2) Treatment modalities and intervention techniques, such as ~~behavior management~~ positive behavior supports, person-centered practices, independent living skills training, [ community inclusion/employment skills, ] supportive [ counseling guidance ], family education, crisis intervention, discharge planning, and ~~service~~ support coordination;
- (3) Different types of assessments and their uses in ~~program~~ service planning;
- (4) ~~Consumers'~~ Individuals' civil and human rights;
- (5) Local community resources and service delivery systems, including support services, eligibility criteria and intake process, termination criteria and procedures, and generic community resources;
- (6) Types of ~~mental retardation~~ intellectual disability programs and services;
- (7) Effective oral, written, and interpersonal communication principles and techniques;
- (8) General principles of [ ~~record~~ ] documentation; and
- (9) The service planning process and the major components of a ~~service plan~~ an ISP.

b. Skills in:

- (1) Interviewing;
- (2) Negotiating with ~~consumers~~ individuals and service providers;
- (3) ~~Observing, recording and reporting~~ and documenting an individual's behaviors;
- (4) Identifying and documenting a ~~consumer's~~ an individual's needs for resources, services, and other assistance;
- (5) Identifying services within the established service system to meet the ~~consumer's~~ individual's needs [ and preferences ];
- (6) Coordinating the provision of services [ for the individual ] by diverse public and private providers [ generic and natural supports ];

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(7) Using information from assessments, evaluations, ~~observation observations~~, and interviews to develop [ and revise as needed ] service support plans;

(8) Formulating, writing, and implementing [ ~~individualized consumer~~ ] service [ individual ] support plans to promote goal attainment [ and community integration ] for individuals with ~~mental retardation~~ intellectual disability;

(9) Using [ information from ] assessment tools [ and evaluations, observations, and interviews to develop and revise as needed individual support plans (for example to ensure the ISP is implemented appropriately, identify change in status or to determine risk of crisis/hospitalization) ]; and

(10) Identifying community resources and organizations and coordinating resources and activities.

c. Abilities to:

(1) Demonstrate a positive regard for ~~consumers~~ individuals and their families (e.g., treating ~~consumers~~ people as individuals, allowing risk taking, avoiding stereotypes of people with ~~mental retardation~~ intellectual disability, respecting ~~consumers'~~ individual and ~~families'~~ family privacy, and believing consumers individuals can grow [ and contribute to their communities ]);

(2) Be persistent and remain objective;

(3) Work as team member, maintaining effective ~~inter~~ interagency and intra-agency working relationships;

(4) Work independently, performing position duties under general supervision;

(5) Communicate effectively, verbally and in writing; and

(6) Establish and maintain ongoing supportive relationships.

F. The ~~State~~ state assures that the provision of ease support coordination/case management services will not restrict an individual's free choice of providers in violation of § 1902(a)(23) of the Act [ and the Final Rule at 42 CFR 441.301(c)(1)(vi) ].

1. [ ~~Eligible recipients~~ Enrolled individuals ] will have free choice of the [ available ] providers of ease support coordination/case management services.

2. [ ~~Eligible recipients~~ Enrolled individuals ] will have free choice of the providers of other medical care under the plan State Plan [ for Medical Assistance ].

G. Payments for ~~ease management support coordination/case management~~ services under the ~~plan~~ State Plan [ for Medical Assistance ] shall not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

**12VAC30-50-450. ~~Case management services for individuals with mental retardation and related conditions~~**

**~~who are participants in the Home and Community-Based Care waivers for such individuals. (Repealed.)~~**

A. ~~Target group: Medicaid eligible individuals with mental retardation and related conditions, or a child under 6 years of age who is at developmental risk, who have been determined to be eligible for Home and Community Based Care Waiver Services for persons with mental retardation and related conditions.~~

~~1. An active client for waiver case management shall mean an individual who receives at least one face to face contact every 90 days and monthly on-going case management interactions. There shall be no maximum service limits for case management services. Case management services may be initiated up to 3 months prior to the start of waiver services, unless the individual is institutionalized.~~

~~2. There shall be no maximum service limits for case management services except case management services for individuals residing in institutions or medical facilities. For these individuals, reimbursement for case management shall be limited to thirty days immediately preceding discharge. Case management for institutionalized individuals may be billed for no more than two pre-discharge periods in twelve months.~~

B. ~~Services will be provided in entire State.~~

C. ~~Comparability of Services. Services are not comparable in amount, duration, and scope. Authority of section 1915(g)(1) of the Act is invoked to provide services without regard to the requirements of section 1902(a)(10)(B) of the Act.~~

D. ~~Definition of Services. Mental retardation case management services to be provided include:~~

~~1. Assessment and planning services, to include developing a Consumer Service Plan (does not include performing medical and psychiatric assessment but does not include referral for such assessment);~~

~~2. Linking the individual to services and supports specified in the consumer service plan;~~

~~3. Assisting the individual directly for the purpose of locating, developing or obtaining needed services and resources;~~

~~4. Coordinating services with other agencies and providers involved with the individual;~~

~~5. Enhancing community integration by contacting other entities to arrange community access and involvement, including opportunities to learn community living skills, and use vocational, civic and recreational services;~~

~~6. Making collateral contacts with the individual's significant others to promote implementation of the service plan and community adjustment; and~~

7. Following up and monitoring to assess ongoing progress and ensuring services are delivered; and

8. Education and counseling which guides the client and develop a supportive relationship that promotes the service plan.

E. Qualifications of Providers:

1. Services are not comparable in amount, duration, and scope. Authority of § 1915(g)(1) of the Act is invoked to limit case management providers for individuals with mental retardation and serious/chronic mental illness to the Community Services Boards only to enable them to provide services to seriously or chronically mentally ill or mentally retarded individuals without regard to the requirements of § 1902(a)(10)(B) of the Act.

2. To qualify as a provider of services through DMAS for rehabilitative mental retardation case management, the provider of the services must meet certain criteria. These criteria shall be:

- a. The provider must guarantee that clients have access to emergency services on a 24 hour basis;
- b. The provider must demonstrate the ability to serve individuals in need of comprehensive services regardless of the individuals' ability to pay or eligibility for Medicaid reimbursement;
- c. The provider must have the administrative and financial management capacity to meet state and federal requirements;
- d. The provider must have the ability to document and maintain individual case records in accordance with state and federal requirements;
- e. The services shall be in accordance with the Virginia Comprehensive State Plan for Mental Health, Mental Retardation and Substance Abuse Services; and
- f. The provider must be certified as a mental retardation case management agency by the DMHMRSAS.

3. Providers may bill for Medicaid mental retardation case management only when the services are provided by qualified mental retardation case managers. The case manager must possess a combination of mental retardation work experience or relevant education which indicates that the individual possesses the following knowledge, skills, and abilities, at the entry level. These must be documented or observable in the application form or supporting documentation or in the interview (with appropriate documentation).

- a. Knowledge of:
  - (1) The definition, causes and program philosophy of mental retardation
  - (2) Treatment modalities and intervention techniques, such as behavior management, independent living skills

training, supportive counseling, family education, crisis intervention, discharge planning and service coordination;

- (3) Different types of assessments and their uses in program planning
- (4) Consumers' rights
- (5) Local service delivery systems, including support services
- (6) Types of mental retardation programs and services
- (7) Effective oral, written and interpersonal communication principles and techniques
- (8) General principles of record documentation
- (9) The service planning process and the major components of a service plan

b. Skills in:

- (1) Interviewing
- (2) Negotiating with consumers and service providers
- (3) Observing, records and reporting behaviors
- (4) Identifying and documenting a consumer's needs for resources, services and other assistance
- (5) Identifying services within the established service system to meet the consumer's needs
- (6) Coordinating the provision of services by diverse public and private providers
- (7) Analyzing and planning for the service needs of mentally retarded persons
- (8) Formulating, writing and implementing individualized consumer service plans to promote goal attainment for individuals with mental retardation
- (9) Using assessment tools.

e. Abilities to:

- (1) Demonstrate a positive regard for consumers and their families (e.g., treating consumers as individuals, allowing risk taking, avoiding stereotypes of mentally retarded people, respecting consumers' and families' privacy, believing consumers can grow)
- (2) Be persistent and remain objective
- (3) Work as team member, maintaining effective inter- and intra-agency working relationships
- (4) Work independently, performing positive duties under general supervision
- (5) Communicate effectively, verbally and in writing
- (6) Establish and maintain ongoing supportive relationships.

F. The State assures that the provision of case management services will not restrict an individual's free choice of providers in violation of § 1902(a)(23) of the Act.

- 1. Eligible recipients will have free choice of the providers of case management services.

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2. Eligible recipients will have free choice of the providers of other medical care under the plan.

G. Payment for case management services under the plan shall not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

## **12VAC30-50-490. Case Support coordination/case management for individuals with developmental disabilities [ ,including autism ].**

A. Target group. Medicaid-eligible individuals with developmental disability [ (other than intellectual disability) ] or related conditions [ who are six years of age and older and as defined in § 37.2-100 of the Code of Virginia ] who are on the waiting list or are receiving services under one of the Individual and Family Developmental Disabilities Support (IFDDS) Waiver Developmental Disabilities (DD) Waivers.

1. [ When an individual applies for the DD Waivers and is found to meet the criteria as defined in 12VAC30-122-50, but there is no available slot, the individual will be placed on a waitlist until a slot is available. Individuals on the waitlist shall not receive developmental disability support coordination/case management services unless a special service need (as defined in subdivision 4 of this subsection) is identified, in which case an ISP shall be developed to address the special service need. Support coordinators/case managers shall make face-to-face contact with the individual at least every 90 calendar days to monitor the special service need, and documentation is required to support such contact. The support coordinator/case manager shall assure the ISP addresses the current special service needs of the individual and shall coordinate with the Department of Medical Assistance Services designee to assure actual enrollment into the waiver upon slot availability.

2. ] An active ~~client~~ individual for ~~case~~ [ developmental disability ] support coordination/case management shall mean an individual a person for whom there is a plan of care an individual support plan (ISP), as defined in 12VAC30-122-20, that requires regular direct or ~~client-related~~ individual-related contacts or communication or activity with the ~~client~~ individual, family the individual's family/caregiver, service providers, and significant others and others including at least one face-to-face contact every 90 calendar days. Billing can be submitted for an active ~~client~~ individual only for months in which direct or ~~client-related~~ individual-related contacts, activity, or communications occur, consistent with the [ activities goals or outcomes ] in the individual's ISP. Face-to-face contact between the support coordinator/case manager [ and the individual ] shall occur at least every [ ~~three months~~ 90 calendar days ] in which there is an activity submitted for billing.

[ 2. When an individual applies for the ] IFDDS Waiver [ DD Waivers and is found to meet the criteria as defined in

~~12VAC30-122-50, but ] there is no available funding (slots) slot, he will be placed on a waitlist until ] funding [ a slot is available. ] The "Initial Waitlist Plan of Care" is completed with the case manager and identifies the services anticipated once a slot is available. Individuals on the waitlist do not have routine case management services unless there is a documented special service need in the plan of care. Case managers may Individuals on the waitlist shall not receive developmental disability support coordination/case management services unless a special service need (as defined in subdivision 4 of this subsection) is identified, in which case an ISP shall be developed to address the special service need. Support coordinators/case managers shall make face-to-face contact with the individual at least every 90 calendar days to monitor the special service need, and documentation is required to support such contact. The ] case manager will [ support coordinator/case manager shall assure the ] plan of care [ ISP addresses the current special service needs of the individual and ] will [ shall coordinate with ] DMAS [ the Department of Medical Assistance Services designee to assure actual enrollment into the waiver upon slot availability. ]~~

3. The unit of service is one month. There shall be no maximum service limits for ~~case~~ support coordination/case management services except ~~case management services for~~ as related to individuals residing in [ medical ] institutions or medical facilities. For these individuals, reimbursement for ~~case support coordination/case management—for~~ institutionalized individuals services [ shall be limited to 90 days immediately preceding discharge from those settings. Support coordination/case management for individuals in a medical institution or facility ] may be billed for no more than two [ ~~months~~ 90-day periods ] in a 12-month eyelet period.

4. The unit of service is one month. There shall be no maximum service limits for ~~case management services except case management services for~~ individuals residing in institutions or medical facilities. For these individuals, reimbursement for ~~case management for~~ institutionalized individuals may be billed for no more than two months in a 12-month eyelet. A special service need is one that requires linkage to and temporary monitoring of those supports and services identified in the ISP to address an individual's mental health, behavioral, and medical needs or provide assistance related to an acute need that coincides with the allowable activities noted in subsection D of this section. If an activity related to the special service need is provided in a given month, then the support coordinator/case manager would be eligible for reimbursement. Once the special service need is addressed related to the specific activity identified, billing for the service shall not continue until a special service need presents again.

B. Services will be provided in the entire state.

C. Comparability of services. Services are not comparable in amount, duration, and scope. Authority of § 1915(g)(1) of the Social Security Act (Act) is invoked to provide services without regard to the requirements of § 1902(a)(10)(B) of the Act and to limit support coordination/case management providers to the community services boards or behavioral health authorities (CSBs or BHAs). CSBs or BHAs [ may shall ] contract with private support coordinators/case managers for this service [ in accordance with subdivision F 1 of this section ].

D. Definition of services. ~~Case~~ Support coordination/case management services will be provided for Medicaid-eligible individuals with developmental disability or related conditions who are on the [ DD Waivers ] waiting list for or participants enrolled in one of the home and community-based care IFDDS Waiver services DD Waivers. ~~Case~~ Support coordination/case management services to that may be provided include:

1. Assessment and planning services, to include developing a consumer service plan (does an ISP [ as defined on 12VAC30-122-20 and in accordance with the requirements of the Final Rule found at 42 CFR 441.725 ], which does not include performing medical and psychiatric assessment but does include referral for such assessments) assessment;
2. Linking the individual to services and supports specified in the consumer service plan ISP;
3. Assisting the individual directly for the purpose of locating, developing, or obtaining needed services and resources;
4. Coordinating services and service planning with other agencies and providers involved with the individual;
5. Enhancing community integration by contacting other entities to arrange community access and involvement, including opportunities to learn community living skills and to use vocational, civic, and recreational services;
6. Making collateral contacts with the individual's significant others to promote implementation of the service plan ISP and community adjustment integration;
7. Following up and monitoring to assess ongoing progress and ensure services are delivered [ as outlined in the ISP and addressing any change of status; and ];
8. [ 7. ] Education and [ counseling that guides guidance that supports ] the individual and develops a supportive relationship that promotes the service plan ISP [ ; and ]  
~~[ 9. 8. Benefits counseling. ]~~

E. Qualifications of providers. ~~In addition to meeting the general conditions and requirements for home and community-based care participating providers as specified in 12VAC30-120 730 and 12VAC30 120 740, specific provider qualifications are:~~

~~1. To qualify as a provider of services through DMAS for IFDDS Waiver case management, the service provider must meet these criteria:~~

- ~~a. Have the administrative and financial management capacity to meet state and federal requirements;~~
- ~~b. Have the ability to document and maintain recipient case records in accordance with state and federal requirements; and~~
- ~~c. Be enrolled as an IFDDS case management agency by DMAS.~~

~~2. Providers may bill for Medicaid case management only when the services are provided by qualified case managers. The case manager must possess a combination of developmental disability work experience or relevant education, which indicates that the individual possesses the following knowledge, skills, and abilities, at the entry level. These must be documented or observable in the application form or supporting documentation or in the interview (with appropriate documentation).~~

~~1. CSBs or BHAs shall have current, signed provider agreements with the Department of Medical Assistance Services (DMAS) and shall directly bill DMAS for reimbursement. CSBs or BHAs [ may shall ] contract with other entities to provide support coordination/case management [ in accordance with subdivision F 1 of this section ]~~.

~~2. Support coordinators/case managers shall not be (i) the direct care staff person, [ as defined in 12VAC30-122-20 ], (ii) the immediate supervisor of the direct care staff person, (iii) otherwise related by business or organization to the direct care staff person, or (iv) an immediate family member of the direct care staff person.~~

~~3. Support coordination/case management services shall not be provided to the individual by (i) parents, guardians, spouses, or any family living with the individual or (ii) parents, guardians, spouses, or any family employed by an organization that provides support coordination/case management for the individual except in cases where the family member was employed by the case management entity prior to implementation of this chapter.~~

~~4. Providers of developmental disability support coordination/case management services shall meet the following criteria:~~

- ~~a. The provider shall guarantee that individuals have access to emergency services on a 24-hour basis pursuant to § 37.2-500 of the Code of Virginia;~~
- ~~b. The provider shall demonstrate the ability to serve individuals in need of comprehensive services regardless of the individual's ability to pay or eligibility for Medicaid;~~



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c. The provider shall have the administrative and financial management capacity to meet state and federal requirements;

d. The provider shall document and maintain individual case records in accordance with state and federal requirements; and

e. [ The provider shall submit the individual support plan in an electronic format in the state DD home and community-based services (HCBS) waiver management system for service authorization and data management for individuals enrolled in any DD HCBS waiver. The provider shall submit evidence of follow-up and monitoring to assess ongoing progress of the ISP, ensuring services are delivered and health and safety is maintained;

f. The provider shall participate in activities designed to safeguard participants' health and safety in accordance with approved DD HCBS waiver requirements or DBHDS licensing standards;

g. The provider shall participate in activities designed to assure ongoing compliance by DD HCBS waiver participants' providers of service subject to the Final Rule Settings Requirements found at 42 CFS 441.301(4) and as described in the approved Statewide Transition Plan; and

h. ] The provider shall be licensed as a support coordination/case management entity.

5. The provider shall ensure that support coordinators/case managers who provide developmental disability support coordination/case management services and were hired after September 1, 2016, shall possess a minimum of a bachelor's degree in a human services field or be a registered nurse. Support coordinators/case managers hired before September 1, 2016, who do not possess a minimum of a bachelor's degree in a human services field [ or are not a registered nurse ] may continue to provide support coordination/case management if they are employed by or contracting with an entity that has [ or had ] a Medicaid provider participation agreement to provide developmental disability support coordination/case management prior to February 1, 2005, and the support coordinator/case manager has maintained employment with the provider without interruption and that is documented in the personnel record.

6. In addition to the requirements in subdivision 5 of this subsection, the support coordinator/case manager shall possess developmental disability work experience or relevant education that indicates that at entry level he possesses the following knowledge, skills, and abilities that shall be documented in the employment application form or supporting documentation or during the job interview:

a. Knowledge of:

(1) The definition, and causes, of developmental disability and program philosophy of best practices in supporting individuals who have developmental disabilities;

(2) Treatment modalities and intervention techniques, such as ~~behavior management~~ positive behavioral supports, person-centered practices, independent living skills, training, [ community inclusion/employment training, ] supportive [ ~~counseling guidance~~ ], family education, crisis intervention, discharge planning, and service coordination;

(3) Different types of assessments and their uses in ~~program planning~~ determining the specific needs of the individual with respect to his ISP;

(4) Individuals' human and civil rights;

(5) Local service delivery systems, including support services;

(6) ~~Types of developmental disability programs and services [ Programs Types of programs ] and services that support individuals with developmental disabilities;~~

(7) Effective oral, written, and interpersonal communication principles and techniques;

(8) General principles of [ ~~record~~ ] documentation; and

(9) The service planning process and the major components of ~~a service plan~~ the ISP.

b. Skills in:

(1) Interviewing;

(2) Negotiating with individuals and service providers;

(3) Observing, ~~recording, and reporting~~ and documenting an individual's behaviors;

(4) Identifying and documenting an individual's needs for resources, services, and other assistance;

(5) Identifying services within the established service system to meet the individual's needs [ and preferences ];

(6) Coordinating the provision of services by diverse public and private providers [ and generic and natural supports ];

(7) Analyzing and planning for the service needs of ~~developmentally disabled persons~~ individuals with developmental disability;

(8) Formulating, writing, and implementing individual-specific service support plans to promote goal attainment for recipients with developmental disabilities designed to facilitate attainment of the individual's unique goals for a meaningful, quality life; and

(9) Using [ ~~assessment tools~~ information from assessments, evaluations, observations, and interviews to develop and revise as needed individual support plans tools (e.g., to ensure the ISP is implemented appropriately, identify change in status, or to determine risk of crisis/hospitalization). ]

c. Abilities to:

(1) Demonstrate a positive regard for individuals and their families (e.g., allowing risk taking, avoiding stereotypes of ~~developmentally disabled~~ people with developmental

disabilities, respecting individuals' individual and families' family privacy, believing individuals can grow [ and contribute to their community ]);

- (2) Be persistent and remain objective;
- (3) Work as a team member, maintaining effective inter-agency and intra-agency working relationships;
- (4) Work independently, performing positive position duties under general supervision;
- (5) Communicate effectively, orally and in writing; and
- (6) Establish and maintain ongoing supportive relationships.

3. In addition, case managers who enroll with DMAS to provide case management services after (insert the effective date of these regulations) must possess a minimum of an undergraduate degree in a human services field. Providers who had a Medicaid participation agreement to provide case management prior to February 1, 2005, and who maintain that agreement without interruption may continue to provide case management using the KSA requirements effective prior to February 1, 2005.

4. Case managers who are employed by an organization must receive supervision within the same organization. Case managers who are self-employed must obtain one hour of documented supervision every three months when the case manager has active cases. The individual who provides the supervision to the case manager must have a master's level degree in a human services field and/or have five years of satisfactory experience in the field working with individuals with related conditions as defined in 42 CFR 435.1009. A case management provider cannot supervise another case management provider.

5. Case managers must complete eight hours of training annually in one or a combination of the areas described in the knowledge, skills and abilities (KSA) subdivision. Case managers must have documentation to demonstrate training is completed. The documentation must be maintained by the case manager for the purposes of utilization review.

6. Parents, spouses, or any person living with the individual may not provide direct case management services for their child, spouse or the individual with whom they live or be employed by a company that provides case management for their child, spouse, or the individual with whom they live.

7. A case manager may provide services facilitation services. In these cases, the case manager must meet all the case management provider requirements as well as the service facilitation provider requirements. Individuals and their family/caregivers, as appropriate, have the right to choose whether the case manager may provide services facilitation or to have a separate services facilitator and this choice must be clearly documented in the individual's record. If case managers are not services facilitation providers, the case

manager must assist the individual and his family/caregiver, as appropriate, to locate an available services facilitator.

8. If the case manager is not serving as the individual's services facilitator, the case manager may conduct the assessments and reassessment for CD services if the individual or his family/caregiver, as appropriate, chooses. The individual's choice must be clearly documented in the case management record along with which provider is responsible for conducting the assessments and reassessments required for CD services.

7. Support coordinators/case managers shall receive supervision within the employing organization. The supervisor of the support coordinator/case manager shall have either:

a. A master's degree in a human services field and one year of required documented experience working with individuals who have developmental disabilities as defined in § 37.2-100 of the Code of Virginia;

b. A registered nurse license in the Commonwealth, or hold a multistate licensure privilege and one year of documented experience working with individuals who have developmental disabilities as defined in § 37.2-100 of the Code of Virginia;

c. A bachelor's degree and two years of experience working with individuals who have developmental disabilities as defined in § 37.2-100 of the Code of Virginia;

d. A high school diploma or GED and five years of paid experience in developing, conducting, and approving assessments and ISPs as well as working with individuals who have developmental disabilities as defined in § 37.2-100 of the Code of Virginia;

e. A [ doctor of medicine license or doctor of osteopathy ] license [ to practice medicine or osteopathic medicine ] in the Commonwealth and one year of required documented experience working with individuals who have developmental disabilities as defined in § 37.2-100 of the Code of Virginia; or

f. Requirements as set out in the Department of Behavioral Health and Developmental Disabilities licensing regulations (12VAC35-105-1250).

8. Support coordinators/case managers shall obtain at least one hour of documented supervision at least every [ ~~three months~~ 90 calendar days ].

9. A support coordinator/case manager shall complete a minimum of eight hours of training annually in one or more of a combination of areas described in the knowledge, skills, and abilities in subdivision 6 of this subsection and shall provide documentation to his supervisor that demonstrates that training is completed. The documentation shall be maintained by the supervisor of the support coordinator/case manager in the employee's personnel file for the purposes of

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utilization review. This documentation shall be provided to the Department of Medical Assistance Services and the Department of Behavioral Health and Developmental Services upon request.

F. The state assures that the provision of ~~ease management~~ support coordination/case management services will not restrict an individual's free choice of providers in violation of § 1902(a)(23) of the Act [ ~~and the Final Rule at 42 CFR 441.301(c)(1)(vi)~~ ].

~~1. Eligible recipients will have free choice of the providers of ease management services. To provide choice to individuals who are enrolled in the Developmental Disabilities (DD) Waivers (Building Independence (BI), Community Living (CL), and Family and Individual Supports (FIS)), CSBs or BHAs [ may shall ] contract with private support coordination/case management entities to provide developmental disabilities support coordination/case management services. If there are no qualified providers in that CSB's or BHA's catchment area, then the CSB or BHA shall provide the support coordination/case management services. The CSBs or BHAs shall be the only licensed entities permitted to be reimbursed for developmental disabilities or intellectual disability support coordination/case management services. For those individuals who receive developmental disabilities support coordination/case management services:~~

~~a. The CSB or BHA that serves the individual shall be the responsible provider of support coordination/case management. This CSB or BHA shall be the provider responsible for submitting claims to the Department of Medical Assistance Services (DMAS) for reimbursement.~~

~~b. The CSB shall inform the individual that the individual has a choice with respect to the support coordination/case management services that he receives. The individual shall be informed that he can choose from among these options:~~

~~(1) The individual may have his choice of support coordinator/case manager employed by the CSB or BHA.~~

~~(2) The individual may have his choice of another CSB or BHA with which the responsible CSB or BHA provider has a memorandum of agreement if the individual or family decides [ that no choice not to choose ] is desired in the responsible CSB or BHA provider.~~

~~(3) The individual may have a choice of a designated private provider with whom the responsible CSB or BHA provider has a contract for support coordination/case management if the individual or family decides not to choose the responsible CSB or BHA provider or another CSB or BHA when there is a memorandum of agreement.~~

~~c. At any time, the individual or family may request to change their support coordinator/case manager.~~

2. Eligible recipients individuals will have free choice of the providers of other medical care under the ~~plan~~ State Plan [ ~~for Medical Assistance~~ ].

~~[ 3. When the required support coordination/case management services are contracted out to a private entity, the responsible CSB or BHA provider shall remain the Medicaid enrolled provider for the purpose of submitting claims to DMAS for reimbursement. Only the responsible CSB or BHA provider shall be permitted to submit claims to DMAS for reimbursement of support coordination/case management services. ]~~

G. Payment for ~~ease management~~ support coordination/case management services under the ~~plan~~ does State Plan shall not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

**EDITOR'S NOTE:** Parts VIII, Individual and Family Developmental Disabilities Support Waiver, consisting of 12VAC30-120-700 through 12VAC30-120-777; Part X, Intellectual Disability Waiver, consisting of 12VAC30-120-1000 through 12VAC30-120-1090; and Part XV, consisting of 12VAC30-120-1500 through 12VAC30-120-1550 are being repealed in their entirety in this final action and are not set out below. The full text of the repealed provisions of these Parts was published at the proposed stage in [35:12 VA.R. 1479-1569 February 4, 2019](#).

## Chapter 122

### Community Waiver Services for Individuals with Developmental Disabilities

**12VAC30-122-10. Purpose; legal authority; covered services; aggregate cost effectiveness; required individual and provider enrollment; individual costs.**

1. Supports individuals with developmental disabilities to live integrated and engaged lives in their communities;

2. Standardizes and simplifies access to services;

3. Sets out and defines services that promote community integration and engagement; [ and ]

4. Improves provider capacity and quality to render covered services; [ and

5. Facilitates meeting the Commonwealth's commitments under the community integration mandate of the Americans with Disabilities Act (42 USC § 12101 et seq.), the Supreme Court's decision in *Olmstead v. L.C.* (527 U.S. 581 (1999)), and the 2012 Settlement Agreement in *United States of America v. Commonwealth of Virginia*. ]

#### B. Legal authority.

1. Selected home and community-based waiver services shall be available through § 1915(c) waivers of the Social Security Act (42 USC § 1396n). The waivers shall be named (i) Family and Individual Supports (FIS), (ii) Community

Living (CL), and (iii) Building Independence (BI) and are collectively referred to as the Developmental Disabilities (DD) Waivers. These waiver services shall be required, appropriate, and medically necessary to maintain an individual in the community instead of placement in an institution.

2. The Department of Medical Assistance Services (DMAS), the single state agency pursuant to 42 CFR 431.10 responsible for administrative authority over service authorizations, delegates the processing of service authorizations and daily operations to the Department of Behavioral Health and Developmental Services in accordance with the interagency Memorandum of Understanding. DMAS shall be the single state agency authority pursuant to 42 CFR 431.10 for payment of claims for the services covered in the DD Waivers and for obtaining federal financial participation from the Centers for Medicare and Medicaid Services.

C. Covered services. The services covered in the Developmental Disabilities Waivers shall be:

1. Assistive technology service (12VAC30-122-270);
2. Benefits planning service (12VAC30-122-280 [ - reserved ]);
3. Center-based crisis support service (12VAC30-122-290);
4. Community-based crisis support service (12VAC30-122-300);
5. Community coaching service (12VAC30-122-310);
6. Community [ ~~guide~~ engagement ] service (12VAC30-122-320 [ - reserved ]);
7. Community [ ~~engagement~~ guide ] service (12VAC30-122-330 [ - reserved ]);
8. Companion service (12VAC30-122-340);
9. Crisis support service (12VAC30-122-350);
10. Electronic home-based support service (12VAC30-122-360);
11. Environmental modification service (12VAC30-122-370);
12. Group day service (12VAC30-122-380);
13. Group home residential service (12VAC30-122-390);
14. Group and individual supported employment service (12VAC30-122-400);
15. In-home support service (12VAC30-122-410);
16. Independent living support service (12VAC30-122-420);
17. Individual and family/caregiver training service (12VAC30-122-430);

18. [ ~~Nonmedical transportation service~~ Employment and Community Transportation ] (12VAC30-122-440 [ - reserved ]);

19. Peer support service (12VAC30-122-450 [ - reserved ]);

20. Personal assistance service (12VAC30-122-460);

21. Personal emergency response system service (12VAC30-122-470);

22. Private duty nursing service (12VAC30-122-480);

23. Respite service (12VAC30-122-490);

24. Services facilitation service (12VAC30-122-500);

25. Shared living support service (12VAC30-122-510);

26. Skilled nursing service (12VAC30-122-520);

27. Sponsored residential support service (12VAC30-122-530);

28. Supported living residential service (12VAC30-122-540);

29. Therapeutic consultation service (12VAC30-122-550);

30. Transition service (12VAC30-122-560); and

31. Workplace assistance service (12VAC30-122-570).

D. Aggregate cost effectiveness. Federal waiver requirements, as established in § 1915 of the Social Security Act and 42 CFR 430.25, provide that the average per capita fiscal year expenditures in the aggregate under the DD Waivers shall not exceed the average per capita expenditures in the aggregate for the level of care provided in ICFs/IID, as defined in 42 CFR 435.1010 and 42 CFR 483.440, under the State Plan for Medical Assistance that would have been provided had the DD Waivers not been granted.

E. No waiver services shall be reimbursed until after both the provider enrollment process and the individual eligibility determination process have been completed [ and the individual is enrolled in a waiver ]. A determination of individual eligibility for waiver services shall not determine claim reimbursement. [ ~~Individuals shall be enrolled to receive services in order for provider reimbursement to occur.~~ To be considered for reimbursement, a provider's claims must be for services rendered to individuals enrolled to receive waiver services. ]

1. No back-dated payments shall be made for services that were rendered before the completion of the provider enrollment and the individual [ ~~eligibility determination~~ waiver enrollment ] processes.

2. Individuals who are enrolled in these waivers who choose to employ their own companions or assistants prior to the completion of the provider enrollment process shall be responsible for reimbursing such costs themselves.

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3. No back dating of provider enrollment requirements shall be permitted [ ~~in order for~~ ] DMAS [ ~~to~~ will not ] reimburse for prematurely incurred costs.

F. With the exception of costs specified in subsection E of this section that waiver individuals may elect to incur, no costs for evaluations or assessments that may be required by either DMAS or DBHDS shall be borne by the individual.

## 12VAC30-122-20. Definitions.

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

"AAIDD" means the American Association on Intellectual and Developmental Disabilities.

"Activities of daily living" or "ADLs" means personal care tasks, for example, bathing, dressing, using a toilet, transferring, and eating or feeding. An individual's degree of independence in performing these activities is a part of determining appropriate level of care and service needs.

"Agency-directed model" means a model of service delivery where an agency is responsible for providing direct support staff, for maintaining individuals' records, and for scheduling the dates and times of the direct support staff's presence in an individual's home and in community.

"Appeal" means the process used to challenge actions regarding services, benefits, and reimbursement provided by Medicaid pursuant to 12VAC30-110 and 12VAC30-20-500 through 12VAC30-20-560.

"Assistive technology" or "AT" means specialized medical equipment and supplies, including those devices, controls, or appliances specified in the individual support plan but not available under the State Plan for Medical Assistance that [ (i) enable individuals to increase their abilities to perform ADLs [ ~~or to~~; (ii) enable individuals to ] perceive, control, or communicate with [ ~~the~~ their ] environment [ ~~in which they live~~; (iii) actively participate in other waiver services that are part of their plan for supports; ] or [ (iv) ~~that~~ ] are necessary to the proper functioning of the specialized equipment.

[ "Back-up plan" means provision for alternative arrangements for the delivery of services that are critical to participant well-being in the event that the provider responsible for furnishing the services fails or is unable to deliver them. ]

"Barrier crime" means those crimes listed in [ § 19.2-392.02 of the Code of Virginia and as they apply to ] §§ 32.1-162.9:1, 37.2-314, 37.2-416, 37.2-506, 37.2-607, and 63.2-1719 of the Code of Virginia.

"Behavioral health authority" or "BHA" means the same as defined in § [ ~~37.2-600~~ 37.2-100 ] of the Code of Virginia.

[ "Benefits planning" means an individualized analysis and consultation service that assists recipients of a DD waiver and

social security (SSI, SSDI, SSI/SSDI) to understand their personal benefits and explore their options regarding working, how to begin employment, and the impact employment will have on their state and federal benefits. ]

"BI" means the Building Independence Waiver as further described in 12VAC30-122-240.

"Center-based crisis support services" means [ ~~crisis prevention and stabilization in a crisis therapeutic home using planned and emergency admissions. The services are designed for those individuals who need ongoing crisis supports.~~ crisis support services provided in a crisis therapeutic home. ]

"Centers for Medicare and Medicaid Services" or "CMS" means the unit of the U.S. Department of Health and Human Services that administers and funds the Medicare and Medicaid programs.

"Challenging behavior" means behaviors of such intensity, frequency, and duration that the physical safety of the individual or others is placed in serious jeopardy or the behavior limits access to the community. Challenging behavior may include withdrawal, self-injury, injury to others, aggression, or self-stimulation.

"CL" means the Community Living Waiver as described in 12VAC30-122-250.

"Community-based crisis support services" means [ crisis support ] services [ ~~for individuals who are experiencing crisis events that put them at risk for homelessness, incarceration, hospitalization, or that create a danger to themselves or others and includes ongoing supports provided~~ ] to individuals in their homes and in community settings.

"Community coaching" means a service designed for individuals who require one-to-one support in a variety of community settings in order to develop specific skills to address barriers that prevent that individual from participating in community engagement services.

"Community engagement" means, for the purpose of building relationships and natural supports, services that support and foster individuals' abilities to acquire, retain, or improve skills necessary to build positive social behavior, interpersonal competence, greater independence, employability, and personal choice necessary to access typical activities and benefits of community life equal to those available to the general population. Community engagement services shall be provided in groups no larger than [ ~~one staff person to~~ ] three individuals [ with a minimum of one DSP ].

[ "Community Guide" means direct assistance to promote individuals' self-determination through brokering specific community resources that lead to connection to and independent participation in integrated, independent housing, or community activities so as to avoid isolation. ]

"Community services board" or "CSB" means the same as defined in § 37.2-100 of the Code of Virginia.

"Companion" means a person who provides companion services for compensation by DMAS.

"Companion services" means nonmedical care, support, and socialization provided to an adult individual age 18 years and older in accordance with a therapeutic goal in the individual support plan. Companion services are not purely recreational in nature [ ~~but~~ and ] shall not provide routine support with ADLs.

"Consumer direction" means a model of service delivery for which the individual or the individual's employer of record, as appropriate, shall be responsible for hiring, training, supervising, and firing of the person who provides the direct support or specific services covered by DMAS and whose wages are paid by DMAS through its fiscal agent.

"Crisis support services" means intensive supports by trained and, where applicable, licensed staff in crisis prevention, crisis intervention, and crisis stabilization for an individual who is experiencing an episodic behavioral or psychiatric event that has the potential to jeopardize his current community living situation.

"Customized rate" means a reimbursement rate [ that may be ] available to group home residential, sponsored residential, supported living residential, group day, community coaching, and in-home support service providers that exceeds the normal rate applicable to the individual receiving these specific services.

"DARS" means the Department for Aging and Rehabilitative Services.

"DBHDS" means the Department of Behavioral Health and Developmental Services.

"DBHDS staff" means persons employed by or contracted with DBHDS.

[ "~~Developmental~~ "Developmental ] Disability Waivers" or "DD Waivers" means the waiver program established in [ ~~12VAC30-122~~ this chapter ] and consisting of the FIS, CL, and BI waivers.

"Developmental disability" means the same as defined in § 37.2-100 of the Code of Virginia.

"Direct support professional," "direct care staff," or "DSP" means staff members identified by the provider as having the primary role of assisting an individual on a day-to-day basis with routine personal care needs, social support, and physical assistance in a wide range of daily living activities so that the individual can lead a self-directed life in his own community. This term shall exclude consumer-directed staff and services facilitation providers.

"DMAS" means the Department of Medical Assistance Services.

"DMAS staff" means persons employed by or contracted with DMAS.

"Electronic home-based support" or "EHBS" means goods and services based on current technology, such as Smart Home<sup>®</sup>, and includes purchasing electronic devices, software, services, and supplies that allow individuals to use technology in their residences to achieve greater independence and self-determination and reduce the need for staff intervention but that are not otherwise covered through other benefits in the DD Waivers or through the State Plan for Medical Assistance.

[ "Electronic visit verification" or "EVV" means a telephone, computer-based system, or other electronic technology used in real time to document, verify, and report the delivery of certain specified information about the provision of in-home or other community location, personal care, respite, companion services, and home health services. The EVV system shall report the precise time that services begin and end. ]

"Employer of record" or "EOR" means the person who performs the functions of the employer in the consumer-directed model of service delivery and may be the individual enrolled in the waiver, a family member, [ ~~a~~ an unpaid ] caregiver, or another designated person.

[ "Employment and community transportation" means a service offered to enable individuals to gain access to an individual's place of employment or volunteer activity, other community services or events, activities and resources, homes of family or friends, civic organizations or social clubs, public meetings or other civic activities, and spiritual activities or events as specified by the support plan and when no other means of access is available.

"Employment services organization" means providers of employment services with DARS. DARS verifies that these providers meet criteria to be providers through a DARS-recognized accrediting body. ]

"Enroll" with respect to an individual means (i) the local department of social services has determined the individual's financial eligibility for Medicaid as set out in 12VAC30-122-60; (ii) the individual has been determined by the support coordinator to be at risk of institutionalization and to meet the functional eligibility requirements in the Virginia Intellectual Developmental Disabilities Eligibility Survey form, which is referenced in 12VAC30-122-70, for the waiver; (iii) the Department of Behavioral Health and Developmental Services has verified the availability of a waiver slot for the individual; and (iv) the individual has agreed to accept the waiver slot.

"Environmental modifications" or "EM" means physical adaptations to the individual's home or primary vehicle that are necessary to ensure the individual's health and welfare or to enable functioning with greater independence.

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"EPSDT" means the Early and Periodic Screening, Diagnosis and Treatment program administered by DMAS for children younger than 21 years of age according to federal guidelines that prescribe preventive and treatment services for Medicaid eligible children and as defined in 12VAC30-50-130.

"Face-to-face [ ~~visit~~ contact" ] means an in-person meeting between the support coordinator and the individual and family/caregiver, as appropriate, for the purpose of assessing the individual's status and determining satisfaction with services, including the need for additional services and supports.

"Family" means, for the purpose of receiving individual and family/caregiver training services, the unpaid people who live with or provide care to an individual served by the waiver and may include a parent, a legal guardian, a spouse, children, relatives, a foster family, or in-laws but shall not include persons who are compensated [ ~~by any possible means,~~ ] to care for the individual.

"FIS" means the Family and Individual Support Waiver as further described in 12VAC30-122-260.

"General supports" means staff presence to ensure that appropriate action is taken in an emergency or an unanticipated event and includes (i) awake staff during nighttime hours; (ii) routine bed checks; (iii) oversight of unstructured activities; [ or ] (iv) asleep staff at night on premises for [ security or ] safety reasons [ ~~or both; or (v) on-call staff~~ ].

"Group day services" means services for the individual to acquire, retain, or improve skills of self-help, socialization, community integration, employability, and adaptation via opportunities for peer interactions, community integration, and enhancement of social networks.

"Group home residential services" means skill-building, routine supports, general supports, and safety supports that are provided in a residence licensed by DBHDS [ or an adult foster care home approved by the local department of social services ] that enable the individual to acquire, retain, or improve skills necessary to lead a self-directed life in his own community.

"Home and community-based waiver services," "HCBS," or "waiver services" means the range of community services approved by CMS pursuant to § 1915(c) of the Social Security Act to be offered to persons as an alternative to institutionalization.

"ICF/IID" means a facility or distinct part of a facility that (i) is licensed by DBHDS; (ii) meets the federal certification regulations for an intermediate care facility for individuals with intellectual disabilities and individuals with related conditions; [ ~~and~~ ] (iii) addresses the total needs of the individuals, which include physical, intellectual, social, emotional, and habilitation, and (iv) provides active treatment as defined in 42 CFR 483.440.

"IDEA" means the Individuals with Disabilities Education Act (20 USC § 1400 et seq.).

"Immediate family member" means [ ~~for the purposes of support coordination/case management services (12VAC30-50-455);~~ ] spouses, parents [ (as "parent" is defined in this section) ], children (biological, adoptive, foster [ , step, ]) and siblings of the individual in the waiver.

[ "Independent living" means an individual living on his own with sufficient opportunities to direct his life and make informed choices, including the freedom to pursue activities fitting his capabilities and interests while maximizing full participation in community life. ]

"Individual" means the Commonwealth's citizen, including a child, who meets the income and resource standards in order to be eligible for Medicaid-covered services, has a diagnosis of developmental disability, and is eligible for the DD [ ~~Waiver Waivers~~ ]. The individual may be a person on the DD Waiver waiting list or an enrolled [ ~~individual~~ person ] who is receiving these waiver services.

"Individual support plan" or "ISP" means a comprehensive, person-centered plan that sets out the supports and actions to be taken during the year by each provider, as detailed in each provider's plan for supports to achieve desired outcomes, [ and ] goals [ ~~and dreams~~ ]. The individual support plan shall be developed collaboratively by the individual, the individual's family/caregiver, as appropriate, providers, the support coordinator, and other interested parties chosen by the individual and shall contain the DMAS-approved ISP components as set forth in 12VAC30-122-190.

"Individual supported employment" means services that consist of ongoing, one-on-one supports provided by a job coach that enable the individual to be employed in an integrated work setting and may include assisting the individual to locate a job or develop a job on behalf of the individual, as well as activities needed to sustain paid work by the individual.

"Individual's responses to services" means the individual's behaviors in and responses to the [ ~~settings~~ services ]. In the case of an individual who does not communicate through spoken language, this shall mean the individual's condition and observable responses.

"In-home support services" means residential services that take place [ primarily ] in the individual's home, family home, or community settings that typically supplement the primary care provided to himself or by family or another unpaid caregiver and are designed to enable the individual to lead a self-directed life in the community while ensuring his health, safety, and welfare.

"Instrumental activities of daily living" or "IADLs" means skills that are [ ~~more complex than those needed to address ADLs and that are needed to successfully live independently~~



such as meal preparation, shopping, housekeeping, laundry, and money management, needed to successfully live independently such as meal preparation, shopping, housekeeping, laundry, and money management and do not include ADLs. ]

"Job coach" means the person who instructs individuals with disabilities utilizing structured intervention techniques to help the individual learn to perform job tasks to the employer's specifications and to learn the interpersonal skills necessary to be accepted as a worker at the job site and in related community contacts.

"LEIE" means List of Excluded Individuals and Entities. For the purpose of the use of LEIE, the use of the word "individual" shall not refer to the enrolled waiver individual.

"Levels of support" means the level (1-7) that is assigned to an individual based on the SIS<sup>®</sup> score, the results of the Virginia Supplemental Questions, and, as needed, a supporting document review verification process.

"Licensed practical nurse" or "LPN" means a person who is licensed or holds multistate licensure privilege pursuant to Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia to practice practical nursing as defined in § 54.1-3000 of the Code of Virginia.

"LMHP" means a licensed mental health professional as defined in [ ~~12VAC35-105-20~~; 12VAC30-50-130. ]

"LMHP-resident" means the same as defined in 12VAC30-50-130.

"LMHP-RP" means the same as defined in 12VAC30-50-130.

"LMHP-supervisee" means the same as defined in 12VAC30-50-130.

"Medically necessary" means an item or service provided for the diagnosis or treatment of an individual's condition consistent with community standards of medical practice [ ~~as determined by DMAS~~ and needed to maintain an individual in the community instead of placement in an institution ].

"Own home" means an individual residence that meets the legal definition of a residential dwelling that can be owned or leased by an individual.

"Parent" means a person who is biologically or naturally related, a foster parent, step-parent, or an adoptive parent to the individual enrolled in the waiver.

"Participating provider" means an entity that meets the standards and requirements set forth by DMAS and has a current, signed provider participation agreement with DMAS.

[ "Peer mentor supports" means information, resources, guidance, and support from an experienced, trained peer mentor to an individual who is a waiver recipient. ]

"Person-centered planning" means a fundamental process that focuses on what is important to and for an individual and the needs and preferences of the individual to create an individual support plan.

"Personal assistance service" means direct support [ or supervision ] with (i) ADLs, (ii) IADLs, (iii) access to the community, (iv) monitoring the self-administration of medication or other medical needs, and (v) monitoring health status and physical condition. Personal assistance services may occur in the home, community, work site, or postsecondary school.

"Personal assistant" means a person who provides personal assistance services employed [ either ] by a provider agency [ or under consumer direction ].

"Personal emergency response system" or "PERS" means an electronic device and monitoring service, and also may include medication monitoring units, that enable individuals to secure help in an emergency.

"Personal profile" means a point-in-time synopsis of what an individual enrolled in the waiver wants to maintain, change, improve in his life, or goals and [ ~~dreams~~ outcomes ] to achieve, and shall be completed by the individual and another person, such as his support coordinator or family/caregiver, chosen by the individual to help him plan before the annual planning meeting where it is discussed and then finalized to inform the individual supports plan process.

"Plan for supports" means each provider's plan for supporting the individual enrolled in the waiver in achieving the individual's desired outcomes and facilitating the individual's health and safety. The provider plan for supports is one component of the individual support plan.

"Positive behavior support" means [ ~~an applied science that uses educational methods to expand an individual's behavior repertoire and systems change methods to redesign an individual's living environment to enhance the individual's quality of life by minimizing his challenging behaviors to enable him to lead a self directed life in the community.~~ a set of research-based strategies used to increase quality of life and decrease challenging behavior by teaching new skills and making changes in a person's environment. ]

"Primary caregiver" means the primary person who consistently assumes the role of providing direct care and support without compensation for such care to the individual enrolled in the waiver to enable the individual to live a self-directed life in the community.

"Private duty nursing services" means individual and continuous nursing care [ ~~to individuals that may be provided concurrently with other services or be required by for~~ ] individuals who have a serious medical condition or complex health care needs, or both, and that has been certified by a physician as medically necessary to enable the individual to

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remain in a community setting rather than in a hospital, nursing facility, or ICF/IID. [ This service may be provided concurrently with other services. ]

"Progress notes" means individual-specific written documentation that (i) contains unique differences specific to the individual's circumstances and the supports provided, and the individual's responses to such supports; (ii) is signed and dated by the person who rendered the supports; and (iii) is [ ~~written and~~ ] signed and dated [ ~~as soon as is practicable but no longer than one week after the referenced service.~~ on the day the described supports were provided. Documentation that occurs after the date supports were provided shall be dated for the date the entry is recorded and the date of supports delivery shall be noted in the body of the note. ]

"Qualified developmental disabilities professional" or "ODDP" means a professional who (i) possesses at least one year of documented experience working directly with individuals who have developmental disabilities; (ii) is one of the following: a doctor of medicine or osteopathy, a registered nurse, a provider holding at least a bachelor's degree in a human service field including sociology, social work, special education, rehabilitation engineering, counseling, or psychology; and (iii) possesses the required Virginia or national license, registration, or certification in accordance with his profession, if applicable.

"Quality management review" or "QMR" (i) means a process used by DMAS to monitor provider compliance with DMAS participation standards and policies and to ensure an individual's health, safety, and welfare and individual satisfaction with services and (ii) includes a review of the provision of services to ensure that services are being provided in accordance with DMAS regulations, policies, and procedures.

"Registered nurse" or "RN" means a person who is licensed or holds multistate licensure privilege pursuant to Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia to practice professional nursing.

"Respite services" means temporary substitute for care that is normally provided by the unpaid primary caregiver and shall be provided on a short-term basis due to the absence of or need for routine or periodic relief of the primary caregiver or other unpaid caregiver.

"Routine supports" means supports that assist the individual with ADLs and IADLs, if appropriate.

"Safety supports" means specialized assistance that is required to ensure an individual's health and safety.

"Service authorization" means the process to approve specific services for an enrolled Medicaid individual by a DMAS service authorization designee prior to service delivery and reimbursement in order to validate that the service requested is medically necessary and meets DMAS requirements for

reimbursement. Service authorization does not guarantee payment for the service.

"Services facilitation" means a service that assists the individual or EOR, as appropriate, in arranging for, directing, and managing services provided through the consumer-directed model of service delivery.

"Services facilitator" means (i) a DMAS-enrolled provider, (ii) a DMAS-designated entity, or (iii) one who is employed by or contracts with a DMAS-enrolled services facilitator that is responsible for supporting the individual or EOR, as appropriate, by ensuring the development and monitoring of the plan for supports for consumer-directed services, providing employee management training, and completing ongoing review activities as required. "Services facilitator" shall be deemed to mean the same thing as "consumer-directed services facilitator."

"Shared living" means an arrangement in which a roommate resides in the same household as the individual receiving waiver services and provides an agreed-upon, limited amount of supports in exchange for which a portion of the total cost of rent, food, and utilities that can be reasonably attributed to the roommate is reimbursed to the individual.

"Skill building" means those supports that help the individual gain new skills and abilities and was previously called training.

"Skilled nursing services" means short-term nursing services (i) [ ~~ordered by a physician and~~ ] listed in the plan for supports that [ ~~do not meet home health criteria,~~ (ii) are ] not otherwise available under the State Plan for Medical Assistance, [ ~~(iii)~~ (ii) ] provided within the scope of § 54.1-3000 et seq. of the Code of Virginia and the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia), and [ ~~(iv)~~ (iii) ] provided by a registered nurse or by a licensed practical nurse under the supervision of a registered nurse who is licensed to practice in the state or who holds a multistate [ ~~licensing~~ licensure ] privilege. Skilled nursing services are to be used to train and provide consultation, using nurse delegation as appropriate, and oversight of direct staff [ ~~as appropriate~~ consistent with the Department of Health Professions requirements for delegation of tasks ].

"Slot" means an opening or vacancy in waiver services.

[ "SSI" means social security income provided by the U.S. Social Security Administration. ]

"Sponsored residential services" means residential services that consist of skill-building, routine supports, general supports, and safety supports provided in the homes of families or persons (sponsors) who provide supports for no more than two individuals under the supervision of a DBHDS-licensed provider that enable the individuals to acquire, retain, or improve the self-help, socialization, and adaptive skills necessary to live a self-directed life in the community.

"State Plan for Medical Assistance" or "Plan" means the Commonwealth's legal document approved by CMS identifying the covered groups, covered services and their limitations, and provider reimbursement methodologies as provided for under Title XIX of the Social Security Act.

"Support coordination/case management" means assessing and planning of services; linking the individual to services and supports identified in the individual support plan; assisting the individual directly for the purpose of locating, developing, or obtaining needed services and resources; coordinating services and service planning with other agencies and providers involved with the individual; enhancing community integration; making collateral contacts to promote the implementation of the individual support plan and community integration; monitoring the individual to assess ongoing progress and ensuring that authorized services are delivered; and educating and counseling the individual to guide him to develop supportive relationships that promote the individual support plan.

"Support coordinator" means the person who provides support coordination services to an individual in accordance with [ 12VAC30-50-455 12VAC30-50-440 and 12VAC30-50-490 ]. Formerly, this was referred to as case manager and may be either an employee of a CSB or of a private entity contracted with the local CSB.

"Supported living residential [ service ]" means a service taking place in [ ~~an apartment~~ a residential ] setting operated by a DBHDS-licensed provider [ of supervised living residential service or supportive in-home service ] that consists of skill-building, routine supports, general supports, and safety supports that enable the individual to acquire, retain, or improve self-help [ , socialization, and adaptive ] skills necessary to live a self-directed life in home and community settings.

"Supporting documentation" means any written or electronic materials used to record and verify the individual's support needs, services provided, and contacts made on behalf of the individual and may include, for example, the personal profile, individual support plan, providers' plans for supports, progress notes, reports, medical orders, contact logs, attendance logs, and assessments.

"Supports" means paid and nonpaid assistance that promotes the accomplishment of an individual's desired outcomes. There shall be four types of supports: (i) routine supports that assist the individual in ADLs and IADLs, if appropriate; (ii) skill building supports to help the individual gain new abilities; (iii) safety supports that are required to ensure the individual's health and safety; and (iv) general supports that provide general oversight.

"Supports Intensity Scale<sup>®</sup>" or "SIS<sup>®</sup>" means an assessment tool and form that is published by the American Association on Intellectual and Developmental Disabilities and

administered through a thorough interview process that measures and documents an individual's practical support requirements in personal, school-related or work-related, social, behavioral, and medical areas to suggest the types and intensity levels of the supports required by that individual to live a self-directed life in the community and to inform the discussion in the person-centered planning process.

"Therapeutic consultation" means professional consultation provided by members of psychology, social work, rehabilitation engineering, behavioral analysis, speech therapy, occupational therapy, psychiatry, psychiatric clinical nursing, therapeutic recreation, physical therapy, or behavior consultation disciplines that are designed to assist individuals, parents, family members, and any other providers of support services with implementing the individual support plan.

[ "Tiers of reimbursement" means four different rates of provider reimbursement associated with certain DD waiver services, which are tied to an individual's level of support need as determined by the Supports Intensity Scale<sup>®</sup>. ]

"Transition services" means the same as defined in 12VAC30-120-2010.

"VDSS" means the Virginia Department of Social Services.

[ "Virginia Individual Developmental Disabilities Eligibility Survey" or "VIDES" means the required level of care tool for demonstrating functional eligibility for the DD waivers. There are three types: adult, child, and infant.

"Workplace assistance service" means supports provided to an individual who has completed job development and completed or nearly completed job placement training but requires more than the typical job coach services, as in 12VAC30-122-400, to maintain stabilization in his employment. ]

### **12VAC30-122-30. Waiver populations; single waiver enrollment; waiver termination upon loss of eligibility.**

A. The waiver services set out in 12VAC30-122-240, 12VAC30-122-250, and 12VAC30-122-260 shall be provided for eligible individuals, including children, with a developmental disability (DD) as defined in § 37.2-100 of the Code of Virginia and who have been determined to require the level of care provided in an ICF/IID. These services can only be covered if required by the individual to avoid institutionalization. These services shall be appropriate and [ medically ] necessary to ensure community integration.

B. An individual shall not be simultaneously enrolled in more than one waiver. An individual who has a diagnosis of DD may be on the waiting list for one of the DD Waivers (FIS, CL, or BI) while simultaneously being enrolled in the Elderly or Disabled with Consumer Direction (EDCD) (12VAC30-120-900 et seq.) or the Technology Assisted (12VAC30-120-1700 et seq.) waivers if he meets applicable criteria for either.

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C. DMAS or its designee shall ensure only eligible individuals receive home and community-based waiver services and shall terminate the individual from the waiver and such services when the individual is no longer eligible for the waiver. Termination from the DD Waivers shall occur when, for example, (i) the individual's health, safety, and welfare and medical needs can no longer be safely met in the community; (ii) when the individual is no longer eligible for either Medicaid or no longer meets the ICF/IID level of care; or (iii) when the individual was eligible for one of the waivers and accepted a waiver slot but did not start services for five months.

## **12VAC30-122-40. Waiver services; when not authorized.**

A. The FIS, CL, and BI waiver services, collectively known as Developmental Disabilities (DD) Waivers, shall not be authorized or reimbursed by DMAS for an individual who resides outside of the physical boundaries of the Commonwealth.

B. Waiver services [ (with the exception of transition services) ] shall not be furnished to individuals who are inpatients of a hospital, nursing facility, ICF/IID, or inpatient rehabilitation facility. Individuals with DD who are inpatients of these facilities may receive [ service support ] coordination services as described in 12VAC30-50-440 [ or 12VAC30-50-490 ].

1. The support coordinator may recommend waiver services that would promote the individual's exiting from an institutional placement.

2. However, the FIS, CL, or BI waiver services shall not be provided until the individual has exited the institution and has been enrolled in the waiver.

C. DMAS shall not reimburse providers for the costs of room and board [ attributed to the member ], education, services covered by other payers, or participation in social or recreational activities.

## **12VAC30-122-45. Waiver slot allocation process.**

A. When the General Assembly has approved less than 40 slots for a given waiver, the available slots will be allocated by DBHDS to regions or sub-regions of the state for distribution to the individuals in that region or sub-region who are determined to have the most urgent needs. If there are BI slots to be allocated, the BI slots will be allocated by region.

B. When at least 40 new waiver slots are funded by the General Assembly, one slot will be allocated by DBHDS to each CSB. Additional slots up to the total number of available slots for a given waiver will be allocated by DBHDS to CSBs for individuals living within that CSB's catchment area based upon the following objective factors and criteria:

1. The region's population;

2. The percentage of Medicaid eligible individuals in the catchment area; and

3. Each CSB's percentage of individuals on the "Priority One" portion of the statewide waiting list.

## **12VAC30-122-50. Criteria for all individuals seeking Developmental Disability Waivers services.**

The following [ ~~four~~ three ] criteria shall apply to all individuals who seek DD Waivers services:

1. The need for DD Waivers services shall arise from an individual having a diagnosed condition of developmental disability as defined in § 37.2-100 of the Code of Virginia. [ ~~Individuals qualifying for the DD Waivers services shall have a demonstrated need for the covered services due to significant functional limitations in major life activities, as demonstrated on their Virginia Individual Developmental Disabilities Eligibility Survey (VIDES) forms, and shall be at risk of institutionalization.~~ ]

2. Individuals qualifying for the DD Waivers services shall meet the level-of-care provided in an ICF/IID [ as set forth in the VIDES ] and shall demonstrate this need at least annually consistent with 42 CFR 441.302. [ ~~3. The results of an individual's Virginia Individual Developmental Disabilities Eligibility Survey (VIDES) determination shall be one element in determining if the individual qualifies for the DD Waivers (either in the FIS, CL, or BI waiver). This is demonstrated by having significant functional limitations in major life activities as documented on their VIDES forms.~~ ] The [ ~~Commonwealth shall use~~ ] VIDES forms [ shall be ] conducted in person [ ~~and~~, unless the individual to be screened resides out of state, ] by a qualified support coordinator to establish [ if the individual meets ] the level of care required for [ ~~its~~ the ] DD Waivers.

a. VIDES for infants shall be used for the evaluation of individuals who are younger than three years of age (DMAS-P235).

b. VIDES for children shall be used for the evaluation of individuals who are three years of age through 17 years of age (DMAS-P-236).

c. VIDES for adults shall be used for the evaluation of individuals who are 18 years of age and older (DMAS-P237).

[ ~~4. The~~ 3. Once assigned a waiver slot, the ] individual shall meet the financial eligibility criteria set out in 12VAC30-122-60.

[ ~~5. 4.~~ Individuals shall indicate their willingness to accept waiver services within 30 days of slot assignment. ]

## **12VAC30-122-60. Financial eligibility standards for individuals.**

A. Individuals receiving services under the Family and Individual Supports (FIS) Waiver, Community Living (CL) Waiver, and Building Independence (BI) Waiver, which are collectively known as the DD Waivers, shall meet the following Medicaid eligibility requirements. The

Commonwealth shall apply the financial eligibility criteria contained in the State Plan for Medical Assistance for the categorically needy and in 12VAC30-30-10 and 12VAC30-40-10. The Commonwealth covers the optional categorically needy groups under 42 CFR 435.211, 42 CFR 435.217, and 42 CFR 435.230.

#### B. Patient pay methodology.

1. The income level used for 42 CFR 435.211, 42 CFR 435.217, and 42 CFR 435.230 shall be 300% of the current supplemental security income (SSI) payment standard for one person.

2. Under the DD Waivers, the coverage groups authorized under § 1902(a)(10)(A)(ii)(VI) of the Social Security Act shall be considered as if they were institutionalized for the purpose of applying institutional deeming rules. All individuals under the waivers shall meet the financial and nonfinancial Medicaid eligibility criteria and meet the institutional level-of-care criteria for an ICF/IID. The deeming rules shall be applied to waiver eligible individuals as if the individuals were residing in an ICF/IID or would require that level of care.

3. The Commonwealth shall reduce its payment for home and community-based waiver services provided to an individual who is eligible for Medicaid services under 42 CFR 435.217 by that amount of the individual's total income, including amounts disregarded in determining eligibility, that remains after allowable deductions for personal maintenance needs, other dependents, and medical needs have been made according to the guidelines in 42 CFR 435.735 and § 1915(c)(3) of the Social Security Act as amended by the Consolidated Omnibus Budget Reconciliation Act of 1986 (42 USC § 1395ww). DMAS shall reduce its payment for home and community-based waiver services by the amount that remains after the deductions listed in this subdivision:

a. For individuals to whom § 1924(d) of the Social Security Act applies and for whom the Commonwealth waives the requirement for comparability pursuant to § 1902(a)(10)(B), DMAS shall deduct the following in the respective order:

(1) The basic maintenance needs for an individual under the DD Waivers, which shall be equal to 165% of the SSI payment for one person. Due to expenses of employment, a working individual shall have an additional income allowance. For an individual employed 20 hours or more per week, earned income shall be disregarded up to a maximum of both earned and unearned income up to 300% of SSI; for an individual employed [ ~~at least eight but~~ ] less than 20 hours per week, earned income shall be disregarded up to a maximum of both earned and unearned income up to 200% of SSI. If the individual requires a guardian or conservator who charges a fee, the fee, not to exceed an amount greater than 5.0% of the individual's

total monthly income, shall be added to the maintenance needs allowance. However, in no case shall the total amount of the maintenance needs allowance (basic allowance plus earned income allowance plus guardianship fees) for the individual exceed 300% of SSI.

(2) For an individual with only a spouse at home, the community spousal income allowance determined in accordance with § 1924(d) of the Social Security Act.

(3) For an individual with a family at home, an additional amount for the maintenance needs of the family determined in accordance with § 1924(d) of the Social Security Act.

(4) Amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party including Medicare and other health insurance premiums, deductibles, or coinsurance charges, and necessary medical or remedial care recognized under state law but not covered under the State Plan for Medical Assistance.

b. For individuals to whom § 1924(d) does not apply and for whom the Commonwealth waives the requirement for comparability pursuant to § 1902(a)(10)(B), DMAS shall deduct the following in the respective order:

(1) The basic maintenance needs for an individual under the DD Waivers, which is equal to 165% of the SSI payment for one person. Due to expenses of employment, a working individual shall have an additional income allowance. For an individual employed 20 hours or more per week, earned income shall be disregarded up to a maximum of both earned and unearned income up to 300% of SSI; for an individual employed [ ~~at least eight but~~ ] less than 20 hours per week, earned income shall be disregarded up to a maximum of both earned and unearned income up to 200% of SSI. If the individual requires a guardian or conservator who charges a fee, the fee, not to exceed an amount greater than 5.0% of the individual's total monthly income, shall be added to the maintenance needs allowance. However, in no case shall the total amount of the maintenance needs allowance (basic allowance plus earned income allowance plus guardianship fees) for the individual exceed 300% of SSI.

(2) For an individual with a dependent child, an additional amount for the maintenance needs of the child, which shall be equal to the Title XIX medically needy income standard based on the number of dependent children.

(3) Amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party including Medicare and other health insurance premiums, deductibles, or coinsurance charges, and necessary medical or remedial care recognized under state law but not covered under the State Plan for Medical Assistance.

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## **12VAC30-122-70. Assessment and enrollment; Virginia Individual Developmental Disabilities Eligibility Survey.**

A. Home and community-based waiver services shall be considered only for individuals eligible for admission to an ICF/IID due to the individuals' diagnoses of developmental disabilities and documented functional support needs. For the support coordinator to make a recommendation for the DD Waivers services, the services shall be determined to be an appropriate service alternative to delay or avoid placement in an ICF/IID or to promote exiting from an ICF/IID or other institutional placement provided that a viable discharge plan that preserves the individual's health, safety, and welfare in the community has been developed.

B. The support coordinator shall confirm diagnostic and functional eligibility for individuals with input from the individual and the individual's family/caregiver, as appropriate, and service or support providers involved in the individual's support prior to DMAS assuming payment responsibility for covered home and community-based waiver services. This confirmation shall be accomplished through the completion of the following:

1. A psychological or other evaluation of the individual that affirms that the individual meets the diagnostic criteria for developmental disability as defined in § 37.2-100 of the Code of Virginia; and

2. The required level-of-care determination through the Virginia [ ~~Intellectual~~ Individual ] Developmental Disabilities Eligibility Survey (VIDES) appropriate to the individual according to his age, completed no more than six months prior to waiver enrollment.

C. To receive waiver services, the individual shall be found to be eligible for Medicaid pursuant to 12VAC30-122-60.

D. The individual who has been found to be eligible for these services consistent with subsections A [ ~~;~~ and ] B [ ~~;~~ and ~~C~~ ] in this section shall be given by the support coordinator his choice of either institutional placement or receipt of home and community-based waiver services.

E. If the individual chooses home and community-based waiver services and an ISP that ensures the individual's safety can be developed, then the support coordinator shall recommend the individual for home and community-based waiver services.

F. [ ~~If~~ Consistent with 12VAC30-122-90 E, if ] the individual selects waiver services and a slot is available, then the support coordinator shall enroll the individual in the waiver. The CSB or BHA shall only enroll the individual following electronic confirmation by DBHDS that a slot is available.

G. If no slot is available, the support coordinator shall place the individual on the DD Waivers waiting list consistent with criteria established for the DD Waivers in 12VAC30-122-90 until such time as a slot becomes available. Once the

individual's name has been placed on the DD Waivers waiting list, the support coordinator shall (i) notify the individual in writing within 10 business days of his placement on the DD Waivers waiting list and his assigned prioritization level, as set out in 12VAC30-122-90, and (ii) offer appeal rights pursuant to 12VAC30-110.

H. There shall be documentation of contact with the individual at least annually while the individual is on the waiting list to provide the choice between institutional placement and waiver services consistent with the requirements of 12VAC30-50-440 or 12VAC30-50-490, as applicable.

[ I. Every place in this chapter that requires physician action, DMAS permits nurse practitioners to perform those tasks in accordance with § 54.1-2957 of the Code of Virginia. ]

## **12VAC30-122-80. Waiver approval process; authorizing and accessing services.**

A. The support coordinator [ ~~shall electronically submit enrollment information to DBHDS to confirm level of care eligibility once he has determined (i) an individual meets the functional criteria for FIS, CL, or BI waiver services, (ii) that a slot is available, and (iii) the individual has chosen waiver services~~ is notified that a slot is available when the regional supports specialist (RSS) moves the individual to projected enrollment status in the Virginia Waiver Management System (WaMS). The support coordinator shall notify the individual and family/caregiver of slot availability and available services within the offered waiver within seven calendar days of the waiver slot assignment date.

B. The individual/caregiver will confirm acceptance or declination of the slot within 15 calendar days of notification of slot availability.

C. The individual and the individual's family/caregiver, as appropriate, shall meet with the support coordinator within 30 calendar days of the waiver assignment date to (i) discuss the individual's assessed needs, existing supports, and individual preferences; (ii) discuss obtaining a medical examination, which shall have been completed no earlier than 12 months prior to the initiation of waiver services; (iii) begin to develop the personal profile; and (iv) discuss the completion of the assessment as required by 12VAC30-122-200.

D. Prior to or at the meeting to discuss the individual's assessed needs, the support coordinator shall provide the individual with a choice of services identified as needed and available in the assigned waiver, providers, and settings alternatives ].

[ ~~B. Once the individual has been notified of an available waiver slot~~ E. After the individual has accepted the waiver slot offered ] by the CSB or BHA, the support coordinator shall submit a DMAS-225 (Medicaid Long-Term Care Communication Form) along with a computer-generated

confirmation of level-of-care eligibility to the local department of social services to determine financial eligibility for Medicaid and the waiver and any patient pay responsibilities. The DMAS-225 is the form used by the support coordinator to report information about patient pay amount changes in an individual's situation.

[ ~~C. F.~~ ] After the support coordinator has received written notification of Medicaid eligibility from the local department of social services, the support coordinator shall inform the individual, submit information to DMAS or its designee to enroll the individual in the waiver, and develop the person-centered individual support plan (ISP).

[ ~~1. The individual and the individual's family/caregiver, as appropriate, shall meet with the support coordinator within 30 calendar days of the waiver enrollment date to (i) discuss the individual's assessed needs, existing supports, and individual preferences and then obtain a medical examination, which shall have been completed no earlier than 12 months prior to the initiation of waiver services; (ii) begin to develop the personal profile; and (iii) schedule the completion of the assessment as required by 12VAC30-122-200.~~

~~2. The support coordinator shall provide the individual with a choice of services identified as needed and available in the assigned waiver, alternative settings, and providers. ]~~

[ ~~G.~~ ] Once the providers are chosen, a planning meeting shall be held by the support coordinator to develop the ISP based on the individual's assessed needs, the individual's preferences, and the individual's family/caregiver preferences, as appropriate.

[ ~~3. H.~~ ] Persons invited by the support coordinator to participate in the person-centered planning meeting may include the individual, providers, and others as desired by the individual. During the person-centered planning meeting, the services to be rendered to the individual, the frequency of services, the type of provider, and a description of the services to be offered are identified and included in the ISP. At a minimum, the individual enrolled in the waiver, [ ~~or~~ and ] the family/caregiver as appropriate, and support coordinator shall sign and date the ISP.

[ ~~4. I.~~ ] The individual, family/caregiver, or support coordinator shall contact chosen providers so that services can be initiated within 30 calendar days of [ ~~receipt of written confirmation of waiver~~ the support coordinator moving the individual to active ] enrollment [ status in WaMS or confirmation of Medicaid eligibility whichever comes last ]. If the services are not initiated by the provider within 30 days, the support coordinator shall notify the local department of social services so that reevaluation of the individual's financial eligibility can be made.

[ ~~5. In the case of an individual being referred back to a local department of social services for a redetermination of~~

~~eligibility and to retain the designated slot, the support coordinator shall, at the same time as submission of notification to the local department of social services, electronically submit information to DBHDS requesting retention of the designated slot pending the initiation of services J. In the event services are not initiated within 30 calendar days and the individual wishes to retain the waiver slot, the support coordinator will electronically submit a request in WaMS to retain the designated slot pending the initiation of services ].~~

[ ~~a. 1.~~ ] A copy of the request shall be provided to the individual and the individual's family/caregiver, as appropriate.

[ ~~b. 2.~~ After receipt and approval of the first request to retain the slot, ] DBHDS shall have the authority to approve the slot-retention request in 30-day extensions, up to a maximum of four consecutive extensions, or deny such request to retain the waiver slot for the individual when at the end of [ ~~this each~~ ] extension time period there is no evidence of the individual's efforts to utilize waiver services. All written denial notifications to the individual, and family/caregiver, as appropriate, shall be accompanied by the standard appeal rights (12VAC30-110).

[ ~~c. 3.~~ ] DBHDS shall provide an electronic response to the support coordinator indicating denial or approval of the slot extension request [ ~~. DBHDS shall submit this response to the support coordinator~~ ] within 10 working days of the receipt of the request for extension.

[ ~~d. 4.~~ ] The support coordinator shall notify the individual in writing of any denial of the slot extension request and the individual's right to appeal.

[ ~~6. K.~~ ] The providers, in conjunction with the individual and the individual's family/caregiver, as appropriate, and the support coordinator shall develop a plan for supports for each service.

[ ~~a. 1.~~ ] Each provider shall submit a copy of his plan for supports to the support coordinator. The plan for supports from each provider shall be incorporated into the ISP. The ISP shall also contain [ ~~the identified risks and~~ ] the steps for mitigating any identified risks.

[ ~~b. 2.~~ ] The support coordinator shall review and ensure the provider-specific plan for supports meets the established service criteria for the identified needs prior to electronically submitting the plan for supports along with the results of the comprehensive assessment and a recommendation for the final determination of the need for ICF/IID level of care to DMAS or its designee for service authorization. "Comprehensive assessment" means the gathering of relevant social, psychological, medical, and level of care information by the support coordinator that are used as bases for the development of the individual support plan.



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[ ~~e~~. 3. ] DMAS or its designee shall, within 10 working days of receiving all supporting documentation, review and approve, suspend for more information, or deny the individual service requests. DMAS or its designee shall communicate electronically to the support coordinator whether the recommended services have been approved and the amounts and types of services authorized or if any services have been denied.

[ ~~d~~. 4. ] Only waiver services authorized on the ISP by the state-designated agency or its designee shall be reimbursed by DMAS.

[ ~~7~~. L. ] DMAS shall not pay for any home and community-based waiver services delivered prior to the authorization date approved by DMAS or its designee if service authorization is required.

[ ~~8~~. M. ] Waiver services shall be approved and authorized by DMAS or its designee only if:

[ ~~a~~. 1. ] The individual is Medicaid eligible as determined by the local department of social services;

[ ~~b~~. 2. ] The individual has a diagnosis of developmental disability, as defined by § 37.2-100 of the Code of Virginia, and would, in the absence of waiver services, require the level of care provided in an ICF/IID that would be reimbursed under the State Plan for Medical Assistance;

[ ~~e~~. 3. ] The individual's ISP can be safely rendered in the community; and

[ ~~d~~. 4. ] The contents of providers' plans for supports are consistent with the ISP requirements, limitation, units, and documentation requirements of each service.

## **12VAC30-122-90. Waiting list; criteria; slot assignment; emergency access; reserve slots.**

A. There shall be a current and accurate statewide waiting list, called the DD Waivers waiting list, for the DD Waivers. This waiting list shall be created and maintained by DBHDS, which shall update it no less than annually.

B. Individuals on this waiting list shall have (i) a diagnosis of developmental disability pursuant to § 37.2-100 of the Code of Virginia, (ii) a completed VIDES form, and (iii) a priority designation consistent with subsection [ ~~C~~ D ] of this section.

C. [ Individuals who accompany parents or guardians deployed overseas for active duty U.S. military or Foreign Service assignment but retain Virginia residency shall remain on the statewide DD Waivers waiting list and be considered for DD Waivers slot assignment when they are within three months of returning to Virginia. ]

D. ] To be placed in one of the following prioritization levels, the support coordinator shall determine through inquiry of the individual and family/caregiver, as appropriate, and consideration of the information reflected in the individual's

diagnosis and VIDES form, which [ priority ] category the individual meets. The individual shall be placed in the prioritization level that best describes his need for waiver services by meeting at least one criterion in the category:

1. Priority One shall include individuals who require a waiver service within one year and are determined to meet at least one of the following criteria:

a. An immediate jeopardy exists to the health and safety of the individual due to the unpaid primary caregiver having a chronic or long-term physical or psychiatric condition that currently significantly limits the ability of the primary caregiver to care for the individual; [ or ] there are no other unpaid caregivers available to provide supports;

b. There is immediate risk to the health or safety of the individual, primary caregiver, or other person living in the home due to either of the following conditions:

(1) The individual's behavior, presenting a risk to himself or others, cannot be effectively managed [ ~~by the primary caregiver or unpaid provider~~ ] even with support coordinator-arranged generic or specialized supports; or

(2) There are physical care needs or medical needs that cannot be managed [ ~~by the primary caregiver~~ ] even with support coordinator-arranged generic or specialized supports;

c. The individual lives in an institutional setting and has a viable discharge plan; or

d. The individual is a young adult who is no longer eligible for IDEA services and [ ~~is transitioning to independent living~~ ] has expressed a desire to live independently ]. After individuals attain 27 years of age, this criterion shall no longer apply.

2. Priority Two shall include individuals who will need a waiver service in one to five years and are determined to meet at least one of the following criteria:

a. The health and safety of the individual is likely to be in future jeopardy due to:

(1) The unpaid primary caregiver having a declining chronic or long-term physical or psychiatric condition that currently significantly limits his ability to care for the individual;

(2) There are currently no other unpaid caregivers available to provide supports; [ ~~and~~ or ]

(3) The individual's skills are declining as a result of lack of supports;

b. The individual is at risk of losing employment supports;

c. The individual is at risk of losing current housing due to a lack of adequate supports and services; or

d. The individual has needs or desired outcomes that with adequate supports will result in a significantly improved quality of life.

3. Priority Three shall include individuals who will need a waiver slot in five years or longer as long as the current supports and services remain and have been determined to meet at least one of the following criteria:

- a. The individual is receiving a service through another funding source that meets current needs;
- b. The individual is not currently receiving a service but is likely to need a service in five or more years; or
- c. The individual has needs or desired outcomes that with adequate supports will result in a significantly improved quality of life.

~~[ D. Individuals and family/caregivers shall have the right to appeal the application of the prioritization criteria, emergency criteria, or reserve criteria to their circumstances pursuant to 12VAC30-110. All notifications of appeal shall be submitted to DMAS. ]~~

E. Waiver slots shall be assigned subject to available funding.

1. A Waiver Slot Assignment Committee (WSAC) is the impartial body of trained volunteers established for each locality or region with responsibility for recommending individuals eligible for a waiver slot according to their urgency of need. All WSACs shall be composed of community members who shall not be employees of a CSB or a private provider of either support coordination or waiver services and shall be knowledgeable and have experience in the developmental disabilities service system.

2. For FIS and CL waiver slots, individuals who are in the Priority One category who are determined to be most in need of supports at the time a slot is available shall be reviewed by an independent WSAC for the area in which the slot is available. [ The determination of which individuals in Priority One are to be reviewed by the WSAC is accomplished through completion by the support coordinator of the Critical Needs Summary-Step 1 Review Form (CNS), which assigns numeric ratings to various circumstances that are deemed to affect urgency of need. A Slot Assignment Review Form (SARF), also completed by the support coordinator, is given to the WSAC members for each individual in the review pool in order to provide the committee with information about the individuals' needs, current services, and DD Waiver services that would best meet their needs.

3. ] The individual who has the highest need as designated by the committee shall be recommended for the available waiver slot. DBHDS shall make the final determination for slot assignment [and to the most appropriate waiver to address the assessed needs of the individual. FIS slots will be offered unless the individual demonstrates an immediate need for sponsored residential, group home residential, or support living which are only offered in the CL waiver ].

3. For BI waiver slots, each of five regional WSACs composed of one representative from each existing WSAC

within the region shall make assignment recommendations for BI waiver slots. If the number of individuals interested in a BI waiver slot with Priority One status for all CSBs in a region is less than the number of available slots, those individuals are assigned a slot without a regional WSAC session occurring. A regional WSAC session will then be held for the remainder of available slots, reviewing those individuals meeting criteria for Priority Two and then Priority Three.

F. If the individual determines at any time that he no longer wishes to be on the DD Waiver waiting list, he may contact his support coordinator to request removal from the waiting list. The support coordinator shall notify DBHDS so that the individual's name can be removed from the waiting list.

G. Eligibility criteria for emergency access to either the FIS, CL, or BI waiver.

1. Subject to available funding of waiver slots and a finding of eligibility under 12VAC30-122-50 and 12VAC30-122-60, individuals shall meet at least one of the emergency criteria of this subdivision to be eligible for immediate access to waiver services without consideration to the length of time they have been waiting to access services. The criteria shall be one of the following:

a. Child protective services has substantiated abuse or neglect against the primary caregiver and has removed the individual from the home; or for adults where (i) adult protective services has found that the individual needs and accepts protective services or (ii) abuse or neglect has not been founded, but corroborating information from other sources (agencies) indicate that there is an inherent risk present and there are no other caregivers available to provide support services to the individual.

b. Death of primary caregiver or lack of alternative caregiver coupled with the individual's inability to care for himself and endangerment to self or others without supports.

[ c. An individual who transitioned from one of the DD Waivers to the Medicaid Works program who chooses to resume DD Waiver services. ]

2. Requests for emergency slots shall be forwarded by the CSB or BHA to DBHDS.

a. Emergency slots may be assigned by DBHDS to individuals until the total number of available emergency slots statewide reaches 10% of the emergency slots funded for a given fiscal year, or a minimum of three slots. At that point, the next nonemergency waiver slot that becomes available at the CSB or BHA in receipt of an emergency slot shall be reassigned to the emergency slot pool to ensure emergency slots remain to be assigned to future emergencies within the Commonwealth's fiscal year.

b. Emergency slots shall also be set aside for those individuals [ not previously identified but newly known as

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~~needing supports resulting from an emergent situation meeting eligibility criteria and not on the DD Waivers waiting list but newly identified as meeting all eligibility criteria and in need of supports resulting from an emergent situation described in subdivision 1 of this subsection ]~~.

## H. Reserve slots and the reserve waiting list.

1. Reserve slots may be used for transitioning an individual who, due to (i) [ a ] documented [ ~~changes~~ change ] in his [ assessed ] support needs [ , which requires a service that is not available in the DD Waiver in which the individual is presently enrolled ] or (ii) a preference for supports found in a waiver with a less comprehensive array of supports, requires [ ~~or~~ and ] requests a move from the DD Waiver in which he is presently enrolled into another of the DD Waivers to access necessary services.

a. An individual who needs to transition between the DD Waivers shall not be placed on the DD Waivers waiting list.

~~[ b. A documented change in an individual's assessed needs, which requires a service that is not available in the DD Waivers in which the individual is presently enrolled, shall exist for an individual to be considered for a reserve slot.~~

e. b. ] CSBs or BHAs shall document and notify DBHDS in writing when an individual meets the criteria in subdivision 1 b of this subsection within three business days of knowledge of need. The assignment of reserve slots shall be managed by DBHDS, which will maintain a chronological list of individuals in need of a reserve slot in the event that the reserve slot supply is exhausted. Within three business days of adding an individual's name to the reserve slot list, DBHDS shall advise the individual in writing that his name is on the reserve slot list and his chronological placement on the list.

[ ~~d. c. ] Within three business days of receiving a request from an individual for a status update regarding his placement on the list, DBHDS shall advise the individual of his current chronological list number.~~

2. When a reserve slot becomes available and an individual is identified from the chronological list to access the slot, the support coordinator will assure to DBHDS that the service that warranted the transfer to the new waiver (e.g., group home residential) is (i) identified and (ii) a targeted date of service initiation is in place prior to the reserve slot assignment to the new waiver.

3. When an individual transitions to a new DD waiver using a reserve slot, the waiver slot vacated by that individual shall be offered to the next individual in that CSB's chronological queue for a reserve slot by DBHDS. If the individual chooses to accept the slot, DBHDS will assign in accordance with subdivision 2 of this subsection. [ The individual receiving that slot must initiate services with the service that made him

eligible for the reserve waiting list within 60 calendar days. If he is unable to initiate those services, he will remain in the slot he currently occupies and may remain on the reserve slot waiting list until another slot becomes available.

4. ] If there is not an individual in that CSB's chronological queue for a reserve slot, the vacated slot will be assigned to an individual on the statewide waiting list who resides in the CSB's or BHA's catchment area by DBHDS after review and recommendations from the local WSAC.

[ ~~4. 5. ] When a slot is vacated in one of the DD Waivers (e.g., due to the death of an individual), the slot shall be assigned to the next individual in that CSB's chronological queue for a reserve slot in accordance with the procedures outlined in subdivision 3 of this subsection.~~

[ I. Individuals and family/caregivers shall have the right to appeal the application of the prioritization criteria, emergency criteria, or reserve criteria to their circumstances pursuant to 12VAC30-110. All notifications of appeal shall be submitted to DMAS. ]

## **12VAC30-122-100. Modifications to or termination of services.**

A. DMAS or its designee shall have the authority to approve modifications to an individual's ISP, based on the recommendations of the support [ ~~coordination~~ provider coordinator ].

B. The provider shall be responsible for modifying an individual's plan for supports, with the involvement of the individual enrolled in the waiver and the individual's family/caregiver, as appropriate, and submitting such revised plan for supports to the support coordinator any time there is a modification in the individual's condition or circumstances that may warrant a change in the amount or type of service rendered by the provider.

1. The support coordinator shall review the need for a modification and may recommend a modification to the plan for supports to DBHDS. If the support coordinator does not recommend a modification to the plan for supports and that results in the denial of the requested service, the support coordinator shall inform the individual of his right to appeal.

2. DBHDS shall approve, deny, or pend for additional information the provider's requested modification to the individual's plan for supports as recommended by the support coordinator. DBHDS shall communicate its determination to the support coordinator within 10 business days of receiving all supporting documentation regarding the request for modification or in the case of an emergency, within three business days of receipt of the request for modification.

3. The individual enrolled in the waiver and the individual's family/caregiver, as appropriate, shall be notified in writing by the support coordinator of his right to appeal, pursuant to

DMAS client appeals regulations (12VAC30-110), all decisions to reduce, [ suspend, ] deny, or terminate services. The support coordinator shall submit this written notification to the individual enrolled in the waiver or the family/caregiver, as appropriate, within 10 business days of the decision. Once the individual or family/caregiver receives the written notification, the clock for filing an appeal, as set forth in the DMAS client appeals regulations, shall begin to run.

C. In an emergency situation when the health, safety, or welfare of the individual enrolled in the waiver, other individuals in that setting, or provider personnel are endangered, the support coordinator and DBHDS shall be notified by the provider prior to discontinuing services. The 10-business-day prior written notification period shall not be required. The local department of social services adult protective services unit or child protective services unit, as appropriate, and the DBHDS Offices of Licensing and Human Rights and DMAS shall be notified immediately of the emergency discontinuation of services by the support coordinator and the provider when the individual's health, safety, or welfare may be in danger.

D. In a nonemergency situation, when a provider determines that his provision of supports to an individual enrolled in the waiver will be discontinued, the provider shall give the individual and the individual's family/caregiver, as appropriate, and support coordinator written notification of the provider's intent to discontinue services. The notification letter shall provide the reasons for the planned discontinuation and the effective date the provider will be discontinuing services. The effective date of the service discontinuation shall be at least 10 business days after the date of the notification letter. The individual enrolled in the waiver may seek services from another enrolled provider. When an individual is transitioning to a different provider, the former provider that served [ said the ] individual shall, at the request of the [ new ] provider, provide all medical records and documentation of services to the new provider [ (consistent with confidentiality requirements, including the Health Insurance Portability and Accountability Act and 12VAC35-115, Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services) ] to ensure high quality continuity of care and service provision.

E. To discontinue services in both emergency and nonemergency situations, providers of group home residential services, supported living residential services, and sponsored residential services shall comply with the terms set forth in an individual's home and community-based settings residency or lease agreement as described in 42 CFR 441.301.

F. [ Support coordinators must inform DBHDS when an individual transitions from one of the DD Waivers to the Medicaid Works program. Such individuals may retain their

DD Waiver slot for 180 days after the date of transition, although DD Waiver services must be closed. After the 150-day period, DBHDS will notify the support coordinator of the need to take action to terminate the slot. The support coordinator will notify the individual and family/caregiver, as appropriate, of this determination and the right to appeal, pursuant to 12VAC30-110, such termination in advance of the action.

G. ] The support coordinator shall have the responsibility to identify those individuals who no longer meet the level of functioning criteria [ (VIDES) ] or for whom home and community-based waiver services are no longer an appropriate alternative. In such situations, DMAS or its designee shall terminate such individuals from the waiver.

1. The support coordinator shall notify the individual and family/caregiver, as appropriate, of this determination and the right to appeal, pursuant to 12VAC30-110, such termination.

2. The individual shall be given the option to continue his waiver services pending the final outcome of his appeal. Should the outcome of the appeal confirm the determination by DMAS or its designee that the individual should be terminated from the waiver, the individual [ shall may ] be responsible for the costs of his waiver services incurred by DMAS during his appeal [ as required by 12VAC 30-110-100 ].

#### **12VAC30-122-110. Waiver provider enrollment.**

DMAS or its designee shall be responsible for assuring continued adherence to provider participation standards. DMAS or its designee shall conduct ongoing monitoring of compliance with provider participation standards and applicable laws [ and, ] regulations [ , and DMAS policies ]. A provider's noncompliance with applicable federal and state Medicaid laws [ and, ] regulations, [ and DMAS policies ] as required in the provider's participation agreement, may result in termination of the provider participation agreement. For DMAS to approve enrollment of a provider for home and community-based waiver services, the following standards shall be met:

1. Licensure or certification requirements, or both as applicable, for services that have licensure or certification requirements;

2. Disclosure of ownership pursuant to 42 CFR 455.104, 42 CFR 455.105, and 42 CFR 455.106; and

3. The ability to document and maintain individual records in accordance with federal and state requirements.

#### **12VAC30-122-120. Provider requirements.**

A. Providers approved for participation shall at a minimum perform the following activities:

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1. On a monthly basis, screen and document the names of all new and existing employees and contractors to determine whether any are excluded from eligibility for payment from federal health care programs, including Medicaid (i.e., via the U.S. Department of Health and Human Services Office of Inspector General List of Excluded Individuals and Entities (LEIE) website). Immediately upon learning of an exclusion, report in writing to DMAS such exclusion information to: DMAS, ATTN: Program Integrity/Exclusions, 600 East Broad Street, Suite 1300, Richmond, VA 23219 or email to [providerexclusion@dmass.virginia.gov](mailto:providerexclusion@dmass.virginia.gov).

2. Immediately notify DMAS in writing of any change in the information that the provider previously submitted for the purpose of the provider agreement to DMAS.

3. Assure the individual's freedom to refuse medical care, treatment, and services and document that potential adverse outcomes that may result from refusal of services were discussed with the individual.

4. Accept referrals for services only when staff is available to initiate services within 30 calendar days of the referral and perform such services on an ongoing basis.

5. [ Accept training on Crisis Education and Prevention Plans (CEPPs) by DBHDS, or its contractor, based on individual needs.

6. Participate in the completion of Quality Service Reviews conducted by DBHDS or its contractor. ]

7. ] Provide medically necessary services and [ supplies supports ] for individuals in accordance with the ISP and in full compliance with 42 CFR 441.301, which provides for person-centered planning and other requirements for home and community-based settings including the additional requirements for provider-owned and controlled residential settings; Title VI of the Civil Rights Act of 1964, as amended (42 USC § 2000d et seq.), which prohibits discrimination on the grounds of race, color, or national origin; the Virginians with Disabilities Act (Title 51.5 (§ 51.5-1 et seq.) of the Code of Virginia); § 504 of the Rehabilitation Act of 1973, as amended (29 USC § 794), which prohibits discrimination on the basis of a disability; and the Americans with Disabilities Act, as amended (42 USC § 12101 et seq.) [ ~~which provides comprehensive civil rights protections to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications~~ ].

[ ~~6. 8.] Provide services and [ supplies supports ] to individuals of the same quality and in the same mode of delivery as provided to the general public.~~

[ ~~7.9.] In addition to compliance with the general conditions and requirements, all providers enrolled by DMAS shall adhere to the requirements outlined in federal and state laws,~~

regulations, DMAS provider manuals, and their individual provider participation agreements.

[ ~~8. 10.] Submit reimbursement claims to DMAS for the provision of covered services and supplies for individuals in amounts not to exceed the provider's usual and customary charges to the general public and accept as payment in full the amount established by the DMAS payment methodology from the individual's authorization date for that waiver service.~~

[ ~~9. 11.] Use program-designated billing forms for submission of claims for reimbursement.~~

[ ~~10. 12.] Maintain and retain business records (e.g., licensing or certification records as appropriate) and professional records (e.g., staff training and criminal record check documentation). All providers, including services facilitation providers, shall also document fully and accurately the nature, scope, and details of the services provided to support claims for reimbursement. Provider documentation that fails to fully and accurately document the nature, scope, and details of the services provided may be subject to recovery actions by DMAS or its designee. Provider documentation responsibilities include the following:~~

a. Retain records for at least six years from the last date of service or as provided by applicable state and federal laws, whichever period is longer. Records of minors shall be kept for at least six years after such minor has reached the age of 18 years.

b. If an audit is initiated of the provider's records within the required retention period, the records shall be retained until the audit is completed and every exception resolved. No business or professional records that are subject to the audit shall be created or modified by providers, employees, or any other interested parties, either with or without the provider's knowledge, once an audit has been initiated.

c. Policies regarding retention of records shall apply even if the provider discontinues operation. Providers shall notify DMAS in writing of storage, location, and procedures for obtaining records for review should the need arise. The location, agent, or trustee of the provider's records shall be within the Commonwealth of Virginia.

[ d. Providers shall develop a plan for supports that shall include at a minimum for each individual enrolled in one of the three DD Waivers:

(1) The individual's desired outcomes that describe what is important to and for the individual in observable terms;

(2) Support activities and support instructions that are inclusive of skill-building as may be required by the service provided and that are designed to assist in achieving the individual's desired outcomes;

(3) The services to be rendered and the schedule for such services to accomplish the desired outcomes and support activities, a timetable for the accomplishment of the individual's desired outcomes and support activities, the estimated duration of the individual's need for services, and the provider staff responsible for overall coordination and integration of the services specified in the plan for supports; and

(4) Documentation regarding any restrictions on the freedoms of everyday life in accordance with 12VAC35-115, Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services and the requirements of 42 CFR 441.301. ]

[ ~~d. e.~~ ] Providers shall prepare and maintain unique person-centered [ ~~progress note~~ ] written documentation [ in the form of progress notes or supports checklist as defined by the service. These shall be ] in each individual's [ ~~medical~~ ] record about the individual's responses to [ ~~services and rendered~~ ] supports [ and specific circumstances that prevented provision of the scheduled service, should that occur ]. Such documentation shall be provided to DMAS or its designee upon request. Such documentation shall be written [ , signed, and dated ] on the [ ~~date of service delivery~~; day the described supports were provided. Documentation that occurs after the date services were provided shall be dated with the date the documentation was completed and also include the date the services were provided within the body of the note. ] In instances when the individual does not communicate through words, the provider shall note his observations about the individual's condition and observable responses, if any, at the time of service delivery.

[ ~~e. Examples of unacceptable~~ f. Unacceptable ] person-centered progress [ ~~note written documentation~~ notes ] include:

- (1) Standardized or formulaic notes;
- (2) Notes copied from previous service dates and simply redated;
- (3) Notes that are not signed and dated by staff who deliver the service, with the date services were rendered; and
- (4) Person-centered progress [ ~~note written documentation~~ notes ] that [ ~~does do~~ ] not document the individual's unique opinions or observed responses to supports.

[ ~~f. g.~~ ] Providers shall maintain an attendance log or similar document that indicates the date services were rendered, type of services rendered, and number of hours or units provided (including specific timeframe [ for services with a unit of service shorter than one day ]) for each service type except for one-time services such as assistive technology service, environmental modifications service, transition service, individual and family caregiver

training service, electronic home-based support service, services facilitation service, and personal emergency response system support service, where initial documentation to support claims shall suffice.

[ ~~g. Providers shall develop a plan for supports that shall include at a minimum for each individual in its caseload:~~

(1) The individual's desired outcomes that describe what is important to and for the individual in observable terms;

(2) Support activities and support instructions that are inclusive of skill building as may be required by the service provided and that are designed to assist in achieving the individual's desired outcomes;

(3) The services to be rendered and the schedule for such services to accomplish the desired outcomes and support activities, a timetable for the accomplishment of the individual's desired outcomes and support activities, the estimated duration of the individual's need for services, and the provider staff responsible for overall coordination and integration of the services specified in the plan for supports; and

(4) Documentation regarding any restrictions on the freedoms of everyday life in accordance with human rights regulations (12VAC35-115) and the requirements of 42 CFR 441.301.

11. 13. ] Agree to furnish information and record documentation on request and in the form requested to DMAS, DBHDS, the Attorney General of Virginia or his authorized representatives, federal personnel (e.g., Office of the Inspector General), and the State Medicaid Fraud Control Unit. The Commonwealth's right of access to provider premises and records shall survive any termination of the provider participation agreement.

[ ~~12.~~ 14. ] Disclose, as requested by DMAS, all financial, beneficial, ownership, equity, surety, or other interests in any and all firms, corporations, partnerships, associations, business enterprises, joint ventures, agencies, institutions, or other legal entities providing any form of health care services to individuals enrolled in Medicaid.

[ ~~13.~~ 15. ] Perform criminal history record checks for barrier crimes in accordance with applicable licensure requirements at §§ 37.2-416, 37.2-506, and [ ~~37.2-600~~ 37.2-607 ] of the Code of Virginia, as applicable. If the individual enrolled in the waiver is a minor child, also perform a search of the VDSS Child Protective Services Central Registry. The provider shall not be compensated for services provided to the individual enrolled in the waiver effective on the date and afterwards that any of these records checks verifies that [ ~~the provider has been convicted of barrier crime, as is applicable to the provider's license, or if the provider has a finding in the VDSS Child Protective Services Central Registry (if applicable).~~ the staff person providing services was ineligible to do so pursuant to the applicable statute. ]

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a. For consumer-directed (CD) services, the CD employee shall submit to a criminal history records check conducted by the [ DMAS designated ] fiscal employer agent [ ~~within 30 days of employment~~ ], [ ~~If the individual enrolled in the waiver is a minor child, the CD employee shall also submit to a search within the same 30 days of employment of the VDSS Child Protective Services Central Registry. The CD employee shall not be compensated for services provided to the waiver individual effective~~ The CD employee shall be compensated for up to 30 days of employment while the background check is being processed or to ] the date on which [ ~~the employer of record learned, or should have learned, that~~ ] the [ ~~record background~~ ] check verifies that the CD employee has been convicted of [ a ] barrier [ ~~crimes crime~~ ] pursuant to § 37.2-416 of the Code of Virginia or if the CD employee has a founded complaint confirmed by the VDSS Child Protective Services Central Registry (if applicable) [ , whichever comes first ].

[ ~~b. The DMAS designated fiscal employer agent shall require the CD employee to notify the employer of record of all convictions occurring subsequent to the initial record check. CD employees who refuse to consent to criminal background checks and VDSS Child Protective Services Central Registry checks shall not be eligible for Medicaid reimbursement.~~

e. b. ] The CD employer of record shall require CD employees to notify the employer of record of all convictions occurring subsequent to the initial record check. CD employees who refuse to consent to criminal background checks and VDSS Child Protective Services registry checks shall not be eligible for Medicaid reimbursement.

[ ~~14. 16.~~ ] Report suspected abuse or neglect immediately at first knowledge to the local Department for Aging and Rehabilitative Services, adult protective services agency or the local department of social services, child protective services agency; to DMAS or its designee; and to the DBHDS [ ~~Offices of Licensing and Office of~~ ] Human Rights, if applicable pursuant to §§ 63.2-1509 and 63.2-1606 of the Code of Virginia when the participating provider knows or suspects that an individual receiving home and community-based waiver services is being abused, neglected, or exploited.

[ ~~15. 17.~~ ] Refrain from engaging in any type of direct marketing activities to Medicaid individuals or their families/caregivers. "Direct marketing" means (i) conducting directly or indirectly door-to-door, telephonic, or other cold call marketing of services at residences and provider sites; (ii) mailing directly; (iii) paying finder's fees; (iv) offering financial incentives, rewards, gifts, or special opportunities to eligible individuals and the individual's family/caregivers, as appropriate, as inducements to use the provider's services; (v) continuous, periodic marketing

activities to the same prospective individual and the individual's family/caregiver, for example, monthly, quarterly, or annual giveaways, as inducements to use the provider's services; or (vi) engaging in marketing activities that offer potential customers rebates or discounts in conjunction with the use of the provider's services or other benefits as a means of influencing the individual and the individual's family/caregivers use of the provider's services.

[ ~~16. 18.~~ ] Providers shall ensure that staff providing waiver services read and write English to the degree required to create and maintain the required documentation.

[ 19. Providers shall document and maintain written semiannual supervision notes for each DSP and supervisor of DSPs that are signed and dated by the supervisor. Additionally,

a. For DBHDS-licensed entities, the provider shall provide ongoing supervision of all DSP staff, including those employees such as supervisors, that are directly involved with individuals being served, consistent with the requirements of 12VAC35-105.

b. For providers who are licensed by VDH or have accreditation from a CMS-recognized organization to be a personal care or respite care provider, they shall provide ongoing supervision of companion or DSP staff consistent with those regulatory requirements.

20. Providers shall ensure that all employees or contractors without pertinent or medical clinical licenses who will be responsible for medication administration demonstrate competency of this set of skills under direct observation prior to performing this task without direct supervision.

21. DBHDS-licensed providers shall ensure all employees or contractors who will be responsible for performing de-escalation or behavioral interventions demonstrate competency of this set of skills under direct observation prior to performing these tasks with any individual service recipient. ]

B. Providers of services under any of the DD Waivers shall not be parents or guardians of individuals enrolled in the waiver who are minor children, or [ in the case of an adult enrolled in the waiver, ] the adult individual's spouse. Payment shall not be made for services furnished by other family members who are living under the same roof as the individual receiving services unless there is objective, written documentation, as defined in this subsection, as to why there are no other providers available to provide the care. Such other family members, if approved to provide services for the purpose of receiving Medicaid reimbursement, shall meet the same provider requirements as all other licensed providers. "Objective, written documentation" means documentation that demonstrates there are no persons available to provide supports to the individual other than the unpaid family/caregiver who lives in the home with the individual. Examples of such



documentation may be (i) copies of advertisements showing efforts to hire; (ii) copies of interview notes; (iii) documentation indicating high turnover in consumer-directed assistants who provide, via the consumer-directed model of services, personal assistance services, companion services, respite services, or any combination of these three services; (iv) documentation supporting special medical or behavioral needs; or (v) documentation indicating that language is a factor in service delivery. [ The service provider shall provide such documentation as is necessary or requested by DBDHS for service authorization. ]

C. Providers shall not be reimbursed while the individual enrolled in a waiver is receiving inpatient services in either an acute care hospital, [ psychiatric hospital, ] nursing facility, rehabilitation facility, ICF/IID, or any other type of facility. [ Providers shall not be reimbursed while the individual enrolled in a waiver is subject to an Emergency Custody Order (ECO) or Temporary Detention Order (TDO). ]

D. Providers with a history of noncompliance, which may include [ (i) ] multiple records with citations of failure to comply with regulations [ ~~or~~; (ii) ] multiple citations related to health and welfare for one [ service support ] plan [ ; or (iii) citation by either DMAS or DBHDS in key identified areas ], resulting in a corrective action plan or citation [ ~~by either DMAS or DBHDS in key identified areas~~ ] will be required to undergo mandatory training and technical assistance in the specific areas of noncompliance [ as part of a corrective action plan ]. These areas of noncompliance may include health, safety, or failure to address the identified needs of the individual. Failure to [ ~~complete the mandatory training or identified technical assistance may comply with any areas in the corrective action plan shall~~ ] result in referral to DMAS Program Integrity [ ~~or~~ and initiation of proceedings related to ] termination of the provider Medicaid participation agreement.

#### **12VAC30-122-130. Provider termination.**

A. Except as otherwise provided by applicable federal or state law, the Medicaid provider agreement may be terminated by DMAS (i) pursuant to § 32.1-325 of the Code of Virginia, (ii) as may be required by federal law for federal financial participation, and (iii) in accordance with the provider participation agreement, including termination at will on 30 days written notice. The agreement may be terminated if DMAS determines that the provider poses a threat to the health, safety, or welfare of any individual enrolled in a DMAS administered program. DMAS may also terminate a provider's participation agreement if the provider does not fulfill its obligations as described in the provider participation agreement. Such provider agreement terminations shall be in accordance with § 32.1-325 of the Code of Virginia, 12VAC30-10-690, and Part XII (12VAC30-20-500 et seq.) of 12VAC30-20. Termination precludes further payment by DMAS for services provided for individuals subsequent to the date specified in the termination notice.

B. A provider who has been convicted of a felony, or who has otherwise pled guilty to a felony, in Virginia or in any other [ ~~of the 50 states state~~ ], the District of Columbia, or the United States territories shall, within 30 days of such conviction, notify DMAS of this conviction and relinquish his provider agreement. Such provider agreement terminations shall be effective immediately and conform to § 32.1-325 of the Code of Virginia and 12VAC30-10-690. Providers shall not be reimbursed for services that may be rendered between the conviction of a felony and the provider's notification to DMAS of the conviction.

C. A participating provider may voluntarily terminate his participation with DMAS by providing 30 days written notification.

#### **12VAC30-122-140. Provider confidentiality; change of ownership; completion of assessment instruments.**

A. Pursuant to subpart F of 42 CFR Part 431, 12VAC30-20-90, and any other applicable federal or state law or regulation, all providers shall hold confidential and use for DMAS or DBHDS authorized purposes only all medical assistance information regarding individuals served. A provider shall disclose information in his possession only when the information is used in conjunction with a claim for health benefits or the data are necessary for purposes directly related to the administration of the State Plan for Medical Assistance and related waivers.

B. When ownership of the provider changes, the provider shall notify DMAS pursuant to 42 CFR 420.206.

C. For ICF/IID facilities covered by § 1616(e) of the Social Security Act in which respite care as a home and community-based waiver service will be provided, the facilities shall be in compliance with applicable regulatory standards.

D. Providers shall make available, as may be requested, specific, relevant information about the individual enrolled in the waiver.

#### **12VAC30-122-150. Requirements for consumer-directed model of service delivery.**

A. Criteria for consumer-directed model of service delivery.

1. The [ ~~DD~~ FIS and CL ] Waivers have three services that may be provided through a consumer-directed (CD) model: companion services, personal assistance services, and respite services. [ ~~In addition to this chapter, consumer direction shall comport with the requirements of § 54.1-2901 A 31 of the Code of Virginia.~~ ]

2. Requirements for individual.

a. The individual or a person designated by the individual shall serve as the employer of record (EOR). If an individual is unable to direct his own care or is younger than 18 years of age, he [ ~~may~~ shall ] designate another person older than 18 years of age to serve as the

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[ ~~employer of record (EOR)~~ EOR ] on his behalf. [ If the individual is younger than 18 years of age, a legally responsible individual shall serve as the EOR. ]

b. The EOR shall be the employer in this service and shall be responsible for [ ~~advertising recruiting~~ ], interviewing, hiring, training, supervising, and firing CD [ ~~employee~~ ] assistants. Specific EOR duties include checking references of assistants, determining that assistants meet basic qualifications, training assistants, supervising the assistant's performance, and submitting and approving the assistant's timesheets to the [ DMAS designated ] fiscal employer agent on a consistent and timely basis.

c. The individual, the family/caregiver, or EOR, as appropriate, shall have [ ~~an emergency a~~ ] back-up plan in case the assistant does not show up for work.

d. Individuals choosing consumer-directed services may receive support from a CD services facilitator. Services facilitators shall assist the individual or his EOR, as appropriate, in accessing and receiving consumer-directed services. This function shall include providing the individual or EOR, as appropriate, with employer of record management training including a review and explanation of the employee management manual and routine and reassessment visits to monitor the CD services.

e. If an individual choosing consumer-directed services chooses not to receive support from a CD services facilitator, then [ ~~the individual or the family/caregiver serving as another family member or caregiver other than~~ ] the EOR shall perform all of the duties and meet all of the requirements of a CD services facilitator, including documentation requirements identified for services facilitation. However, the [ ~~individual or family/caregiver family member or caregiver~~ ] serving as the [ ~~EOR services facilitator~~ ] shall not be reimbursed by DMAS for performing these duties or meeting these requirements.

[ f. ] The individual's support coordinator/case manager may also function as the [ paid ] services facilitator.

## **12VAC30-122-160. Voluntary or involuntary disenrollment of consumer-directed services.**

Either voluntary or involuntary disenrollment of the consumer-directed (CD) model of personal assistance, companion, or respite services may occur. In either voluntary or involuntary disenrollment, the individual enrolled in the waiver shall be permitted to select an agency from which to continue to receive his personal assistance services, companion services, or respite services. If the individual either fails to select an agency or refuses to do so, then personal [ ~~care~~ assistance ] services, companion services, or respite services, as appropriate, will be discontinued.

1. An individual who has chosen consumer direction may choose, at any time, to change to the agency-directed model as long as he continues to qualify for the specific services.

The services facilitator or support coordinator shall assist the individual with the change of services from consumer-directed to agency-directed.

2. The services facilitator or support coordinator, as appropriate, shall initiate involuntary disenrollment from consumer direction of an individual enrolled in the waiver when any of the following conditions occur:

a. The health, safety, or welfare of the individual enrolled in the waiver is at risk;

b. The individual or EOR demonstrates consistent inability to hire and retain a CD [ ~~personal~~ ] assistant; or

c. The individual or EOR, as appropriate, is consistently unable to manage the CD [ ~~personal~~ ] assistant, as may be demonstrated by a pattern of serious discrepancies with timesheets.

[ d. ] If the individual does not choose a services facilitator and [ ~~the individual/family a family member, other~~ ] caregiver [ , or the support coordinator ] is not willing or able to assume the services facilitation duties, then the support coordinator shall notify DMAS or its designated service authorization contractor and the consumer-directed services shall be discontinued.

3. Prior to involuntary disenrollment, the services facilitator or support coordinator, as appropriate, shall:

a. Verify that essential training has been provided to the EOR to improve the problem condition or conditions;

b. Document in the individual's record the conditions creating the necessity for the involuntary disenrollment and actions taken by the services facilitator or support coordinator, as appropriate;

c. Discuss with the individual and the EOR, if the individual is not the EOR, the [ ~~agency-direction~~ agency-directed ] option that is available and the actions needed to arrange for such services while providing a list of potential providers;

d. Provide written notice to the individual and EOR, if the individual is not the EOR, of the action, the reasons for the action, and the right of the individual to appeal, pursuant to 12VAC30-110, such involuntary termination of consumer-direction. Except in emergency situations in which the health or safety of the individual is at serious risk, such notice shall be given at least 10 business days prior to the effective date of the termination of consumer-direction. In cases of an emergency situation, notice of the right to appeal shall be given to the individual but the requirement to provide notice at least 10 business days in advance shall not apply; and

e. If the services facilitator initiates the involuntary disenrollment from consumer-direction, inform the support coordinator of such action and the reasons for the action.

~~[ 4. Refer to 12VAC30-122-340, 12VAC30-122-460 and 12VAC30-122-490 for further requirements and limitations for companion services, personal assistance services, and respite services. ]~~

**12VAC30-122-170. Fiscal employer/agent requirements.**

~~A. Pursuant to a duly negotiated contract or interagency agreement, the [ DMAS designated ] fiscal employer/agent shall be reimbursed by DMAS to perform certain employer functions, including payroll and bookkeeping functions, on behalf of [ employer the EOR ] or individual who is receiving consumer-directed personal assistance services, companion services, and respite services. "Fiscal employer/agent" means a state agency or other entity as determined by DMAS to meet the requirements of 42 CFR 441.484 and the Virginia Public Procurement Act (Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2 of the Code of Virginia) that performs an employer's salary payment and tax reporting functions for assistants employed for consumer-directed services.~~

~~B. The [ DMAS designated ] fiscal employer/agent shall be responsible for administering payroll services on behalf of the individual enrolled in the waiver [ including: ]~~

~~[ 1. Collecting and maintaining citizenship and alien status employment eligibility information required by the U.S. Department of Homeland Security;~~

~~2. Submitting requests for criminal record checks within 15 calendar days of the assistant's employment on behalf of the individual or family/caregiver, as appropriate, and reporting results of such checks to the individual or family/caregiver, as appropriate;~~

~~3. Securing all necessary Internal Revenue Service authorizations and approvals in accordance with state and federal tax requirements;~~

~~4. Deducting and filing state and federal income and employment taxes and other withholdings;~~

~~5. Verifying that assistants' or companions' submitted timesheets do not exceed the maximum hours prior authorized for individuals enrolled in the waiver;~~

~~6. Processing timesheets for payment;~~

~~7. Making all deposits of income taxes, Federal Insurance Contributions Act, and other withholdings according to state and federal requirements; and~~

~~8. Distributing biweekly payroll checks to individuals' companions and assistants.~~

~~C. All timesheet discrepancies shall be reported promptly upon their identification to DMAS for investigation and resolution.~~

~~D. The fiscal employer/agent shall maintain records and information as required by DMAS and state and federal laws~~

~~and regulations and make such records available upon request by DMAS in the needed format.~~

~~E. The fiscal employer/agent shall establish and operate a customer service center to respond to payroll and related inquiries by individuals and their assistants or companions.~~

~~F. The fiscal employer/agent shall maintain confidentiality of all Medicaid information pursuant to the Health Insurance Portability and Accountability Act (42 USC § 1320d et seq.), federal and state Medicaid requirements, and DMAS requirements. Should any breaches of confidential information occur, the fiscal/employer agent shall assume all liabilities under both state and federal law. ]~~

**12VAC30-122-180. Orientation testing; professional competency requirements; advanced competency requirements.**

~~A. Orientation training and testing for [ DBHDS licensed ] providers of agency-directed personal assistance services, agency-directed companion services, agency-directed respite services, center-based crisis [ support, community based crisis services, supports, ] crisis support services, community engagement services, community coaching services, group day services, group home residential services, independent living support services, [ individual and group supported employment, ] in-home support services, sponsored residential services, supported living residential services, and workplace assistance.~~

~~1. Providers shall ensure that direct support professionals (DSPs) and DSP supervisors providing services to individuals with developmental disabilities receive or have received training on the following knowledge, skills, and abilities [ consistent with DBHDS licensing requirements ]. These knowledge, skills, and abilities are addressed in the DMAS-approved orientation training.~~

~~a. The characteristics of developmental disabilities and Virginia's DD Waivers;~~

~~b. Person-centeredness, positive behavioral supports, and effective communication;~~

~~c. Identified potential health risks of individuals with developmental disabilities and the appropriate interventions; [ and ]~~

~~d. [ Community integration and social inclusion; and~~

~~e. ] Best practices in the support of individuals with developmental disabilities.~~

~~2. Providers shall ensure that DSPs and DSP supervisors pass or have passed, with a minimum score of 80%, a DMAS-approved objective, standardized test of knowledge, skills, and abilities demonstrating knowledge of the topics referenced in subdivision 1 of this subsection prior to providing direct, reimbursable services. Other qualified staff who have passed the knowledge-based test shall work~~

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alongside any DSP or supervisor who has not yet passed the test.

3. ~~[ A For DSPs, a ]~~ copy of the DSP orientation test completed by the DSP with the test score will be filed in the personnel file along with the assurance document with DSP and ~~[ supervisor or ]~~ designee signatures and shall be subject to review by DBHDS for licensing compliance purposes ~~[ , as applicable, ]~~ and by DMAS for quality management reviews, utilization reviews, and financial audit purposes. ~~[ For supervisors, a certificate of completion from a DMAS approved supervisory training shall be retained in place of a copy of the written test. ]~~

~~[ B. Orientation training and testing for non-DBHDS-licensed providers:~~

~~1. Providers of agency directed personal assistance, companion, and respite services shall ensure that DSPs and DSP supervisors providing services to individuals with developmental disabilities receive or have received training on the following:~~

~~a. The characteristics of developmental disabilities and Virginia's DD Waivers;~~

~~b. Person centeredness, positive behavioral supports, and effective communication;~~

~~e. Identified potential health risks of individuals with developmental disabilities and the appropriate interventions; and~~

~~d. Best practices in the support of individuals with developmental disabilities.~~

~~2. Providers shall ensure that DSPs and DSP supervisors pass or have passed, with a minimum score of 80%, a DMAS approved objective, standardized test of knowledge, skills, and abilities demonstrating knowledge of topics referenced in subdivision 1 of this subsection prior to providing direct, reimbursable services. Other qualified staff who have passed the knowledge-based test shall work alongside the DSP or DSP supervisor who has not yet passed the test.~~

~~3. A copy of the DSP orientation test completed by the DSP with the test score will be filed in the personnel file along with the assurance document with DSP and designee signatures and shall be subject to review by DBHDS for licensing compliance purposes and by DMAS for quality management reviews, utilization reviews, and financial audit purposes.~~

~~C. B. ]~~ The following ~~[ DBHDS-licensed ]~~ waiver providers shall ensure that ~~[ new ]~~ DSPs ~~[ or and ]~~ DSP supervisors, including relief and contracted staff, complete ~~[ the ]~~ competency ~~[ training observation ]~~ and ~~[ the competency ]~~ checklist within 180 days from date of hire: agency-directed personal assistance service, agency-directed companion service, agency-directed respite service, center-based crisis

support service, ~~[ community based crisis service, ]~~ community engagement service, community coaching service, ~~[ crisis support service, ]~~ group day service, group home residential service, independent living service, ~~[ individual and group supported employment, ]~~ in-home support service, sponsored residential service, support living residential service, and workplace assistance service.

1. Evidence of completed core competency ~~[ training observation ]~~ and demonstrated proficiency, and documentation of assurances (DMAS Form P242a or P245a), shall be retained in the ~~[ provider personnel ]~~ record.

2. Such provider documentation shall be subject to review by DBHDS for licensing compliance purposes ~~[ as applicable ]~~ and by DMAS for quality management review, utilization reviews, and financial audit purposes.

3. The director of the provider organization or the director's designee shall complete the competencies checklist (DMAS Form P241a) for each DSP supervisor within 180 days from date of hire with annual updates thereafter.

4. Providers shall ensure that supervisors of DSPs complete the competencies checklist (DMAS Form P241a) for each DSP they supervise within 180 days of the DSP hire date and complete annual updates thereafter. ~~[ For sponsored residential services, the date of hire can be the date that the sponsor begins providing service in the sponsored home setting. For all services listed in subsection B of this section, the health and safety related direct support skills contained in the competencies checklist will only be performed under direct supervision, including observations and guidance, of qualified staff until competence is observed and documented. ]~~ Contracted and relief staff are also required to complete the competencies within 180 days from the first date of hire or original contract. The purpose of this checklist shall be to document the DSP's proficient mastery of the stated core competencies.

5. ~~[ If upon review a DSP or DSP supervisor does not demonstrate proficiency in one or more competency areas, then within 180 days of this review the DSP or DSP supervisor shall review the training information, and orientation retesting shall be completed achieving a score of at least 80% documenting proficiency in the identified area or areas. DMAS shall not reimburse for those services provided by DSPs or DSP supervisors who have failed to pass the orientation test or demonstrate competencies as required. If at any time after the initial 180 days, a DSP or DSP Supervisor is found to be deficient in any competency area, the following actions must be taken to permit the continuation of billing by the agency related to the areas of the person's identified deficiencies. "Deficient" is defined as an established pattern of inability to demonstrate one or more competency skills.~~

~~a. Upon discovery of a staff person's inability to demonstrate proficiency, the provider has seven calendar~~

days to begin remediation of the identified skills and document the issue and the actions taken by the agency to confirm proficiency. This initial seven-day process is considered a first episode of one or more identified deficiencies

b. If proficiency is not reconfirmed within seven days following discovery of a second episode, occurring within three months of the staff person's inability to demonstrate proficiency, the skills being remediated shall only be performed under direct supervision, observation, and guidance of qualified staff who document the provision of these supports in the person's record.

c. Once proficiency with these skills have been demonstrated, the provider shall maintain a signed confirmation that describes the actions taken and is completed by the DSP supervisor for DSPs and the agency director or designee for DSP supervisors and may resume billing for these related supports provided by the DSP or DSP supervisor from that date forward. ]

6. These DSP and DSP supervisor-specific checklists along with the annual updates shall be retained in the provider personnel records and shall be subject to review by DBHDS for licensing compliance purposes [ as applicable ] and by DMAS for quality management reviews, utilization reviews, and financial audit purposes.

~~[ D. Non-DBHDS licensed waiver providers shall ensure that new DSPs or DSP supervisors, including relief and contracted staff, complete the professional assurances within 180 days from date of hire for agency directed personal assistance services, agency directed companion services, and agency directed respite services.~~

~~1. Evidence and documentation of assurances (DMAS Form P243a or P246a) shall be retained in the provider record~~

~~2. DSP supervisors shall maintain completed documentation of the online certificate from the DBHDS Learning Management System.~~

~~3. Such provider documentation shall be subject to review by DBHDS for licensing compliance purposes and by DMAS for quality management review, utilization reviews, and financial audit purposes. ]~~

[ E. C. ] Advanced core competency requirements for DSPs and DSP supervisors serving individuals with developmental disabilities with the most intensive needs, as [ identified as ] assigned to [ Level 6 or 7 (as referenced in 12VAC30-122-200) Tier 4 (described in 12VAC30-122-210) ], shall be as follows:

1. Providers shall ensure that DSPs and DSP supervisors supporting individuals identified as having the most intensive needs, as determined by [ assignment to Level 6 or 7 Tier 4 ], shall receive training that is developed or approved by a qualified professional in the areas of health, behavioral needs, autism, or all three, as defined by DMAS

and based on the identified needs of the individuals supported.

2. DSPs and DSP supervisors supporting individuals with [ identified ] health support needs and [ assignment to Level 6 or 7 at Tier 4 ] shall receive training in the area of medical supports and based on the identified needs of the individuals supported.

3. DSPs and DSP supervisors supporting individuals with [ identified ] behavioral support needs and [ assignment to Level 6 or 7 at Tier 4 ] shall receive training in the area of behavioral supports and based on the identified needs of the individuals supported.

4. DSPs and DSP supervisors supporting individuals with autism and [ assignment to Level 6 or 7 at Tier 4 ] shall receive training on characteristics of autism and based on the identified needs of the individuals supported.

5. DSPs and DSP supervisors supporting individuals at other support levels but who are receiving a customized rate shall receive training in the appropriate areas related to the needs of the individual.

6. Evidence of training completed by DSPs and DSP supervisors shall be retained in the personnel file and be subject to review by DBHDS for licensing compliance and by DMAS for quality management review, utilization review, and financial audit purposes.

7. The director of the provider agency or designee shall complete the appropriate advanced core competencies checklists (DMAS Forms P240a, P244a, and P201) specific to the needs [ and level ] of the individuals supported by each DSP supervisor within 180 days of the date of hire [ , or within 180 days of the first admission of a person with related needs or identification of the individual's level. ] with completed annual updates thereafter. The checklists shall be retained in the personnel file and be subject to review by DBHDS for licensing compliance and by DMAS for quality management review, utilization review, and financial audit purposes.

8. Providers shall ensure that DSP supervisors complete the advanced core competencies checklists (DMAS Forms P240a, P244a, and P201) specific to the needs [ and service levels ] of the individuals supported for each DSP that the DSP supervisors supervise within 180 days of hiring the DSP [ or within 180 days of initiating services to an individual with related support needs ], with annual competency checklist updates thereafter. These checklists shall be used to document proficient mastery of the stated core competencies.

~~9. [ If upon review a DSP or DSP supervisor does not demonstrate proficiency in one or more advanced competency areas, then within 180 days of such review the DSP or DSP supervisor shall review the training~~

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information, and orientation retesting shall be completed as appropriate with a score of at least 80% demonstrating proficiency in the identified area. DMAS shall not reimburse for those services provided by DSPs or DSP supervisors who have failed to demonstrate competencies as required. If at any time after the initial 180 days, a DSP or DSP supervisor is found to be deficient in any competency area, the following actions must be taken to permit the continuation of billing by the agency related to the areas of the person's identified deficiencies. "Deficient" is defined as an established pattern of inability to demonstrate one or more competency skills.

a. Upon discovery of a staff person's inability to demonstrate proficiency, the provider has seven calendar days to begin remediation of the identified skills and document the issue and the actions taken by the agency to confirm proficiency.

b. If proficiency is not reconfirmed within seven days following discovery of a second episode occurring within three months of the staff person's inability to demonstrate proficiency, the skills being remediated shall only be performed under direct supervision, observation, and guidance of qualified staff who document the provision of these supports in the person's record.

c. Once proficiency with these skills have been demonstrated, the provider shall maintain a signed confirmation that describes the actions taken and is completed by the DSP supervisor for DSPs and by the agency director or designee for DSP supervisors. The provider may resume billing for these related supports provided by the DSP or DSP supervisor from that date forward. ]

10. Providers shall retain these checklists in the personnel files that are subject to review by DBHDS for licensing compliance and by DMAS for quality management review, utilization review, and financial audit purposes. Continued knowledge of the advanced core competencies by DSP supervisors shall be confirmed in accordance with subdivisions 6 and 7 of this subsection.

## **12VAC30-122-190. Individual support plan; plans for supports; reevaluation of service need.**

A. Every individual who has been approved to receive FIS, CL, or BI waiver services shall have a unique person-centered individual support plan (ISP) that sets out his unique, specific needs and the services designed to meet those needs.

1. The ISP shall be collaboratively developed at the onset of waiver services and redeveloped, at a minimum, annually by the support coordinator with the individual and the individual's family/caregiver, as appropriate, other providers, consultants as may be needed, and other interested parties at the individual's discretion.

2. The support coordinator shall be responsible for continuously monitoring the appropriateness of the individual's services and making timely revisions to the ISP as indicated by the changing needs of the individual.

3. Any modification to the amount or type of services in the ISP shall be service authorized by DMAS or its designee.

4. The support coordinator shall monitor the providers' plans for supports to ensure that all providers are working toward the desired outcomes with the individuals supported.

5. Support coordinators shall be required to conduct and document evidence of monthly onsite visits for all individuals enrolled in the DD Waivers who are residing in VDSS-licensed assisted living facilities or approved adult foster care homes.

6. Support coordinators shall conduct and document a minimum of quarterly [ face-to-face ] visits to all other individuals with at least one visit annually occurring in the home.

7. All requests for [ increased increases in DD ] waiver services [ ~~for individuals enrolled in one of the DD Waivers~~ ] shall be reviewed by the support coordinator [ ~~to~~. The support coordinator shall ] ensure that the [ ~~individual's health, safety, and welfare in the community request~~ ] is [ ~~dependent based~~ ] on the [ ~~finding that the individual demonstrates a individual's demonstrated~~ ] need for the [ increased ] service, [ ~~based on~~ as documented by ] appropriate assessment criteria and a written plan for supports, and that those services [ are necessary to promote the individual's health, safety, and welfare in the community and ] can be safely and cost effectively provided in the community.

8. [ ~~Individuals~~ Support coordinators shall provide an individual ] and the family/caregiver [ ~~shall be provided, as appropriate,~~ ] with a copy of the individual's ISP.

B. Providers shall develop and keep updated, to include changing needs, a plan for supports for every individual supported. The contents of the plan for supports shall at a minimum contain the items specified in 12VAC30-122-120 A 10 [ f g ]. Services that are exempt from provider plans for supports requirements can be found in each service's specific regulation section.

### C. Reevaluation of service need.

1. At a minimum, the support coordinator shall review the ISP [ ~~at least~~ ] quarterly to determine whether the individual's desired outcomes and support activities are being met and whether any modifications to the ISP are necessary. The results of such reviews shall be documented, signed, and dated in the individual's record even if no change occurred during the review period. This documentation shall be provided to DMAS and DBHDS upon request.

2. Components of annual person-centered plan review.

a. The support coordinator shall complete a reassessment annually, at a minimum, in coordination with the individual and the individual's family/caregiver, as appropriate, providers, and others as desired by the individual. The reassessment shall be signed and dated by the support coordinator and shall include an update of the level of care [(VIDES)] and personal profile, risk assessment, and any other appropriate assessment information. "Risk assessment" means an assessment used to determine areas of high risk of danger to the individual or others based on the individual's serious medical or behavioral factors and shall be used to plan risk mitigating supports for the individual in the individual support plan.

[ b. ] The ISP shall be revised as appropriate for consistency with this reassessment. If this annual level of care reassessment demonstrates that the individual no longer meets waiver requirements, the support coordinator shall inform DMAS and DBHDS that the individual must be terminated from waiver services.

[ ~~b. c.~~ ] A medical examination shall be completed in accordance with [ ~~12VAC35-105-740~~ 12VAC30-122-180 and, for adults, as needed thereafter ].

[ ~~e. d.~~ ] Medical examinations and screenings for children ages birth to 21 years shall be completed according to the recommended frequency and periodicity of the EPSDT program (42 CFR 440.40 and 12VAC30-50-130).

[ ~~e.~~ e. ] A new psychological or other diagnostic evaluation shall be required whenever the individual's functioning has undergone significant change, such as deterioration of abilities that is expected to last longer than 30 days, and is no longer reflective of the past evaluation. "Significant change" means a change in an individual's condition that is expected to last longer than 30 calendar days but shall not include short-term changes that resolve with or without intervention, a short-term acute illness or episodic event, or a well-established, predictive, cyclical pattern of clinical signs and symptoms associated with a previously diagnosed condition where an appropriate course of treatment is in progress.

[ f. ] The [ psychological or other diagnostic ] evaluation shall be completed by a qualified examiner, as defined in this subdivision, and reflect the current diagnosis, adaptive level of functioning, and presence of a functional delay that arose during the developmental period. "Qualified examiner" means a credentialed professional, for example a licensed physician, licensed psychologist, or licensed therapist, who is practicing pursuant to the requirements and limits of his license.

[ ~~e. g.~~ ] The individual shall be allowed to select other entities, either persons or organizations, at his discretion to participate in the annual review of his person-centered plan.

**12VAC30-122-200. Supports Intensity Scale® requirements; Virginia Supplemental Questions; levels of support; supports packages.**

A. The Supports Intensity Scale (SIS®) requirements.

1. The SIS® is an assessment tool that identifies the practical supports required by individuals to live successfully in their communities. DBHDS shall use the SIS® [ ~~Child Children's Version™ (SIS-C™)~~ ] for individuals who are five years through 15 years of age. DBHDS shall use the SIS® Adult [ Version® (SIS-A®) ] for individuals who are 16 [ ~~to 72~~ ] years of age [ and older ]. Individuals who are younger than five years of age shall be assessed using [ ~~either the SIS® or an age appropriate alternative instrument, such as the Early Learning Assessment Profile, as approved by DBHDS; an age-appropriate standardized living skills assessment.~~ ]

2. A SIS® assessment and [ the current version of ] the Virginia Supplemental Questions (VSO), as appropriate, shall be completed with the individual and other appropriate parties who have knowledge of the individual's circumstances and needs for support:

a. [ At least every four years for those individuals who are 22 years of age and older.

b. ] At least every three years for those individuals who are 16 years of age [ ~~and older~~ through 21 years of age ].

[ ~~b. c.~~ ] Every two years for individuals five years through 15 years of age when the individual is using a tiered service, such as group home residential, sponsored residential, supported living residential, group day, or community engagement. Another developmentally appropriate standardized living skills assessment approved by DBHDS, such as the Brigance Inventory, Vineland, or Choosing Outcomes and Accommodations for Children shall be completed every two years for service planning purposes for those in this age grouping who do not receive a SIS® assessment.

[ d. For a, b, and c of this subdivision A 2, when the individual's support needs have been deemed to have changed significantly for a sustained period of at least six months. ]

[ ~~e. e.~~ ] For children younger than five years of age, an alternative industry assessment instrument approved by DBHDS, such as the Early Learning Assessment Profile, shall be completed every two years for service planning purposes.

[ ~~d. When the individual's support needs change significantly for a sustained period of at least six months. ]~~

3. The SIS® shall be used in conjunction with VSO, the person-centered planning process, [ ~~VIDES;~~ ] and other assessment information to develop each individual's ISP. The SIS® shall be used to assess individuals' patterns and intensity of needed supports across life activities such as (i) home [ and community ] living activities; (ii) [ ~~community~~



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living activities school activities for children ]; (iii) lifelong learning [ and employment activities for adults; (iv) ~~employment;~~ (v) ] health [ ; and ] safety [ activities ], social activities, and [ ~~self-advocacy~~ advocacy activities ]; [ ~~(vi)~~ (v) exceptional ] medical and behavioral support needs; and [ ~~(vii)~~ (vi) ] what is important to and important for individuals who are enrolled in a waiver.

4. [ ~~The sum of (i) the standard scale scores~~ Scores ] from [ ~~SIS<sup>®</sup>—Adult Parts~~ SIS-A<sup>®</sup> and SIS-C<sup>™</sup> Section 1 (Exceptional Medical Needs, Exceptional Behavioral Needs), Section 2 Subsections ] A, B, and E [ ~~(ABE) in~~ Section 1; (ii) scale scores associated with SIS<sup>®</sup>—Section 3 Part A and B; and (iii) and ] responses to Supplemental Questions shall be used to assign levels of supports [ (Levels 1 through 7, as defined in 12VAC30-122-250) ] to each [ ~~adult~~ ] individual [ ; as follows. ]

| [ <del>Seven Levels of Supports</del>                                    | <u>SIS<sup>®</sup> Sum Scales</u><br><u>Parts ABE</u> | <u>Section 3 Part A Medical Support</u>               | <u>Section 3 Part B Behavior Support</u> |
|--|---|---|--|
| <u>Least support needs (Level 1)</u>                                     | <u>0 to 22</u>  | <u>0 to 6</u>   | <u>0 to 6</u>                            |
| <u>Modest or moderate support needs (Level 2)</u>                        | <u>23 to 30</u>                                       | <u>0 to 6</u>   | <u>0 to 6</u>                            |
| <u>Least/moderate support needs with some behavioral needs (Level 3)</u> | <u>0 to 30</u>  | <u>0 to 6</u>   | <u>7 to 10</u>                           |
| <u>Moderate to high support needs (Level 4)</u>                          | <u>31 to 36</u>                                       | <u>0 to 6</u>   | <u>7 to 10</u>                           |
| <u>High to maximum support needs (Level 5)</u>                           | <u>37 to 52</u>                                       | <u>0 to 6</u>   | <u>0 to 10</u>                           |
| <u>Extraordinary medical support needs (Level 6)</u>                     | <u>Any</u>  | <u>7 to 32 or verified extraordinary medical risk</u> | <u>0 to 10</u>                           |

|   |            |            |  |
|---|------------|------------|--|
| <u>Extraordinary behavioral support needs (Level 7)</u> | <u>Any</u> | <u>Any</u> | <u>11 to 26 or verified danger to others or extreme self injury risk ]</u> |
|---|------------|------------|--|

5. The SIS<sup>®</sup> shall be administered and analyzed by qualified, trained interviewers designated by DBHDS.

B. The [ current version of the ] Virginia Supplemental Questions (VSQ version [ ~~10/26/2014~~ 10/2017 ] ) shall also be used to identify individuals who have unique needs falling outside of the needs identifiable by the SIS<sup>®</sup> instrument. The VSQ shall also be administered and analyzed by the same qualified, trained interviewers designated by DBHDS.

1. The Virginia Supplemental Questions shall address these topics:

- a. Severe medical risk;
- b. Severe community safety risk for people with a related legal conviction;
- c. Severe community safety risk for people with no related legal conviction; [ and ]
- d. Severe risk of harm to self [ ; and ]
- [ e. Fall risk. ]

2. [ ~~Each Supplemental Question shall have five individual items labeled A through E. A 'yes' response to any of these items shall require a review of the individual's record for verification. Specified affirmative responses to the items in subdivisions B 1 a through B 1 d of this section shall require a review of the individual's record for verification. ] After such review, the individual may or may not be assigned to Level 6 ([ exceptional ] medical) or Level 7 ([ exceptional ] behavioral).~~

C. The results of the SIS<sup>®</sup>, Virginia Supplemental Questions, and, as needed, a document review verification process shall determine the individual's required level of supports. The results of the SIS<sup>®</sup>, other assessment information, and the person-centered planning process shall establish the basis for the individual support plan.

D. Establishment of supports packages, which means [ a profile of the mix and extent of services anticipated to be needed by individuals with similar levels, needs, and abilities. (Reserved.) a set of assumptions regarding the types and amounts of supports that an individual needs to be adequately supported in the community. It is a model that reflect reasonable services levels based on common expectations for persons who share similar characteristics. ]

**12VAC30-122-210. Payment for covered services (tiers).**

A. Waiver services shall be reimbursed according to the agency fee schedule unless otherwise specified in this section. Units of service and service limits are set out in the section for each service. There shall be no designated formal schedule for annual cost of living or other adjustments and any adjustments to provider rates shall be subject to available funding and approval by the General Assembly. Rate methodologies shall also be subject to the approval of the Centers for Medicare and Medicaid services.

1. [~~All~~ Those ] services [~~shall that~~ ] have a Northern Virginia and Rest of State rate [~~and~~ ] shall be paid based on the individual's place of residence.

2. The following services shall have variable rates based on size:

- a. Group homes rates shall vary based on licensed bed size;
- b. Group supported employment rates shall vary by group size; and
- c. In-home residential rates shall vary by the number of individuals being served in the same home by one direct service professional.

3. There shall be up to four tiers of reimbursement for these services: community engagement, group day support, group home, independent living, sponsored residential support, and supported living residential. Four reimbursement tiers for [~~an individual~~ providers ] shall be based on seven levels of support (as detailed in 12VAC30-122-200) from resultant scores of the SIS<sup>®</sup>, the responses to the Virginia Supplemental Questions, and, as needed, a document review verification process. The DMAS designee shall verify the scores and levels of the individuals, as appropriate.

a. Levels of supports [~~range from Level 1 to Level 7 based on the needs of the individuals. ]~~

- [ (1) Level 1 shall mean low support needs;
- (2) Level 2 shall mean low to moderate support needs;
- (3) Level 3 shall mean moderate support needs plus some behavior challenges;
- (4) Level 4 shall mean moderate to high support needs;
- (5) Level 5 shall mean maximum support needs;
- (6) Level 6 shall mean significant support needs due to medical challenges, and;
- (7) Level 7 shall mean significant support needs due to behavioral challenges. ]

b. Tiers of reimbursement:

- (1) Tier 1 shall be used for individuals having Level 1 support needs.
- (2) Tier 2 shall be used for individuals having Level 2 support needs.

(3) Tier 3 shall be used for individuals having either Level 3 or Level 4 support needs.

(4) Tier 4 shall be used for individuals having either Level 5, Level 6, or Level 7 support needs.

[ For the purposes of this subdivision A 3, "tiers of reimbursement" means tiers that are tied to an individual's level of support so that providers are reimbursed for services provided to individuals consistent with that level of support. ]

4. Individual-specific support needs, such as the [~~extraordinary~~ intense and significant ] medical or behavioral supports needs, may warrant customized rates for additional supports as described in this section, in the following service settings: community coaching service, group day service, in-home support service, group home residential service, sponsored residential service, and supported living residential service.

a. In these cases, providers [~~and support coordinators~~ ] shall submit to the DMAS designee a [~~written~~ ] request for a customized reimbursement rate exceeding the reimbursement rate for the assessed level of support of the individual. The request shall include [~~for example,~~ ] contact information [~~;~~ and a detailed explanation of the basis for the request, such as the individual's support needs, ] increased staffing supports needed for the individual, the types of service for which the request is made, increased program oversight needed for the individual, the individual's behavior or medical support needs, or the individual's need for staff with certain qualifications.

b. The request shall be reviewed by a team of clinical and administrative personnel from the DMAS designee to determine that the documentation substantiates the intense needs of the individual, whether medical, behavioral, or both, and that the provider has employed staff with higher qualifications (e.g., direct support professionals with four-year degrees) or increased the ratio of staff-to-individual support of one staff person to one individual (1:1) or, in the case of services already required to be provided at a 1:1 ratio, a two staff persons to one individual (2:1) ratio.

c. The customized rate methodology shall modify the existing rate methodology assumptions for the following components in the existing rate methodologies: additional hours related to increased or specialized staffing supports and program costs.

d. Customized reimbursement rate determinations may be appealed pursuant to 12VAC30-20-500 et seq.

e. [ For those individuals approved for customized rates, providers shall submit to the DMAS designee at least annually a request if seeking continuation of the customized reimbursement rate. The request shall include the items specified in 12VAC30-122-210 A 4 a, as well as documentation of continued need for a reimbursement rate

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exceeding the reimbursement rate for the assessed level of support of the individual. ] The DMAS designee shall review [ ~~on at least an annual basis in order for the affected provider to continue to receive the customized reimbursement rate~~ the request in the manner specified in subdivision A 4 b of this section ]. After the review, adjustment determinations for the customized rate may be made. All such adjustment determinations may be appealed pursuant to 12VAC30-20-500 et seq.

B. Reimbursement rates for individual supported employment shall be the same as set by the Department for Aging and Rehabilitative Services for each individual supported employment provider agency.

C. Reimbursement for assistive technology (AT) service (12VAC30-122-270), electronic home-based support service (12VAC30-122-360), environmental modifications (EM) service (12VAC30-122-370), individual and family/caregiver training service (12VAC30-122-430), and transition service (12VAC30-122-560) shall be reimbursed based on approved costs subject to the following limits:

1. AT and EM approved costs for items and labor shall be reimbursed up to a per individual [ , per service ] maximum of \$5,000 per calendar year across all home and community-based waivers.

2. Transition services approved costs shall be reimbursed up to a per individual maximum of \$5,000 per lifetime across all home and community-based waivers.

3. Electronic home-based support approved costs shall be reimbursed up to a per individual maximum of \$5,000 per [ ~~calendar~~ ISP ] year.

4. Individual and family/caregiver training approved costs shall be reimbursed up to a per individual maximum of \$4,000 per [ ~~calendar~~ ISP ] year.

D. Duplication of services.

1. DMAS shall not duplicate the reimbursement for services that are required as a reasonable accommodation as a part of the Americans with Disabilities Act (42 USC § 12131 through 42 USC § 12165), the Rehabilitation Act of 1973 (29 USC § 701 et seq.), the Virginians with Disabilities Act (Title 51.5 (§ 51.5-1 et seq.) of the Code of Virginia), or any other applicable statute.

2. Payment for services under individual ISPs shall not duplicate payments made to public agencies or private entities under other program authorities for this same purpose.

3. Payment for services under individual ISPs shall not be made for services that are duplicative of each other.

4. Payment for services shall only be provided for services as set out in an individual's ISP.

5. Payments that are determined to have been made contrary to these limitations shall be recovered by either DMAS or its designee.

## **12VAC30-122-220. Appeals.**

A. Providers shall have the right to appeal actions taken by DMAS or its designee in accordance with § 32.1-325.1 of the Code of Virginia, the Virginia Administrative Process Act (Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia), 12VAC30-10-1000, and 12VAC30-20-500 et seq.

B. Individuals shall have the right to appeal an action taken by DMAS or its designee in accordance with 12VAC30-110-10 through 12VAC30-110-370 and 42 CFR Part 431 subpart E. The individual shall be advised in writing of the action and of his right to appeal consistent with federal requirements and DMAS client appeals regulations (12VAC30-110-10 through 12VAC30-110-370).

## **12VAC30-122-230. Utilization review and quality management review.**

A. Quality management review shall be performed by DMAS or its designee. Utilization review of rendered services shall be conducted by DMAS or its designee.

B. DMAS staff shall conduct utilization review of individual-specific provider documentation, which shall be forwarded by providers upon DMAS or DBHDS request.

[ C. Utilization review requirements specific to services in the developmental disability waivers shall be as follows:

1. To apply to be reimbursed as a Medicaid provider, the required DBHDS license shall be either a conditional or full (either annual or triennial) license.

2. Providers with provisional licenses issued by DBHDS shall not be reimbursed as Medicaid providers beginning 60 days from the issuance of the provisional license. Providers shall not request or receive authorizations or reauthorizations for services for new or currently supported individuals upon the issuance of the provisional license.

3. Reimbursement shall not be permitted to providers that fail to enter into a provider agreement with DMAS for a service prior to rendering that service or fail to maintain a current Medicaid Provider Enrollment Agreement. ]

## **12VAC30-122-240. Services covered in the Building Independence Waiver.**

A. The Building Independence Waiver is designed to support individuals who reside in an integrated, independent living arrangement who can be supported through the provision of a minimal level of supports.

B. The services covered in the Building Independence Waiver for adults who are 18 years of age or older shall be:

1. Assistive technology service (12VAC30-122-270).

2. Benefits planning service [ ~~(12VAC30-122-1070—reserved)~~ (12VAC30-122-280) ].
3. Center-based crisis support service (12VAC30-122-290).
4. Community-based crisis support service (12VAC30-122-300).
5. Community coaching service (12VAC30-122-310).
6. Community engagement service (12VAC30-122-320).
7. Community guide service (12VAC30-122-330 [ ~~reserved~~ ]).
8. Crisis support service (12VAC30-122-350).
9. Electronic home-based support service (12VAC30-122-360).
10. Environmental modifications service (12VAC30-122-370).
11. Group day service (12VAC30-122-380).
12. Group and individual supported employment service (12VAC30-122-400).
13. Independent living support service (12VAC30-122-420).
14. [ ~~Nonmedical~~ Employment and community ] transportation service (12VAC30-122-440 [ ~~reserved~~ ]).
15. Peer [ ~~support~~ mentor supports ] service (12VAC30-122-450 [ ~~reserved~~ ]).
16. Personal emergency response system service (12VAC30-122-470).
17. Shared living [ ~~support~~ ] service (12VAC30-122-510).
18. Transition service (12VAC30-122-560).

C. Services shall be rendered in compliance with all of the requirements set out in 12VAC30-122-120 [ and the DD Waivers policy manual ]. Providers claims for reimbursement shall be supported by record documentation in accordance with federal requirements and DMAS regulatory requirements. Claims not supported by [ ~~record~~ ] documentation [ in the record ] may be subject to recovery of expenditures.

**12VAC30-122-250. Services covered in the Community Living Waiver.**

A. The Community Living Waiver is the developmental disabilities waiver designed particularly to support those individuals who require some form of a residential service 24 hours per day, seven days per week.

B. The services covered in the Community Living Waiver are:

1. Assistive technology service (12VAC30-122-270).

2. Benefits planning service (12VAC30-122-280 [ ~~reserved~~ ]).
3. Center-based crisis support service (12VAC30-122-290).
4. Community-based crisis support service (12VAC30-122-300).
5. Community coaching service (12VAC30-122-310).
6. Community engagement service (12VAC30-122-320).
7. Community guide service (12VAC30-122-330 [ ~~reserved~~ ]).
8. Companion service (12VAC30-122-340).
9. Crisis support service (12VAC30-122-350).
10. Electronic home-based support service (12VAC30-122-360).
11. Environmental modifications service (12VAC30-122-370).
12. Group day service (12VAC30-122-380).
13. Group home [ residential ] service (12VAC30-122-390).
14. Group and individual supported employment service (12VAC30-122-400).
15. In-home support service (12VAC30-122-410).
16. [ ~~Nonmedical~~ Employment and community ] transportation service (12VAC30-122-440 [ ~~reserved~~ ]).
17. Peer [ ~~support~~ mentor supports ] service (12VAC30-122-450 [ ~~reserved~~ ]).
18. Personal assistance service (12VAC30-122-460).
19. Personal emergency response system service (12VAC30-122-470).
20. Private duty nursing service (12VAC30-122-480).
21. Respite service (12VAC30-122-490).
22. Services facilitation service (12VAC30-122-500).
23. Shared living [ ~~support~~ ] service (12VAC30-122-510).
24. Skilled nursing service (12VAC30-122-520).
25. Sponsored residential service (12VAC30-122-530).
26. Supported living residential service (12VAC30-122-540).
27. Therapeutic consultation service (12VAC30-122-550).
28. Transition service (12VAC30-122-560).
29. Workplace assistance service (12VAC30-122-570).

C. Services shall be rendered in compliance with all of the requirements set out in 12VAC30-122-120. Providers claims for reimbursement shall be supported by [ ~~record~~ ]

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documentation [ in the record ] in accordance with federal requirements and DMAS regulatory requirements. Claims not supported by [ ~~record~~ ] documentation [ in the record ] may be subject to recovery of expenditures.

## **12VAC30-122-260. Services covered in the Family and Individual Support Waiver.**

A. The Family and Individual Support Waiver is designed to support individuals who live with their families or in their own homes.

B. The services covered in the Family and Individual Support Waiver are:

1. Assistive technology service (12VAC30-122-270).
2. Benefits planning service (12VAC30-122-280 [ ~~reserved~~ ]).
3. Center-based crisis support service (12VAC30-122-290).
4. Community-based crisis support service (12VAC30-122-300).
5. Community coaching service (12VAC30-122-310).
6. Community engagement service (12VAC30-122-320).
7. Community guide service (12VAC30-122-330 [ ~~reserved~~ ]).
8. Companion service (12VAC30-122-340).
9. Crisis support service (12VAC30-122-350).
10. Electronic home-based support service (12VAC30-122-360).
11. Environmental modifications service (12VAC30-122-370).
12. Group day service (12VAC30-122-380).
13. Group and individual supported employment service (12VAC30-122-400).
14. In-home support service (12VAC30-122-410).
15. Individual and family/caregiver training service (12VAC30-122-430).
16. [ ~~Nonmedical~~ Employment and community ] transportation service (12VAC30-122-440 [ ~~reserved~~ ]).
17. Peer [ ~~support~~ mentor supports ] service service (12VAC30-122-450 [ ~~reserved~~ ]).
18. Personal assistance service (12VAC30-122-460).
19. Personal emergency response system service (12VAC30-122-470).
20. Private duty nursing service (12VAC30-122-480).
21. Respite service (12VAC30-122-490).

22. [ Services facilitation service (12VAC30-122-500)

23. ] Shared living [ ~~support~~ ] service (12VAC30-122-510).

[ ~~23~~. 24. ] Skilled nursing service (12VAC30-122-520).

[ ~~24~~. 25. ] Supported living residential service (12VAC30-122-540).

[ ~~25~~. 26. ] Therapeutic consultation service (12VAC30-122-550).

[ ~~26~~. 27. ] Transition service (12VAC30-122-560).

[ ~~27~~. 28. ] Workplace assistance service (12VAC30-122-570).

C. Services shall be rendered in compliance with all of the requirements set out in 12VAC30-122-120. Providers claims for reimbursement shall be supported by [ ~~record~~ ] documentation [ in the record ] in accordance with federal requirements and DMAS regulatory requirements. Claims not supported by [ ~~record~~ ] documentation [ in the record ] may be subject to recovery of expenditures.

## **12VAC30-122-270. Assistive technology service.**

A. Service description. Assistive technology (AT) service shall entail the provision of specialized medical equipment and supplies including those devices, controls, or appliances specified in the individual support plan but that are not available under the State Plan for Medical Assistance that (i) enable individuals to increase their abilities to perform activities of daily living (ADLs); (ii) enable individuals to perceive, control, or communicate with [ ~~the~~ their ] environment [ ~~in which they live~~; (iii) actively participate in other waiver services that are part of their plan for supports ] or [ ~~(iii)~~ (iv) ] are necessary for life support, including the ancillary supplies and equipment necessary to the proper functioning of such items. The AT service shall be covered in the FIS, CL, and BI waivers.

B. Criteria and allowable activities.

1. To qualify for the assistive technology service, the individual shall have a demonstrated need for equipment for remedial or direct medical benefit in the individual's primary home, primary vehicle, community activity setting, or day program to [ ~~specifically improve the individual's personal functioning~~ increase his ability to control his environment, support ISP outcomes as identified, and live safely and independently in the least restrictive community setting ]. The AT service shall be covered in the least expensive, most cost-effective manner and shall be limited to \$5,000 per calendar year. There shall be no carryover of unspent funds from year to year. The [ covered ] equipment and activities shall include:

a. Specialized medical equipment and ancillary equipment;

b. Durable or nondurable medical equipment and supplies that are not otherwise available through the State Plan for Medical Assistance;

c. Adaptive devices, appliances, and controls that enable an individual to be independent in areas of personal care and ADLs; and

d. Equipment and devices that enable an individual to communicate more effectively.

## 2. Service requirements.

a. An independent professional consultation to determine the level of need that is not performed by the AT service provider shall be obtained from staff knowledgeable of that item for each AT service request prior to approval by DMAS or its designee. Equipment, supplies, or technology not available as durable medical equipment through the State Plan for Medical Assistance may be purchased and billed as the AT service as long as the request for such equipment, supplies, or technology is documented and justified in the individual's ISP, recommended by the support coordinator, service authorized by DMAS or its designee, and provided in the least expensive, most cost-effective manner possible.

b. If required, a rehabilitation engineer or certified rehabilitation specialist may be utilized if (i) the assistive technology will be initiated in combination with environmental modifications involving systems that are not designed to be compatible or (ii) an existing device must be modified or a specialized device must be designed and fabricated.

c. All AT service items to be covered shall meet applicable standards of manufacture, design, and installation.

d. The AT service provider shall obtain, install, and demonstrate, as necessary, that the service was authorized prior to submitting his claim to DMAS for reimbursement. The provider shall provide all warranties or guarantees from the AT manufacturer to the individual and family/caregiver, as appropriate.

C. Service units and limitations. The AT service shall be available to individuals who are receiving at least one other waiver service and may be provided in a residential or nonresidential setting described in subdivision B 1 of this section. The AT service shall be provided in the least expensive manner possible that will accomplish the modification required by the individual enrolled in the waiver.

1. The maximum funded expenditure per individual for all covered procedure codes (combined total of AT service items and labor related to these items) shall be \$5,000 per calendar year and shall be completed within the calendar year. The service unit shall always be one for the total cost of all AT service being requested for a specific timeframe.

2. The AT service shall not be approved for purposes of convenience of the caregiver, [~~or~~] restraint of the

individual, [~~or~~] recreation or leisure activities [~~, or educational purposes~~].

3. AT service providers shall not be the spouse, parent, or guardian of the individual enrolled in the waiver.

4. Requests for AT service via a DD Waiver shall be denied if AT service is available for children under EPSDT (12VAC30-50-130). No duplication of payment for the AT service shall be permitted between the waiver and services covered for adults that are reasonable accommodation requirements of the Americans with Disabilities Act (42 USC § 12101 et seq.), the Virginians with Disabilities Act (Title 51.5 (§ 51.5-1 et seq.) of the Code of Virginia), and the Rehabilitation Act (29 USC § 701 et seq.).

## D. Provider qualifications and requirements.

1. Providers shall meet all of the requirements of 12VAC30-122-110 through 12VAC30-122-140.

2. AT service shall be provided by DMAS-enrolled durable medical equipment (DME) providers or DMAS-enrolled CSBs or BHAs with a signed, current waiver provider agreement with DMAS to provide the AT service. DME shall be provided in accordance with 12VAC30-50-165.

3. Independent assessments for the AT service shall be conducted by independent professional consultants. Independent, professional consultants include, for example, speech-language therapists, physical therapists, occupational therapists, physicians, behavioral therapists, certified rehabilitation specialists, or rehabilitation engineers.

4. Providers that supply AT service for an individual shall not perform assessment or consultation or write specifications. [~~Providers of services shall not be spouses, parents, or guardians of the individual.~~]

5. The AT service shall be delivered within the calendar year or within a year from the start date of the authorization. ]

[~~6. 5.~~] The plan for supports and service authorization request shall include justification and explanation if a rehabilitation engineer or certified rehabilitation specialist is needed.

[~~7. 6.~~] Providers shall develop and maintain individual-specific documentation that supports the provider's claims for payment. Claims that are not supported by individual-specific documentation shall be subject to payment recovery actions by DMAS.

[~~8. 7.~~] Additional charges for shipping, freight, or delivery are prohibited because these services are considered all-inclusive in a provider's charge for the product.

[~~9. 8.~~] All products must be delivered, demonstrated, installed, and in working order prior to submitting any claim for the products to Medicaid.

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~~[ 10. Providers of the AT service shall not be spouses, parents, or guardians of the individual who is receiving waiver services. 9. ]~~ Providers that supply the AT service for the waiver individual may not perform assessments or consultation or write specifications for that individual. Any request for a change in cost, either an increase or a decrease, requires justification and supporting documentation of ~~[ medical need necessity ]~~ and service authorization by DMAS or its designee. The provider shall receive a copy of the professional evaluation to purchase the items recommended by the professional. If a change is necessary, then the provider shall notify the assessor to ensure the changed items meet the individual's needs.

~~[ H. 10. ]~~ All equipment or supplies already covered by a service provided for in the State Plan shall not be purchased under the AT service.

## E. Service documentation and requirements.

1. Providers shall include signed and dated documentation of the following in each individual's record:

- a. [ The plan for supports per requirements detailed in 12VAC30-122-120. ] The service authorization to be completed by the support coordinator may serve as the plan for supports for the provision of AT service. The service authorization request shall be submitted to DMAS or its designee in order for service authorization to occur;
- b. [ For AT services, written ] documentation regarding the process and results of ensuring that the item is not covered by the State Plan for Medical Assistance as durable medical equipment and supplies;
- c. Documentation of the recommendation for the item by an independent professional consultant;
- d. Documentation of the date services are rendered and the amount of service that is needed;
- e. Any other relevant information regarding the device or modification;
- f. Documentation in the support coordination record of notification by the designated individual or individual's representative family/caregiver of satisfactory completion or receipt of the service or item; and
- g. Instructions regarding any warranty, repairs, complaints, or servicing that may be needed.

2. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not [ supported substantiated ] by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

## 12VAC30-122-280. Benefits planning service. [ (Reserved.) ]

A. Service description. Benefits planning is an individualized analysis and consultation service. This service assists recipients of a DD Waiver and social security (SSI, SSDI,

SSI/SSDI) to understand their personal benefits and explore their options regarding working, how to begin employment, and the impact employment will have on their state and federal benefits. This service includes education and analysis about current benefits status and implementation and management of state and federal work incentives as appropriate. Benefits planning involves the development of written resource materials that aid individuals and their families/legal representatives in understanding current and future rewards that come from working, thereby reducing uncertainties associated with losing necessary supports and benefits if they choose to work or stay on the job. This service facilitates individuals in making informed choices concerning the initiation of work. Furthermore, it provides information and education to individuals currently employed in making successful transition to financial independence.

B. Criteria and allowable activities. Each of the allowable activities is available contingent on the individual meeting criteria for receipt of the service activity. Receipt of this service shall not be tied to the receipt of any other covered waiver or Medicaid service. This service may be authorized one time per allowable activity per individual per calendar year. However, a service may be reauthorized within a calendar year if the individual's situation has changed in terms of disability conditions, benefit type, or employment status. Allowable activities include the following, which may be appropriate for the individual as documented in his plan for supports:

### 1. Pre-employment benefits review that may include:

- a. Benefits planning query (BPOY) from Social Security Administration (SSA). Description: A BPOY provides information about an individual's disability cash benefits, health insurance, scheduled continuing disability reviews, representative payee, and work history, as stored in SSA's electronic records. The BPOY is an important planning tool for the individual or other person who may be developing customized services for an individual who expresses interest in employment or remaining on the job.
- b. Pre-employment benefits summary and analysis (BS&A). Description: Work with and on behalf of the individual to develop a benefits and net income analysis report with both a current scenario and at least two other potential scenarios involving Social Security work incentives.
- c. Employment change benefits summary and analysis. Description: Work with and on behalf of the individual when the individual experiences a change in employment status to develop a benefits and net income analysis report with both a current scenario and at least two other potential scenarios involving Social Security work incentives.

2. Work incentives development or revisions (PASS, IRWE, BWE, IDA): Work with the individual and family/legal representative to develop:

- a. Plan to achieve self-support (PASS):



(1) Part 1 description: In collaboration with the individual and support system, develop a plan to achieve self-support (PASS) and ensure submission to the SSA.

(2) Part 2 description: Ensure the approval of the PASS plan from the SSA PASS cadre through modifications or other appropriate services.

b. Impairment related work expenses (IRWE). Description: IRWEs reduce the amount of income that Social Security counts against an individual's benefits by deducting the expense from their total countable wages. In order to qualify for the IRWE, the expense shall be related to the individual's disability, work, and be an expense without which the individual cannot work. This service involves working with the individual to develop and submit appropriate forms and supporting documents to SSA to successfully obtain the IRWE work incentive.

c. Blind work expenses (BWE). Description: Work with and on behalf of an individual confirmed to be blind to develop and submit appropriate forms and supporting documents to SSA to successfully obtain the BWE work incentive. Given these circumstances, SSI will not count any earned income when the primary diagnosis is blindness and the expense is reasonably attributed to earning the income, that is, guide dog, transportation to and from work, etc.

d. Individual development accounts (IDA). Description: Work with and on behalf of the individual to develop matched savings accounts to assist the individual in saving toward the purchase of a lifelong asset such as a home.

e. Student earned income exclusion (SEIE). Description: Work with and on behalf of the individual to develop and submit appropriate documents to SSA to receive benefits under the SEIE work incentive. SEIE allows individuals younger than 22 years of age who regularly attend school or are involved in a vocational education program to exclude earned income up to a certain amount per a month.

f. Medicaid while working (Social Security Act § 1619(b)). Description: Work with and on behalf of the individual to develop and submit an appropriate letter and supporting documents to SSA, Virginia Department of Social Services (VDSS), and Medicaid to receive benefits under § 1619(b), which provides the continuation of Medicaid when a beneficiary loses his SSI due to earnings above the SSI threshold.

g. Medicaid works (Virginia's Medicaid Buy-In Program). Description: Work with and on behalf of the individual who is currently eligible for or receiving Medicaid to complete and submit the Medicaid Works agreement and supporting documents to the VDSS to enroll in the Medicaid Buy-In Program (may include Medicaid application or updating the resource section of the Medicaid application). This enables workers with disabilities the opportunity to earn higher income and

retain more in savings or resources than is typically allowed by Medicaid.

h. Work incentive revisions. Description: Work with and on behalf of the individual to revise one of the work incentives plans listed in this subdivision B 2 as determined necessary by a significant change in status.

3. Resolution of SSA benefits issues (e.g., overpayments, subsidies, student earned income exclusion, Medicaid while working):

a. Overpayments. Description: Work with and on behalf of the individual to address Social Security overpayments that arise.

b. Subsidies. Description: Work with and on behalf of the individual to develop and submit appropriate documents to SSA to receive the subsidy work incentive.

c. Work activity reports. Description: Assist the individual family/legal representative in filling out and returning forms to SSA.

4. Other services:

a. ABLEnow. Description: Work with and on behalf of the individual and family, if applicable, to open an ABLEnow account.

b. Financial health assessment. Description: The financial health assessment (FHA) is a tool used to gauge an individual's understanding of his current financial situation.

C. Service units and limitations. Providers may not bill for waiver benefits planning services while the eligible individual has an open employment services case with DARS and is eligible for the same service through DARS.

1. The annual year limit for benefits planning services is \$3,000. No unspent funds from one plan year may be accumulated and carried over to subsequent plan years.

2. Hourly limits per activity:

a. Plan for Achieving Self-Support-Part 1 7.0 hours.

b. Plan for Achieving Self Support-Part 2 12.5 hours.

c. Impairment Related Work Expense 9.0 hours.

d. Blind Work Expense 9.0 hours.

e. Section 1619(b) Medicaid 4.5 hours.

f. Student Earned Income Exclusion 9.0 hours.

g. Subsidy 9.0 hours.

h. Work Activity Reports: 6.0 hours.

i. Medicaid Works 5.5 hours.

j. Overpayment 3.5 hours.

k. Benefits Planning Query 1.0 hours.

l. Pre-Employment BSA 7.0 hours.

m. WorkWORLD Summary and Analysis 7.0 hours.

n. Individual Development Accounts 7.0 hours.

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- o. Section 301/Able Now 4.5 hours.
- p. Financial Health Assessment 3.5 hours.
- q. WI Revisions 7.0 hours.

## D. Provider qualifications and requirements.

1. All providers of benefits planning services shall maintain and adhere to current, signed participation agreements with DMAS. The provider designated in this agreement shall directly submit claims to DMAS for reimbursement.
2. Eligible providers for benefits planning services shall possess written verification that they are one of the following:
  - a. A nationally certified SSA community work incentive coordinator (CWIC); or
  - b. A DARS certified work incentive specialist advocate (WISA) approved vendor.
3. Only providers that have completed required community financial empowerment and financial literacy training from the Consumer Financial Protection Bureau (CFPB) and Your Money, Your Goals will be eligible to receive payment for a completed financial health assessment.

## E. Documentation requirements for service providers.

1. Providers shall include in each individual's record:
  - a. The provider's plan for supports per requirements detailed in 12VAC30-122-120.
  - b. Documentation that shall confirm the amount of time spent with the individual, as well as the amount of time dedicated to completion of the work surrounding the benefits planning activity/document.
  - c. Documentation to support units of service delivered, and the documentation shall correspond with billing. Providers shall maintain separate documentation for each type of service rendered for an individual.
  - d. All documents shall be completed as they relate to benefits planning activities. If the individual or the family has withdrawn from the process prior to the document's completion, all portions that were completed should be documented along with a note that describes the circumstances during each session.
  - e. A written review supported by documentation in the individual's record shall be submitted to the support coordinator quarterly, during any quarters in which the service was provided, with the plan for supports if modified.
  - f. Documentation that all available and appropriate funding sources (including those offered by Virginia Medicaid State Plan, DARS, and the Department of Education), have been explored and exhausted.
  - g. All correspondence to the individual and the individual's family/caregiver, as appropriate, the support coordinator, DMAS, and DBHDS.

2. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims that are not supported by appropriate documentation shall be subject to recovery by DMAS as a result of utilization reviews and audits. ]

## **12VAC30-122-290. Center-based crisis support service.**

A. Service description. Center-based crisis support service means planned crisis prevention and emergency crisis stabilization services in a crisis therapeutic home using planned and emergency admissions. [ ~~This service is designed for individuals who will need ongoing crisis supports.~~ ] Planned admissions shall be provided to individuals receiving crisis services and who need temporary, therapeutic interventions outside of their home setting to maintain stability. Emergency admissions shall be provided to individuals who are experiencing an identified behavioral health need or behavior challenge that is preventing them from reaching stability within their home settings. Center-based crisis support service shall be covered in the FIS, CL, and BI waivers.

### B. Criteria and allowable activities.

1. Center-based crisis support service is designed for individuals with a history of at least one of the following:
  - a. Psychiatric hospitalization;
  - b. Incarceration;
  - c. Residential or day placement that was terminated; or
  - d. Behavior that has significantly jeopardized placement.
2. In addition, the individual shall meet at least one of the following:
  - a. Is currently experiencing a marked reduction in psychiatric, adaptive, or behavioral functioning;
  - b. Is currently experiencing an increase in emotional distress;
  - c. Currently needs continuous intervention to maintain stability; or
  - d. Is causing harm to himself or others.
3. The individual shall also be:
  - a. At risk of psychiatric hospitalization;
  - b. At risk of emergency ICF/IID placement;
  - c. At immediate risk of loss of community service due to severe situational reaction; or
  - d. Actually causing harm to himself or others.
4. Allowable activities shall include as appropriate for the individual as documented in the plan for supports:
  - a. A variety of types of face-to-face assessments (e.g., psychiatric, neuropsychiatric, psychological, behavioral) and stabilization techniques;
  - b. Medication management and monitoring;
  - c. Behavior assessment and positive behavior support;

d. Intensive care coordination with other agencies or providers to maintain the individual's community placement;

e. Training for family members/caregivers and providers in positive behavior supports;

f. Skill building related to the behavior creating the crisis such as self-care or ADLs, independent living skills, self-esteem, appropriate self-expression, coping skills, and medication compliance; and

g. Supervising the individual in crisis to ensure his safety and that of other persons in the environment.

C. Service units and limitations. Center-based crisis support service shall be limited to six months per ISP year and shall be authorized in increments of up to a maximum of 30 consecutive days with each authorization. Center-based crisis support service shall not be provided during the occurrence of the following waiver services and shall not be billed concurrently (i.e., same dates and times): (i) group home residential service, (ii) sponsored residential service, (iii) supported living residential service, or (iv) respite service. Center-based crisis support service is available through a waiver only when it is not available through the State Plan.

D. Provider qualifications and requirements.

1. Providers shall meet all of the requirements set out in 12VAC30-122-110 through 12VAC30-122-140.

2. Providers shall have current signed participation agreements with DMAS and shall directly provide the services and bill DMAS for Medicaid reimbursement.

3. Providers shall renew their participation agreements as directed by DMAS.

4. Providers for adults shall be licensed by DBHDS as providers of Group Home Service-REACH (Regional Education Assessment Crisis Services Habilitation) or, for children, a residential group home-REACH for children and adolescents with co-occurring diagnosis of developmental disability and behavioral health needs.

5. Center-based crisis support service shall be provided by a licensed mental health professional (LMHP), LMHP-supervisee, LMHP-resident, LMHP-RP, certified pre-screener, QMHP, QDDP, or [ for skill-building and supervising the individual in crisis, ] a DSP under the supervision of one of the professionals listed in this subdivision D 5.

6. Providers shall ensure that [ DSP ] staff meet provider [ training and ] competency training requirements as specified in 12VAC30-122-180.

7. Providers shall develop and maintain individual-specific contemporaneous documentation that supports the provider's claims for payment. Claims that are not supported

by individual-specific documentation shall be subject to payment recovery actions by DMAS.

E. Service documentation and requirements.

1. Providers shall include signed and dated documentation of the following in each individual's record:

a. The provider's plan for supports per requirements detailed in 12VAC30-122-120.

b. Supporting documentation that has been developed (or revised, in the case of a request for an extension) and submitted to the to the support coordinator for authorization within 72 hours of the face-to-face assessment or reassessment.

c. Documentation [ ~~indicating the dates and times of crisis services, the amount and type of service provided, and specific information about the individual's response to the services and supports shall be recorded in the individual's record as detailed in 12VAC30-122-120~~ ].

d. Documentation maintained for routine supervision and oversight of all services provided by direct support professional staff. All significant contacts shall be documented and dated.

2. [ ~~A supervisor meeting the requirements of 12VAC35-105 shall provide supervision of direct support professional staff. Documentation of supervision shall be (i) completed, (ii) signed by the staff person designated to perform the supervision and oversight, and (iii) include the following: Supervision of DSPs shall be provided consistent with the requirements in 12VAC30-122-120 by a supervisor meeting the requirements of 12VAC35-105-590. Providers shall make available for inspection documentation of supervision, and this documentation shall be completed and signed by the staff person designated to perform the supervision and oversight. This documentation shall include, at a minimum, the following: (i) date of contact or observation, (ii) person contacted or observed, (iii) a summary about the direct support professional's performance and service delivery, and (iv) any action planned or taken to correct problems identified during supervision and oversight. ]~~

[ ~~a. Date of contact or observation;~~

~~b. Person contacted or observed;~~

~~c. Summary about direct support professional staff performance and service delivery; and~~

~~d. Any action planned or taken to correct problems identified during supervision and oversight. ]~~

3. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

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## 12VAC30-122-300. Community-based crisis support service.

A. Service description. Community-based crisis support service means [ a service planned crisis prevention and emergency crisis stabilization services ] provided to individuals experiencing crisis events that put them at risk for homelessness, incarceration, or hospitalization or that creates danger to self or others. This service shall provide [ ongoing ] supports to individuals in their homes and other community settings. This service provides temporary intensive services and supports that avert emergency psychiatric hospitalization or institutional placement or prevent other out-of-home placement. This service shall be designed to stabilize the individual and strengthen the current living situation so that the individual can be maintained during and beyond the crisis period. Community-based crisis support service shall be covered in the FIS, CL, and BI waivers.

### B. Criteria and allowable activities.

1. Community-based crisis support service provides ongoing supports to the individual who may have:

- a. A history of multiple psychiatric hospitalizations, frequent medication changes, or setting changes; or
- b. A history of requiring enhanced staffing due to the individual's mental health or behavioral issues.

2. To be approved to receive this service, the individual shall have a history of at least one of the following:

- a. Previous psychiatric hospitalization;
- b. Previous incarceration;
- c. Residential or day placement that was terminated; or
- d. Behavior that has significantly jeopardized placement.

3. In addition, the individual shall meet at least one of the following:

- a. Is experiencing a marked reduction in psychiatric, adaptive, or behavioral functioning;
- b. Is experiencing an increase in extreme emotional distress;
- c. Needs continuous intervention to maintain stability; or
- d. Is actually causing harm to himself or others.

4. The individual shall also be:

- a. At risk of psychiatric hospitalization;
- b. At risk of emergency ICF/IID placement;
- c. At immediate threat of loss of community service due to a severe situational reaction; or
- d. Actually causing harm to himself or others.

5. Community-based crisis support service allowable activities shall be provided in either the individual's home or in community settings, or both. Crisis staff shall work directly with the individual and with his current support

provider or his family/caregiver, or both. [ This service includes supports during the provision of any other waiver service and may be billed concurrently (i.e., same dates and times). ]

6. This service is provided using, for example, coaching, teaching, modeling, role-playing, problem solving, or direct assistance. Allowable activities shall include, as may be appropriate for the individual as documented in his plan for supports:

- a. Psychiatric, neuropsychiatric psychological, and behavioral assessments and stabilization techniques;
- b. Medication management and monitoring;
- c. Behavior assessment and positive behavior support;
- d. Intensive care coordination with agencies or providers to maintain the individual's community placement;
- e. Family/caregiver training in positive behavioral supports to maintain the individual in the community;
- f. Skill building related to the behavior creating the crisis such as self-care or ADLs, independent living skills, self-esteem, appropriate self-expression, coping skills, and medication compliance; and
- g. Supervision to ensure the individual's safety and the safety of others in the environment.

C. Service units and limitations. Community-based crisis support service is provided in an hourly service unit and may be authorized for up to 24 hours per day if necessary in increments of no more than 15 days at a time. The annual limit is 1,080 hours. Requests for additional community-based crisis support service in excess of the 1,080-hour annual limit will be considered if justification of [ ~~medical necessity~~ individual need ] is provided. This service is only available through a waiver when it is not available through the State Plan.

### D. Provider qualifications and requirements.

1. Providers shall meet all of the requirements set out in 12VAC30-122-110 through 12VAC30-122-140.

2. Providers of all community-based crisis support service shall have current signed participation agreements with DMAS and shall directly provide the service and bill DMAS for Medicaid reimbursement. These providers shall renew their participation agreements as directed by DMAS.

3. Providers shall be licensed by DBHDS as providers of [ ~~mental health outpatient or~~ ] crisis stabilization service-REACH (Regional Education Assessment Crisis Services Habilitation). Community-based crisis support service shall be provided by an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, a certified pre-screener, QMHP, or QDDP.

[ ~~4. Providers shall ensure that staff providing community-based crisis support service meet provider competency training requirements as specified in 12VAC30-122-180. ]~~

E. Service documentation and requirements.

1. Providers shall include signed and dated documentation of the following in each individual's record:

a. The provider's plan for supports per requirements detailed in 12VAC30-122-120.

b. Supporting documentation that has been developed (or revised, in the case of a request for an extension) and submitted to the support coordinator for authorization within 72 hours of the face-to-face assessment or reassessment.

c. Documentation [ ~~indicating the dates and times of service, the amount and type of service provided, and specific information about the individual's responses to the services and supports~~ as detailed in 12VAC30-122-120 ].

[ ~~d. Documentation confirming the individual's amount of time in the service and providing specific information regarding the individual's response to various settings and supports as agreed to in the plan for supports. Observation of the individual's responses to the service shall be available in at least a daily note. Data shall be collected as described in the plan for supports, analyzed to determine if the strategies are effective, summarized, then clearly documented in the progress notes or support checklist.~~

e. d. ] Documentation to support units of service delivered, and the documentation shall correspond with billing. Providers shall maintain separate documentation for each type of service rendered for an individual. Documentation shall include all correspondence and contacts related to the individual.

2. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting contemporaneous documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

**12VAC30-122-310. Community coaching service.**

A. Service description. Community coaching is a service designed for individuals who need one-to-one support in a variety of community settings in order to build a specific skill or set of skills to address particular barriers that prevent individuals from participating in activities of community engagement. In addition to skill building, this service includes routine and safety supports. Community coaching service shall be covered in the FIS, CL, and BI waivers.

B. Criteria and allowable activities. Community coaching service shall be provided to individuals who require one-to-one support to address identified barriers in their plans for supports that prevent them from participating in the community engagement service. Community coaching activities shall be documented in the plan for supports and be sensitive to the individual's age, abilities, and personal preferences. Allowable activities shall include, as may be appropriate for the individual as documented in his plan for supports:

1. One-on-one skill building and coaching to facilitate participation in community activities and opportunities such as:

- a. Activities and public events in the community;
- b. Community education, activities, and events; and
- c. Use of public transportation if available and accessible.

2. Skill building and support in positive behavior, relationship building, and social skills.

3. Routine supports with the individual's self-management, eating, and personal care needs in the community.

4. Assuring the individual's safety through one-to-one supervision in a variety of community settings.

[ 5. Monitoring the individual's health and physical condition and providing supports with medication and other medical needs.

6. Providing routine supports and safety supports with transportation to and from community locations and resources. ]

C. Service units and limitations.

1. The unit of service shall be one hour.

2. The community coaching service, alone or in combination with the community engagement service, group day service, workplace assistance service, or supported employment service shall not exceed 66 hours per week.

3. This service shall be provided at a ratio of one staff to one individual. This service shall not be provided within a group setting. [ The service may be provided in the community in conjunction with other Medicaid services delivered in a group of individuals for the purpose of addressing socialization needs when supported by the plan for supports. Group participation will be permitted on a limited basis. ]

D. Provider qualifications and requirements.

1. Providers shall meet all of the requirements set out in 12VAC30-122-110 through 12VAC30-122-140.

2. Providers shall be licensed by DBHDS as providers of the non-center-based day support service.

3. Providers shall have a current, signed provider participation agreement with DMAS to provide this service. The provider designated in the participation agreement shall directly provide the service and bill DMAS for reimbursement.

4. Providers shall ensure that staff who provide the community coaching service meet provider [ ~~competency~~ ] training [ and competency ] requirements as specified in 12VAC30-122-180.

5. The DSP providing community coaching service shall not be an immediate family member of an individual receiving

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the community coaching service. For an individual receiving the sponsored residential service, the DSP providing the community coaching service shall not be a member of the sponsored family residing in the sponsored residential home.

## E. Service documentation and requirements.

1. Providers shall include signed and dated documentation of the following in each individual's record:

a. A copy of the completed, standard, age-appropriate assessment form as detailed in 12VAC30-122-200.

b. The provider's plan for supports per requirements detailed in 12VAC30-122-120.

c. Documentation [ ~~confirming attendance and the amount of the individual's time in service and providing specific information regarding the individual's response to various settings and supports. Observations of the individual's responses to service shall be available in at least a daily note, as detailed in 12VAC30-122-120.~~ ] Data shall be collected as described in the ISP, analyzed to determine if the strategies are effective, summarized, and then clearly documented in the progress notes or supports checklist.

d. Documentation to support units of service delivered, and the documentation shall correspond with billing. Providers shall maintain separate documentation for each type of service rendered for an individual.

e. A written review supported by documentation in the individuals' record, which is submitted to the support coordinator at least quarterly with the plan for supports, if modified. [ ~~For the annual review and every time supporting documentation is updated, the supporting documentation shall be reviewed with the individual or family/caregiver, as appropriate, and such review shall be documented.~~ ]

f. An attendance log or similar document maintained by the provider that indicates the date, type of service rendered, and the number of hours and units provided, including specific timeframe.

g. All correspondence to the individual and the individual's family/caregiver, as appropriate, the support coordinator, DMAS, and DBHDS.

h. Written documentation of all contacts with the individual's family/caregiver, physicians, providers, and all professionals regarding the individual.

2. [ ~~A supervisor meeting the requirements of 12VAC35-105 shall provide supervision on a semiannual basis of direct support professional staff. Providers shall make available for inspection documentation of supervision, and this documentation shall be completed, signed by the staff person designated to perform the supervision and oversight, and include the following: Supervision of DSPs shall be provided consistent with the requirements in 12VAC30-122-120 by a supervisor meeting the requirements of 12VAC35-105-590. Providers shall make available for inspection~~

documentation of supervision, and this documentation shall be completed and signed by the staff person designated to perform the supervision and oversight. This documentation shall include, at a minimum, the following: (i) date of contact or observation; (ii) person contacted or observed; (iii) a summary about the direct support professional's performance and service delivery; and (iv) any action planned or taken to correct problems identified during supervision and oversight. ]

[ ~~a. Date of contact or observation;~~

~~b. Person contacted or observed;~~

~~c. A summary about direct support professional staff performance and service delivery;~~

~~d. Any action planned or taken to correct problems identified during supervision and oversight; and~~

~~e. On a semiannual basis, the supervisor shall document observations concerning the individual's satisfaction with service provision. ]~~

3. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

## 12VAC30-122-320. Community engagement service.

### A. Service description.

1. Community engagement service means a service that supports and fosters an individual's abilities to acquire, retain or improve skills necessary to build positive social behavior, interpersonal competence, greater independence, employability, and personal choices necessary to access typical activities and functions of community life such as those chosen by the general population. The community engagement service may include community education or training and volunteer activities.

2. The community engagement service shall provide a wide variety of opportunities to facilitate and build relationships and natural supports in the community, while utilizing the community as a learning environment. These activities are conducted at naturally occurring times and in a variety of natural settings in which the individual may actively interact with persons without disabilities, other than those who are being paid to support the individual. The activities shall enhance the individual's involvement with the community and facilitate the development of relationships and natural supports.

3. The community engagement service shall be covered in the FIS, CL, and BI waivers.

### B. Criteria and allowable activities.

1. The community engagement service shall be provided in the least restrictive and most integrated community settings

possible according to the individual's plan for supports and individual choice.

2. Allowable activities shall include, as appropriate for the individual as documented in his plan for supports:

a. Skill building, education, support, and monitoring that assists the individual with the acquisition and retention of skills in the following areas: (i) [ participation in ] activities and public events in the community, (ii) [ participation in ] community educational activities and events, (iii) [ development of ] interests and activities that encourage therapeutic use of leisure time, (iv) [ participation in ] volunteer experiences, [ and ] (v) [ maintaining maintenance of ] contact with family and friends [ , and (vi) development of independence in activities of daily living ].

b. Skill building and education in self-direction designed to enable the individual to achieve one or more of the following outcomes, particularly through community collaborations and social connections developed by the provider (e.g., partnerships with community entities such as senior centers, arts councils): (i) development of self-advocacy skills; (ii) exercise of civil rights; (iii) acquisition of skills that promote the ability to exercise self-control and responsibility over services and supports received or needed; (iv) acquisition of skills that enable the individual to become more independent, integrated, or productive in the community; (v) development of communication skills and abilities; (vi) [ furthering furtherance of ] spiritual practices as desired by the individual; (vii) participation in cultural activities as desired by the individual; (viii) [ developing development of ] skills that enhance career planning goals in the community; (ix) [ developing development of ] living skills; (x) promotion of health and wellness [ , including administration of medication ]; (xi) [ developing development of ] orientation to the community and mobility in the community; (xii) access to and utilization of public transportation [ and so as to develop ] the ability to achieve the desired destination; or (xiii) interaction with volunteers from the community in program activities.

[ c. Providing routine supports and safety supports with transportation to and from community locations and resources. ]

C. Service units and limitations.

1. Community engagement service shall be a tiered service for reimbursement purposes.

2. The unit of service shall be one hour.

3. The community engagement service alone or in combination with the group day service, community coaching service, workplace assistance service, or supported employment service shall not exceed 66 hours per week.

4. [ This Other than time for planning community activities, this ] service shall be delivered in the community and shall not take place in a licensed residential or day setting or in the individual's residence.

5. This service may be provided in groups no larger than three individuals with a minimum of one DSP.

6. This service may include planning community activities with the individuals present in a group of no more than three individuals, although this shall be limited to no more than 10% of the total number of authorized hours per month.

7. Providers shall only be reimbursed for the tier to which the individual has been assigned based on the individual's assessed and documented needs.

D. Provider qualifications and requirements.

1. Providers shall meet all of the requirements set out in 12VAC30-122-110 through 12VAC30-122-140.

[ ~~1.2.~~ ] Providers shall be licensed by DBHDS as providers of the non-center-based day support service.

[ ~~2.3.~~ ] Providers shall have a current, signed provider participation agreement with DMAS in order to provide this service. The provider designated in the participation agreement shall directly provide the service and bill DMAS for reimbursement.

[ ~~3.4.~~ ] Providers shall ensure that [ persons staff ] providing community engagement service meet provider [ competency ] training [ and competency ] requirements as specified in 12VAC30-122-180.

[ ~~4.5.~~ ] The DSP providing community engagement service shall not be an immediate family member of an individual receiving the community engagement service. For an individual receiving sponsored residential service, the DSP providing the community engagement service shall not be a member of the sponsored family residing in the sponsored residential home.

E. Service documentation and requirements.

1. Providers shall include signed and dated documentation of the following in each individual's record:

a. A copy of the completed, standard, age-appropriate assessment form as described in 12VAC30-122-200.

b. The provider's plan for supports per requirements detailed in 12VAC30-122-120.

c. Documentation [ confirming the individual's attendance and the amount of the individual's time in the service and providing specific information regarding the individual's responses to various settings and supports. Observations of the individual's responses to the service shall be available in at least a daily note as detailed in 12VAC30-122-120 ]. Data shall be collected as described in the ISP, analyzed to determine if the strategies are effective,



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summarized, and then clearly documented in the progress notes or supports checklist.

d. Documentation to support units of service delivered, and the documentation shall correspond with billing. Providers shall maintain separate documentation for each type of service rendered for an individual.

e. ~~[ Documentation that shows that a written summary of a review of supporting documentation was performed with the individual or his family/caregiver, as appropriate, and was~~ A written review supported by documentation in the individual's record, which is ] submitted to the support coordinator at least quarterly with the plan for supports modified [ ~~as appropriate~~ ]. For the annual review and every time supporting documentation is updated, the supporting documentation shall be reviewed with the individual or family/caregiver, as appropriate, and such review shall be documented.

f. An attendance log or similar document that is maintained and indicates the date, type of service rendered, and the number of hours and units provided, including the specific timeframe.

g. All correspondence to the individual and individual's family/caregiver, as appropriate, the support coordinator, DMAS, and DBHDS.

h. Written documentation of all contacts with family/caregiver, physicians, providers, and all professionals regarding the individual.

2. ~~[ A supervisor meeting the requirements of 12VAC35-105 shall provide supervision of direct support professional staff. Documentation of supervision shall be completed, signed by the staff person designated to perform the supervision and oversight, and include the following: Supervision of DSP shall be provided consistent with the requirements in 12VAC30-122-120 by a supervisor meeting the requirements of 12VAC35-105-590. Providers shall make available for inspection documentation of supervision, and this documentation shall be completed and signed by the staff person designated to perform the supervision and oversight. This documentation shall include, at a minimum, the following: (i) date of contact or observation, (ii) person contacted or observed, (iii) a summary about the direct support professional's performance and service delivery, and (iv) any action planned or taken to correct problems identified during supervision and oversight. ]~~

~~[ a. Date of contact or observation;~~

~~b. Person contacted or observed;~~

~~c. A summary about the direct support professional staff performance and service delivery;~~

~~d. Any action planned or taken to correct problems identified during supervision and oversight; and~~

~~e. Semiannual documentation by the supervisor concerning the individual's satisfaction with service provision. ]~~

3. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

## 12VAC30-122-330. [ (Reserved). Community guide service.

A. Service description. Community guide services include direct assistance to promote individuals' self-determination through brokering specific community resources that lead to connection to and independent participation in integrated, independent housing or community activities so as to avoid isolation. This means that community guides investigate and coordinate as necessary the available naturally occurring community resources to facilitate the individual's participation in those resources of interest to the individual. Community guides provide information and directed assistance that aids the individual in developing supportive community relationships and exploring specific community resources that promote implementation of the person-centered plan. This service involves face-to-face contact with the individual to determine the individual's specific interests and exploration of community resources, which may lead to typical community activities or settings in which the individual will engage or reside. In addition, there is a component of supporting the individual that may occur without the individual present. Community guide services involve assisting the individual to identify the type of community options that maximize the individual's opportunities for meaningful engagement and growth in independence. The community guide shall provide the in-depth individualized assistance needed to connect with community activities and foster engagement distinct from the generic activities provided through routine support coordination. This service is designed to be short-term and periodic in nature.

B. Criteria and allowable activities. This service may be provided by persons with one of two emphases:

1. General community guide. This involves the utilization of existing assessment information regarding the individual's general interests to determine specific preferred activities and venues that are available in the individual's community to which the individual desires to be connected (e.g., clubs, special interest groups, physical activities/sports teams, etc.) to promote inclusion and independent participation in the life of the individual's community. The desired result is an increase in daily or weekly natural supports, as opposed to increasing hours of paid supports. Allowable activities include the following for the individual as documented in the individual's plan for supports:

a. Utilize assessment and other information provided by the support coordinator along with an in depth discussion with the individual and people who know the individual. Discussion shall involve an outline of the individual's interests to develop a plan for supports that contains a step by step strategy for the individual and family or friends, as appropriate, to reduce barriers and challenges in accessing community resources or activities to support those interests. The plan for supports shall identify targeted actions that will promote community integration and independent or naturally supported involvement;

b. Assist the individual in connecting to the identified, non-Medicaid funded community resources by researching and contacting the parties responsible for the identified integrated activities, supports, services, or resources delineated in the individual's plan for supports;

c. Provide advocacy and informal counseling that helps guide the individual in problem solving and decision making that enhances the individual's ability to interact and contribute to the local community;

d. Escort the individual or demonstrate on site the means of accessing the identified integrated community activities, supports, services, or resources;

e. Follow up with the individual to determine and document the individual's participation in or utilization of the activities, supports, services, or resources to which the community guide assisted in connecting.

2. Community housing guide. This service involves supporting an individual's move to independent housing by helping with transition and tenancy sustaining activities. The community housing guide shall work in collaboration with the support coordinator, regional housing specialist, and others to support the individual in achieving and sustaining integrated, independent living. Allowable activities include the following as documented in the individual's plan for supports:

a. Conduct a tenant screening that identifies the individual's preferences and barriers related to successful tenancy using the community housing guide tenant screening form;

b. Develop a plan using the community housing guide roadmap form with outcomes and support activities that the community guide shall provide to identify and secure safe, affordable housing to include assisting with implementation and making recommendations to the support coordinator as to waiver support services and activities needed in the individual support plan;

c. Assist with the housing search and application process;

d. Help identify and request resources to cover expenses, such as security deposit, moving costs, furnishings, adaptive aids, environmental modifications, and other one-time expenses;

e. Assist in arranging for and supporting the details of the move;

f. Provide education and training on the role, rights, and responsibilities of the tenant and landlord during the transition from home or congregate setting;

g. Provide training in being a good tenant and lease compliance; support with activities related to household management as part of the transitional support activities;

h. Assist in resolving disputes with landlords or neighbors to reduce risk of eviction or other adverse action during the period of time that community guide services are authorized; and

i. Assist with the housing recertification process if or when requested by the support coordinator or the individual's support team.

## C. Service units and limitations.

1. Community guide is expected to be a short, periodically intermittent, intense service associated with a specific outcome. An individual may receive one or more of the two types of community guide services in an ISP year. Each type of community guide service may be authorized for up to six consecutive months, and the cumulative total across both may be no more than 120 hours in a plan year.

2. Community guide activities conducted not in the presence of the individual, such as researching and contacting potential sites, supports, services, and resources, shall not comprise more than 25% of authorized plan for support hours.

3. The community guide shall not supplant, replace, or duplicate activities that are required to be provided by the support coordinator. Prior to accessing funding for this waiver service, all other available and appropriate funding sources, including those offered by Virginia Medicaid State Plan, DARS, and DOE, shall be explored and exhausted.

## D. Provider qualifications and requirements.

1. General community guide services shall be provided by persons who have successfully completed and received a certificate of completion for both The Learning Community's:

a. Person-Centered Thinking training; and

b. Community Connections training.

2. The community housing guide services shall be provided by persons who have successfully completed:

a. Person-Centered Thinking training; and

b. DBHDS Independent Housing Curriculum Modules 1-3.

3. Providers shall maintain a signed provider participation agreement with DMAS to provide community guide services.

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4. The provider designated in the participation agreement shall directly provide the services and bill DMAS for reimbursement.

E. Documentation requirements for service providers.

1. Providers shall include in each individual's record:

a. A copy of the completed, standard, age-appropriate assessment form as described in 12VAC30-122-200.

b. The provider's plan for supports shall follow requirements detailed in 12VAC30-122-120.

c. Documentation as detailed in 12VAC30-122-120. Data shall be collected as described in the ISP, analyzed to determine if the strategies are effective, summarized, and clearly documented in the progress notes or supports checklist.

d. Documentation to support units of service delivered and documentation shall correspond with billing. Providers shall maintain separate documentation for each type of service rendered for an individual.

e. A written review supported by documentation in the individual's record, which is submitted to the support coordinator at least quarterly with the plan for supports, if modified.

f. Documentation that all other available and appropriate funding sources, including those offered by Virginia Medicaid State Plan, DARS, and DOE, have been explored and exhausted.

g. All correspondence to the individual and the individual's family/caregiver, as appropriate, the support coordinator, DMAS, and DBHDS.

h. Written documentation of all contacts with family/caregiver, physicians, formal and informal service providers, and all professionals regarding the individual.

2. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims that are not supported by appropriate documentation shall be subject to recovery by DMAS as a result of utilization reviews and audits. ]

**12VAC30-122-340. Companion service.**

A. Service description. The companion service provides nonmedical care, socialization, or general support to adults 18 years of age or older. This service shall be provided in either the individual's home or at various locations in the community. The companion service may be coupled [ ~~only~~ ] with [ waiver ] residential support service as defined in the ISP.

1. The companion service shall be provided in accordance with the individual's plan for supports to meet an assessed need of the individual for assistance with IADLs, community access, reminders for medication self-administration, or for support to ensure his safety and shall not be purely recreational in nature.

2. The companion service may be provided and reimbursed either through an agency-directed or a consumer-directed model (12VAC30-122-150).

3. The companion service shall be covered in the FIS and CL waivers.

B. Criteria and allowable activities.

1. Allowable activities shall include, as may be appropriate for the individual and as documented in his plan for supports:

a. Routine supports with IADLs, including meal preparation, community access and activities, and shopping, but companions do not perform these activities as discrete services.

b. Routine supports with light housekeeping tasks, including bed-making, laundry, dusting, and vacuuming, when such services are specified in the individual's plan for supports and are essential to the individual's health and welfare in order to maintain the individual's home environment in an orderly and clean manner.

c. Safety supports in the home and community settings.

2. Individuals choosing the consumer-directed option [ may receive support from a services facilitator and ] shall meet requirements for consumer direction as described in 12VAC30-122-150.

C. Service units and limitations.

1. The unit of service for companion service shall be one hour. The amount that may be included in the plan for supports shall not exceed eight hours per 24-hour day regardless of whether it is an agency-directed or consumer-directed service model, or combination of both.

2. Persons rendering the companion service for reimbursement by DMAS shall not be the individual's spouse [ or other person identified in 12VAC30-122-120 B ].

3. In the consumer-directed service model, any combination of respite service, personal assistance service, and companion service shall be limited to 40 hours per week for a single employer of record (EOR) by the same companion. Companions who live with the individual, either full time or for substantial amounts of time, as set out in 12VAC30-120-935, shall not be restricted to only 40 hours per week for the single EOR. [ The companion shall not provide more than 16 hours of consumer-directed services per day. The 16-hour limit shall include hours worked in one day providing a combination of companion, personal assistance, and respite services. ]

4. A companion shall not be permitted to provide nursing care procedures, including care of ventilators, tube feedings, suctioning of airways, external catheters, or wound care. A companion shall not provide routine support with ADLs.

5. The hours that may be authorized shall be based on documented individual need. No more than two unrelated individuals who are receiving waiver services and who live in the same home shall be permitted to share the authorized work hours of the companion. Providers shall not bill for more than one individual at the same time.

6. Companion service shall not be covered for individuals who are younger than 18 years of age.

7. Companion service shall not be provided by adult foster care providers or any other paid caregivers for an individual residing in that foster care home.

8. For an individual receiving sponsored residential service, companion service shall not be provided by a member of the sponsored family residing in the sponsored residential home.

9. For an individual receiving group home service, sponsored residential service, or supported living service, companion service shall not be provided by an immediate family member.

D. Provider qualifications and requirements.

1. Providers shall meet all of the requirements set out in 12VAC30-122-110 through 12VAC30-122-140.

2. Licensure requirements for agency-directed service. For companion service, the provider shall be licensed by DBHDS as either a residential service provider, supportive in-home residential service provider, day support service provider, or respite service provider or shall meet the DMAS criteria to be a personal care service or respite care service provider [ as defined in 12VAC30-122-460 ].

3. Persons functioning as companions shall meet the following requirements:

- a. Be at least 18 years of age;
- b. Be able to read and write English to the degree required to function in this capacity and create and maintain the required documentation to support billing and possess basic math skills;
- c. Be capable of following a plan for supports with minimal supervision and physically able to perform the required work;
- d. Possess a valid Social Security Number that has been issued by the Social Security Administration to the person who is to function as the companion;
- e. Be capable of aiding in IADLs; [ ~~and~~ ]
- f. Receive a tuberculosis screening according to the requirements of the Virginia Department of Health [ ; and
- g. For consumer directed companions, be willing to attend training at the individual's or family/caregiver's request ];

4. Supervision requirements for agency-directed companion service.

a. A supervisor shall provide ongoing supervision of all companions.

b. For DBHDS-licensed entities, the provider shall employ or subcontract with [ ~~and directly supervise at least a Qualified Developmental Disabilities Professional (QDDP) who shall provide ongoing supervision of all companions~~ a supervisor meeting the requirements of 12VAC35-105 to provide supervision on a semiannual basis of direct support professional staff ].

c. For companion service providers [ ; that meet the DMAS criteria to be a personal care service or respite care service provider, ] the provider shall employ or subcontract with and directly supervise an RN or an LPN who shall provide ongoing supervision of all companions. The supervising RN or LPN shall have at least one year of related clinical nursing experience that may include work in an acute care hospital, public health clinic, home health agency, ICF/IID, or nursing facility or shall have a bachelor's degree in a human services field and at least one year of experience working with individuals with developmental disabilities.

d. The supervisor shall make a home visit to conduct an initial assessment prior to the start of service for all individuals enrolled in the waiver requesting and who have been approved to receive companion service. The supervisor shall also perform any subsequent reassessments or changes to the plan for supports. All changes that are indicated for an individual's plan for supports shall be reviewed with and agreed to by the individual and, if appropriate, the family/caregiver.

e. The supervisor shall make supervisory home visits as often as needed to ensure both quality and appropriateness of the service. The minimum frequency of these visits shall be every 30 to 90 days under the agency-directed model, depending on the individual's needs.

f. Based on continuing evaluations of the companion's performance and individual's needs, the supervisor shall identify any gaps in the companion's ability to function competently and shall provide training as indicated.

[ g. All individuals shall have a backup plan prior to initiating services in cases of emergency or should the provider be unable to render services as needed. This backup plan shall be shared with the provider and support coordinator at the onset of services and updated with the provider and support coordinator as necessary. ]

5. Providers shall ensure that [ ~~all~~ ] staff providing agency-directed companion service meet provider [ ~~competency~~ ] training [ and competency ] requirements as specified in 12VAC30-122-180.

6. Service facilitation requirements for companion service shall be the same as those set forth in 12VAC30-122-150.

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7. Family members as providers in agency-directed companion service shall meet the same limits and requirements set out in 12VAC30-122-120 B.

## E. Service documentation and requirements.

1. Providers shall include signed and dated documentation of the following in each individual's record:

a. A copy of the completed, standard, age-appropriate assessment form as described in 12VAC30-122-200.

b. The provider's plan for supports per requirements detailed in 12VAC30-122-120.

c. Documentation ~~[ confirming the individual's amount of time in service and providing specific information regarding the individual's response to various settings and supports. Documentation shall be available in at least a daily note as detailed in 12VAC30-122-120 ].~~ ~~[ Data Documentation ]~~ shall be collected as described in the ISP, analyzed to determine if the strategies are effective, summarized, then clearly documented in the progress notes or support checklist.

d. Documentation to support units of service delivered, and the documentation shall correspond with billing. Providers shall maintain separate documentation for each type of service rendered for an individual.

e. A written review supported by documentation in the individual's record that is submitted to the support coordinator at least quarterly with the plan for supports, if modified. ~~[ For the annual review and every time supporting documentation is updated, the supporting documentation shall be reviewed with the individual or family/caregiver, as appropriate, and such review shall be documented. ]~~

f. All correspondence to the individual and individual's family/caregiver, as appropriate, the support coordinator, DMAS, and DBHDS.

g. Written documentation of all contacts with the individual's family/caregiver, physicians, providers, and all professionals regarding the individual.

h. Documentation that is maintained for routine supervision and oversight of all service provided by the companion. All significant contacts shall be documented and dated.

i. Documentation of supervision that is completed, signed by the staff person designated to perform the supervision and oversight, and includes the following:

(1) Date of contact or observation;

(2) Person contacted or observed;

(3) A summary about the companion's performance and service delivery;

(4) Any action planned or taken to correct problems identified during supervision and oversight; and

~~[ (5) On a semiannual basis, documentation of observations concerning the individual's satisfaction with service provision. ]~~

2. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

## **12VAC30-122-350. Crisis support service.**

A. Service description. Crisis support service is designed for individuals experiencing circumstances such as (i) marked reduction in psychiatric, adaptive, or behavioral functioning; (ii) an increase in emotional distress; (iii) needing continuous intervention to maintain stability; or (iv) causing harm to themselves or others. Crisis support service means intensive supports by trained and, where applicable, licensed staff in crisis prevention, crisis intervention, and crisis stabilization for an individual who is experiencing an episodic behavioral or psychiatric event in the community that has the potential to jeopardize the current community living situation. This service is designed to prevent the individual from experiencing an episodic crisis that has the potential to jeopardize his current community living situation, to intervene in such a crisis, or to stabilize the individual after the crisis. This service shall prevent escalation of a crisis, maintain safety, stabilize the individual, and strengthen the current living situation so that the individual can be supported in the community beyond the crisis period. Crisis support service shall be covered in the FIS, CL, and BI waivers.

B. Criteria and allowable activities. Crisis support service may include as appropriate and necessary:

1. Crisis prevention services, which provide ~~[ ongoing ]~~ assessment of an individual's medical, cognitive, and behavioral status as well as predictors of self-injurious, disruptive, or destructive behaviors, with initiation of positive behavior supports to resolve and prevent future occurrence of crisis situations. Crisis prevention services shall also include training for family/caregivers to avert further crises and to maintain the individual's typical routine to the maximum extent possible. Crisis prevention services shall also encompass supporting the family and individual through team meetings, revising the behavior plan or guidelines, and other activities as changes to the behavior support plan are implemented and residual concerns from the crisis situation are addressed.

2. Crisis intervention services, which shall be used during a crisis to prevent further escalation of the situation and to maintain the immediate personal safety of those involved. Crisis intervention services shall be a short-term service providing highly structured intervention that can include, for example, temporary changes to the person's residence, changes to the person's daily routine, and emergency referral

to other care providers. Crisis intervention staff shall model verbal deescalation techniques including active listening, reflective listening, validation, and suggestions for immediate changes to the situation.

3. Crisis stabilization, which entails gaining a full understanding of the factors that contributed to the crisis once the immediate threat has resolved and there is no longer an immediate threat to the health and safety of the individual or others. Crisis stabilization services shall be geared toward gaining a full understanding of all of the factors that precipitated the crisis and may have maintained it until trained staff from outside the immediate situation arrived. These services result in the development of new plans that may include environmental modifications, interventions to enhance communication skills, or changes to the individual's daily routine or structure. Crisis stabilization staff shall train family/caregivers and other persons significant to the individual in techniques and interventions to avert future crises.

C. Service units and limitations.

1. Crisis support service shall be authorized or reauthorized following a documented face-to-face assessment conducted by a QDDP [ or QMHP ].

a. Crisis prevention. The unit of the service shall be one hour and billing may occur up to 24 hours per day if necessary. [ ~~Medically necessary crisis~~ Crisis ] prevention may be authorized for up to 60 days per ISP year. Crisis prevention services include supports during the provision of any other waiver service and may be billed concurrently (i.e., same dates and times).

b. Crisis intervention. The unit of the service shall be one hour and billing may occur up to 24 hours per day if necessary. [ ~~Medically necessary crisis~~ Crisis ] intervention may be authorized in increments of no more than 15 days at a time for up to 90 days per ISP year. Crisis intervention services include supports during the provision of any other waiver service and may be billed concurrently (i.e., same dates and times).

c. Crisis stabilization. The unit of the service shall be one hour and billing may occur up to 24 hours per day if necessary. [ ~~Medically necessary crisis~~ Crisis ] stabilization may be authorized in increments of no more than 15 days at a time for up to 60 days per ISP year. Crisis stabilization services include supports during the provision of any other waiver service and may be billed concurrently (i.e., same dates and times).

2. The crisis support service shall only be available through a waiver when they are not available through the State Plan.

D. Provider qualifications and requirements.

1. Providers shall meet the requirements of 12VAC30-122-110 through 12VAC30-122-140.

2. Providers of crisis support service shall have current signed participation agreements with DMAS and shall directly provide the service and bill DMAS for Medicaid reimbursement. These providers shall renew their participation agreements as directed by DMAS.

3. Crisis support service shall be provided by entities licensed by DBHDS as providers of [ ~~outpatient crisis stabilization service,~~ ] residential crisis stabilization service, or nonresidential crisis stabilization service. Providers shall employ or utilize QDDPs, licensed mental health professionals, or other qualified personnel [ ~~licensed credentialed~~ ] to provide clinical or behavioral interventions. [ For the purposes of services delivery and billing, those individuals who do not have a license or degree are considered nonprofessionals. Those individuals who meet QDDP requirements or are licensed are considered professionals. ]

4. Providers shall ensure that [ DSP ] staff who are providing [ ~~community based~~ ] crisis support service meet provider [ ~~competency~~ ] training [ and competency ] requirements as specified in 12VAC30-1220-180.

E. Service documentation and requirements.

1. Providers shall include signed and dated documentation of the following in each individual's record:

a. The provider's plan for supports per requirements detailed in 12VAC30-122-120.

b. Supporting documentation that is developed (or revised, in the case of a request for an extension) and submitted to the support coordinator for authorization within 72 hours of the face-to-face assessment or reassessment.

c. Documentation indicating the dates and times of service, the amount and type of service provided, and specific information about the individual's responses to service in the supporting documentation.

d. Documentation of provider qualifications that is maintained for review by DMAS or DBHDS staff and provided upon request from either agency.

e. Documentation [ ~~confirming attendance and the individual's amount of time in service and providing specific information regarding the individual's response to various settings and supports as agreed to in the plan for supports. Observation results shall be available in at least a daily note,~~ as detailed in 12VAC30-122-120. ] Data shall be collected as described in the plan for supports, analyzed to determine if the strategies are effective, summarized, then clearly documented in the progress notes or support checklist.

f. Documentation to support units of service delivered, and the documentation shall correspond with billing. Providers shall maintain separate documentation for each type of service rendered for an individual. Documentation shall

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include all correspondence and contacts related to the individual.

g. Documentation that is maintained for routine supervision and oversight of all service provided by direct support professional staff. All significant contacts shall be documented and dated.

2. ~~[ A supervisor meeting the requirements of 12VAC35-105 shall supervise direct support professional staff. Documentation of supervision shall be completed, signed by the staff person designated to perform the supervision and oversight, and include the following: Supervision of DSPs shall be provided consistent with the requirements in 12VAC30-122-120 by a supervisor meeting the requirements of 12VAC35-105-590. Providers shall make available for inspection documentation of supervision, and this documentation shall be completed and signed by the staff person designated to perform the supervision and oversight. This documentation shall include, at a minimum, the following: (i) date of contact or observation, (ii) person contacted or observed, (iii) a summary about the direct support professional's performance and service delivery, and (iv) any action planned or taken to correct problems identified during supervision and oversight. ]~~

~~[ a. Date of contact or observation;~~

~~b. Person contacted or observed;~~

~~c. A summary about direct support professional staff performance and service delivery;~~

~~d. Any action planned or taken to correct problems identified during supervision and oversight; and~~

~~e. On a semiannual basis, the supervisor shall document observations concerning the individual's satisfaction with service provision. ]~~

3. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

## **12VAC30-122-360. Electronic home-based support service.**

A. Service description. Electronic home-based support service shall provide devices, equipment, or supplies, based on current technology to enable the individual to more safely live and participate in his community while decreasing the need for other services such as staff supports. The equipment or devices shall be purchased for the individual and typically shall be installed in the individual's home. Portable hand-held devices may be used by the individual at home or in the community. These devices and this service shall support the individual's greater independence and self-reliance in the community. This service may also include ongoing electronic monitoring, which is the provision of oversight and monitoring within the home through off-site monitoring. The electronic home-based service shall be covered in the FIS, CL, and BI waivers.

## B. Criteria and allowable activities.

1. In order to qualify for the electronic home-based support (EHBS) service, the individual shall be at least 18 years of age and ~~[ physically ]~~ capable of using the equipment provided via EHBS service.

2. A preliminary needs assessment shall be completed by ~~[ a technology specialist~~ an independent professional consultant ] to determine the best type and use of technology and overall cost effectiveness of various options. This assessment shall be submitted to the DMAS designee for service authorization prior to the delivery of any goods and services and prior to the submission of any claims for Medicaid reimbursement. The ~~[ technology specialist~~ independent professional consultant ] conducting the preliminary assessment may be an occupational therapist, or other similarly credentialed specialist, who is licensed or certified by the Commonwealth and specializes in assistive technologies, mobile technologies, and current accommodations for individuals with developmental disabilities.

3. EHBS service shall support training in the use of these goods and services, ongoing maintenance, and monitoring to address an identified need in the individual's ISP, including improving and maintaining the individual's opportunities for full participation in the community.

4. Items or services purchased through EHBS service shall be designed to decrease the need for other Medicaid services, such as reliance on staff supports, promote inclusion in the community, and increase the individual's safety in the home environment.

## C. Service units and limits.

1. The ISP year limit for this service shall be \$5,000. No unspent funds from one plan year shall be accumulated and carried over to subsequent plan years.

2. Receipt of EHBS service shall not be tied to the receipt of any other covered waiver or Medicaid service. Equipment or supplies already covered by any other Medicaid covered service shall be excluded from coverage by this waiver service.

3. EHBS service shall be provided in the least expensive manner possible that will meet the identified need of the individual enrolled in the waiver and shall be completed within the ~~[ calendar ]~~ ISP ] year.

4. EHBS service shall not be covered for individuals who are receiving residential supports that are reimbursed on a daily basis, such as group home, or sponsored or supported living residential service.

## D. Provider requirements.

1. Providers shall meet all of the requirements of 12VAC30-122-110 through 12VAC30-122-140.



2. An EHBS service provider shall be one of the following:

- a. A Medicaid-enrolled licensed personal care agency;
- b. A Medicaid-enrolled durable medical equipment provider;
- c. A CSB or BHA;
- d. A center for independent living;
- e. A licensed and Medicaid-enrolled home health provider;
- f. An EHBS manufacturer [ or a company ] that has the ability to provide electronic home-based equipment, direct services (i.e., installation, equipment maintenance, and service calls), and monitoring; or
- g. A PERS manufacturer [ or a company ] that is Medicaid-enrolled and has the ability to provide electronic home-based equipment, direct services (i.e., installation, equipment maintenance, and service calls), and monitoring services.

3. Providers of this service shall have a current, signed participation agreement with DMAS. Providers as designated on this agreement shall render this service directly and shall bill DMAS for Medicaid reimbursement.

4. The provider of ongoing monitoring systems shall provide an emergency response center with fully trained operators who are capable of (i) receiving signals for help from an individual's equipment 24 hours a day, 365 or 366 days per year as appropriate; (ii) determining whether an emergency exists; and (iii) notifying the appropriate responding organization or an emergency responder that the individual needs help.

5. The EHBS service provider shall have the primary responsibility to furnish, install, maintain, test, and service the equipment, as required, to keep it fully operational. The provider shall replace or repair the device within 24 hours of the individual's notification of a malfunction of the unit or device.

6. The EHBS service provider shall properly install all equipment and shall furnish all supplies necessary to ensure that the system is installed and working properly.

7. The EHBS service provider shall install, test, and demonstrate to the individual and family/caregiver, as appropriate, the unit or device before submitting a claim to DMAS. The provider responsible for installation of devices shall document the date of installation and training in use of the devices.

8. The provider of off-site monitoring shall document each instance of action being taken on behalf of the individual. This documentation shall be maintained in this provider's record for the individual and shall be provided to either DMAS or DBHDS upon demand. The record shall document all of the following:

- a. Delivery date and installation date of the EHBS;
- b. The signature of the individual or his family/caregiver, as appropriate, verifying receipt of the EHBS device;
- c. Verification by a test that the EHBS device is operational, monthly or more frequently as needed;
- d. Updated and current individual responder and contact information, as provided by the individual or the individual's care provider or support coordinator/case manager; and
- e. A case log documenting the individual's utilization of the system and contacts and communications with the individual or his family/caregiver, as appropriate, support coordinator, or responder.

E. Service documentation and requirements.

1. Providers shall include signed and dated documentation of the following in each individual's record:

- a. [ ~~The provider's plan for supports per requirements detailed in 12VAC30-122-120.~~ ] The appropriate service authorization to be completed by the support coordinator may serve as the plan for supports for the provision of EHBS service. A rehabilitation engineer may be involved for EHBS service if disability expertise is required that a general contractor may not have. The service authorization request documentation shall include justification and explanation if a rehabilitation engineer is needed. The service authorization request shall be submitted to the state-designated agency or its designee in order for service authorization to occur;
- b. Written documentation regarding the process and results of ensuring that the item is not covered by the State Plan for Medical Assistance as durable medical equipment (DME) and supplies, and that the item is not available from a DME provider;
- c. Documentation of the recommendation for the item by an independent professional consultant;
- d. Documentation of the date service is rendered and the amount of service that is needed;
- e. Any other relevant information regarding the device or modification;
- f. Documentation in the support coordination record of notification by the designated individual or individual's representative family/caregiver of satisfactory completion or receipt of the service or item; and
- g. Instructions regarding any warranty, repairs, complaints, or servicing that may be needed.

2. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

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## **12VAC30-122-370. Environmental modifications service.**

A. Service description. Environmental modifications service [ shall be defined as set out in 12VAC30-122-20 and includes equipment or modifications of a remedial or medical benefit offered in an individual's primary home or the primary vehicle used by the individual to specifically improve the individual's personal functioning. means physical adaptations to the individual's home or primary vehicle that are necessary to ensure the individual's health and welfare or to enable functioning with greater independence. ] Environmental modifications service shall be covered in the FIS, CL, and BI waivers.

### B. Criteria and allowable activities.

1. To qualify for environmental modifications (EM) service, the individual enrolled in the waiver shall have a demonstrated need for:

a. Installation of ramps and grab-bars, widening of doorways, modification of bathroom facilities, or installation of specialized electric and plumbing systems that are necessary to accommodate the medical equipment and supplies that are necessary for the individual and are consistent with the plan for supports requirements.

b. Modifications to a primary automotive vehicle in which the individual is transported that is owned by the individual, a family member with whom the individual lives or has consistent and ongoing contact, or a nonrelative who provides primary long-term support to the individual and is not a paid provider of environmental modifications.

2. EM service shall encompass those items not otherwise covered in the State Plan for Medical Assistance or through another program.

### C. Service units and limits.

1. Environmental modifications (EM) service shall be provided in the least expensive manner possible that will accomplish the modification required by the individual enrolled in the waiver and shall be completed within the calendar year.

2. The maximum funded expenditure per individual for all EM service covered procedure codes (i.e., combined total of EM service items and labor related to these items) shall be \$5,000 per calendar year for individuals regardless of the waiver for which EM service is approved and regardless of whether or not the individual changes waivers over the course of the calendar year. The service unit shall always be one for the total cost of all EM being requested for a specific timeframe.

3. EM service shall only be available to individuals enrolled in the waiver who are receiving at least one other waiver service. EM service shall be service authorized by the state-designated agency or its designee for each calendar year with

no carry-over of authorized unspent funds across calendar years.

4. Providers of EM service shall not be the spouse, parents, or legal guardians of the individual enrolled in the waiver.

5. Modifications shall not be used to bring a substandard dwelling up to minimum habitation standards.

6. Excluded from coverage under the EM service shall be those adaptations or improvements to the home that are of general utility and that are not of direct medical or remedial benefit to the individual enrolled in the waiver, including carpeting, roof repairs, and central air conditioning. Also excluded shall be modifications that are reasonable accommodation requirements of the Americans with Disabilities Act, (42 USC § 12101 et seq.), the Virginians with Disabilities Act (Title 51.5 (§ 51.5-1 et seq.) of the Code of Virginia), and the Rehabilitation Act (29 USC § 701 et seq.). Adaptations that add to the total square footage of the home shall be excluded from this service. Except when EM service is furnished in the individual's own home, it shall not be provided to individuals who receive residential support service.

7. Modifications shall not be service authorized or covered to adapt living arrangements that are owned or leased by providers of waiver services or those living arrangements that are sponsored by a DBHDS-licensed provider. Specifically, provider-owned or leased settings where residential support service is furnished shall already be compliant with the Americans with Disabilities Act.

8. Environmental modifications to a primary vehicle shall exclude:

a. Adaptations or improvements to the vehicle that are of general utility and are not of direct medical or remedial benefit to the individual;

b. Purchase or lease of a vehicle; and

c. Regularly scheduled upkeep and maintenance of a vehicle, except upkeep and maintenance of the modifications that were covered under the environmental modifications service.

9. EM service shall be provided in accordance with all applicable federal, state, or local building codes and laws.

### D. Provider requirements.

1. Providers shall meet all of the requirements set forth in 12VAC30-122-110 through 12VAC30-122-140.

2. An EM service provider shall be one of the following:

a. A Medicaid-enrolled durable medical equipment provider; or

b. A CSB or [ BHS BHA ].

3. Providers of environmental modifications service shall have a current, signed participation agreement with DMAS.

Providers as designated on this agreement shall render environmental modifications directly and shall bill DMAS for Medicaid reimbursement.

4. If a provider has previously made environmental modifications, such previous work shall have been completed satisfactorily in order to be authorized for future jobs. A provider shall perform all servicing and repairs that the modification may require for the individual's successful use.

#### E. Service documentation and requirements.

1. Providers shall include signed and dated documentation of the following in each individual's record:

a. [~~The provider's plan for supports per requirements detailed in 12VAC30-122-120.~~] The appropriate service authorization to be completed by the support coordinator may serve as the plan for supports for the provision of EM service. A rehabilitation engineer may be involved for EM service if disability expertise is required that a general contractor may not have. The service authorization shall include justification and explanation if a rehabilitation engineer is needed. The service authorization request shall be submitted to the state-designated agency or its designee in order for service authorization to occur;

b. Written documentation regarding the process and results of ensuring that the item is not covered by the State Plan for Medical Assistance, for example as durable medical equipment (DME) and supplies and that it is not otherwise available from a DME provider;

c. Documentation of the recommendation for the item by an independent professional consultant if an independent professional consultant is required for the individual's needs;

d. Documentation of the date EM service is rendered and the amount of service that is needed;

e. Any other relevant information regarding the device or modification;

f. Documentation in the support coordinator's record of notification by the designated individual or individual's representative family/caregiver of satisfactory completion or receipt of the service or item; and

g. Instructions regarding any warranty, repairs, complaints, or servicing that may be needed.

2. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

#### **12VAC30-122-380. Group day service.**

A. Service description. Group day service means a service provided to help the individual acquire, retain, or improve skills of self-help, socialization, community integration, career

planning, and adaptation via opportunities for peer interactions, community integration, and enhancement of social networks. This service typically shall be offered in a nonresidential setting. Skill-building shall be a component of this service unless the individual has a documented progressive condition, in which case group day service may focus on maintaining skills and functioning and preventing or slowing regression rather than acquiring new skills or improving existing skills. Group day service shall be covered in the FIS, CL, and BI waivers.

B. Criteria and allowable activities. For group day service, an individual shall demonstrate the need for skill-building or supports offered primarily in settings other than the individual's own residence that allows the individual an opportunity for being a productive and contributing member of his community. In addition, group day service shall be available for individuals who can benefit from the supported employment service, but who need group day service as an appropriate alternative or in addition to the supported employment service.

1. Allowable activities shall include, as may be appropriate for the individual as documented in his plan for supports:

a. Developing problem-solving abilities; sensory, gross, and fine motor control abilities; and communication and personal care skills;

b. Developing self, social, and environmental awareness skills;

c. Developing skills as needed in (i) positive behavior, (ii) using community resources, (iii) community safety and positive peer interactions, (iv) volunteering and participating in educational programs in integrated settings, and (v) forming community connections or relationships;

d. Supporting older adults in participating in meaningful retirement activities in their communities (i.e., clubs and hobbies);

e. [~~Skill-building and providing routine supports related to ADLs and IADLs.~~

f. Monitoring the individual's health and physical condition and providing supports with medication and other medical needs.

g. ] Providing safety supports in a variety of community settings; [~~and~~

f. h. ] Career planning and resume developing based on career goals, personal interests, and community experiences [ ; and

i. Providing routine supports and safety supports with transportation to and from community locations and resources ].

2. Group day service shall be coordinated with the therapeutic consultation plan, as applicable.

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## C. Service units and limits.

1. This service unit shall be one hour. Group day service, alone or in combination with the community engagement service, community coaching service, workplace assistance service, or supported employment service, shall not exceed 66 hours per week. Group day service shall occur one or more hours per day on a regularly scheduled basis for one or more days per week in settings that are separate from the individual's home.
2. Group day service shall be a tiered service for reimbursement purposes. Providers shall only be reimbursed for the individual's assigned level and tier.
3. Group day service staffing ratios shall be based on the activity and the individual's needs as set out in the individual's plan for supports and shall be at least one staff to seven individuals.
4. Providers shall be reimbursed only for the amount of group day service that are rendered as established in the individual's approved plan for supports based on the setting, intensity, and duration of the service to be delivered.
5. In instances where group day service staff are required to ride with the individual to and from group day service, the group day service staff time may be billed as group day service, provided that the billing for this time does not exceed 25% of the total time the individual spent in the group day service activity for that day. Documentation shall be maintained to verify that billing for group day service staff coverage during transportation does not exceed 25% of the total time spent in the group day service for that day.

## D. Provider requirements.

1. Providers shall meet all of the requirements of 12VAC30-122-110 through 12VAC30-122-140.
2. Providers of the group day service shall hold either day support or community-based day support current licenses issued by DBHDS.
3. Providers of the group day service shall also be currently enrolled as providers with DMAS. Providers designated on the DMAS provider agreement shall:
  - a. Render this service directly;
  - b. Ensure that appropriate documentation of the delivery of service supports claims that are filed for reimbursement; and
  - c. Comply with HCBS setting requirements per 42 CFR 441.301.
4. Claims that are not supported by appropriate documentation may be subject to recovery by DMAS or its designee due to utilization reviews or audits.
5. ~~[ Supervision of direct support staff shall be provided by a supervisor meeting the requirements of 12VAC35-105-~~

~~Documentation of supervision shall be completed, signed, and dated by the supervisor and shall include, at a minimum, the following: Supervision of DSPs shall be provided consistent with the requirements in 12VAC30-122-120 by a supervisor meeting the requirements of 12VAC35-105-590. Providers shall make available for inspection documentation of supervision, and this documentation shall be completed and signed by the staff person designated to perform the supervision and oversight. This documentation shall include, at a minimum, the following: (i) date of contact or observation, (ii) person contacted or observed, (iii) a summary about the direct support professional's performance and service delivery, and (iv) any action planned or taken to correct problems identified during supervision and oversight. ]~~

~~[ a. Date of contact or observation;~~

~~b. Person contacted or observed;~~

~~c. A summary about the direct support professional's performance and service delivery;~~

~~d. Any action planned or taken to correct problems identified during supervision and oversight; and~~

~~e. On a semiannual basis, the supervisor shall document observations concerning the individual's satisfaction with service provision. ]~~

6. Providers shall ensure that [ individuals staff ] providing group day service meet provider [ competency ] training [ and competency ] requirements as specified in 12VAC30-122-180.

## E. Service documentation and requirements.

1. Providers shall include signed and dated documentation of the following in each individual's record:
  - a. A copy of the most current, completed, standard, age-appropriate assessment form.
  - b. The provider's plan for supports [ containing, at a minimum, the items detailed in 12VAC30-122-120 A 10 f. per requirements detailed in 12VAC30-122-120. ]
  - c. Documentation [ that confirms the individual's attendance and the amount of the individual's time in service and provides specific information regarding the individual's responses to various settings and supports. Observations of the individual's responses to the service shall be available in a daily note. Such documentation shall be provided to DMAS or DBHDS upon request, as detailed in 12VAC30-122-120. ] Data shall be collected as described in the ISP, analyzed to determine if the strategies are effective, summarized, then clearly documented in the progress notes or supports checklist.
  - d. Documentation to support units of service delivered, and the documentation shall correspond with billing. Providers shall maintain separate documentation for each type of service rendered for an individual.

e. A written review supported by documentation in the individuals' record that is submitted to the support coordinator at least quarterly with the plan for supports, if modified. [ For the annual review and every time supporting documentation is updated, the supporting documentation shall be reviewed with the individual or family/caregiver, as appropriate, and such review shall be documented. ]

f. An attendance log or similar document that is maintained and that indicates the date, type of service rendered, and the number of hours and units provided, including specific timeframe.

g. All correspondence to the individual and the individual's family/caregiver, as appropriate, the support coordinator/case manager, DMAS, and DBHDS.

h. Written documentation of all contacts with the individual's family/caregiver, physicians, providers, and all professionals regarding the individual.

2. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims submitted for reimbursement that are not supported by provider documentation made available to DMAS or its designee shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

### **12VAC30-122-390. Group home residential service.**

A. Service description. Group home residential service shall consist of skill-building, routine supports, general supports, and safety supports that are provided to enable an individual to acquire, retain, or improve skills necessary to successfully live in the community. This service shall be provided to individuals who are living in (i) a group home or (ii) the home of an adult foster care provider. Group home residential service shall be a tiered service for reimbursement purposes (as described in 12VAC30-122-210) based on the individual's assigned level and tier and licensed bed capacity of the home. [ The number of licensed beds in a setting reimbursed for group home residential services shall not exceed six. Group home settings larger than six licensed beds that became DD Waiver providers prior to March 31, 2021, may continue to operate and receive Medicaid reimbursement. If a group home larger than six licensed beds changes ownership, the group home will be considered a new setting and the licensed bed capacity limit of six beds shall apply for Medicaid reimbursement purposes. ] Group home residential service shall be provided to the individual continuously up to 24 hours per day performed by paid staff that shall be physically present. This service may be provided either individually or simultaneously to more than one individual living in that home, depending on the required support. Group home residential service shall be covered in the CL waiver.

### **B. Criteria and allowable activities.**

1. The allowable activities shall include, as may be appropriate for the individual as documented in his plan for supports:

a. Skill-building and providing routine supports related to ADLs and IADLs;

b. Skill-building and providing routine supports and safety supports related to the use of community resources, such as transportation, shopping, restaurant dining, and participating in social and recreational activities;

c. Supporting the individual in replacing challenging behaviors with positive, accepted behavior for home and community environments;

d. Monitoring the individual's health and physical condition and providing supports with medication and other medical needs;

e. Providing routine supports and safety supports with transportation to and from community locations and resources;

f. Providing general supports, as needed; and

g. Providing safety supports to ensure the individual's health and safety.

2. Group home residential service shall include a skill-building component along with the provision of supports as may be needed by the individuals who are participating.

### **C. Service units and limits.**

1. The unit of service shall be a day. Providers may bill the unit of service if any portion of the plan for supports is provided during that day.

2. Group home residential service shall be authorized for Medicaid reimbursement only when the individual in the CL waiver requires this service and the service is set out in the plan for supports.

3. Group home residential service settings shall comply with the HCBS setting requirements per 42 CFR 441.301. [ In these settings, lease or residency agreements shall comply with and support individual choice of service and setting. ]

### **D. Provider qualifications and requirements.**

1. Providers shall meet all of the requirements set forth in 12VAC30-122-110 through 12VAC30-122-140.

2. The provider of group home residential service for adults who are 18 years of age or older shall be licensed by DBHDS as a provider of the group home residential service or a provider approved by the local department of social services as an adult foster care provider (12VAC35-105-20). Providers of the group home residential service for children (up to the child's 18th birthday) shall be licensed by DBHDS as children's residential providers.

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3. All providers of group home residential service shall have a current provider participation agreement with DMAS. Providers designated on this agreement shall render the group home residential service and shall bill DMAS directly for reimbursement.

4. Providers shall ensure that staff providing the group home residential service meet provider [ ~~competency~~ ] training [ ~~and competency~~ ] requirements specified in 12VAC30-122-180.

5. [ ~~A supervisor meeting the requirements of 12VAC35-105-590 shall provide supervision of direct support professional staff. Documentation of supervision shall be completed, signed, and dated by the supervisor who performs the supervision and oversight and shall include the following: Supervision of DSPs shall be provided consistent with the requirements in 12VAC30-122-120 by a supervisor meeting the requirements of 12VAC35-105-590. Providers shall make available for inspection documentation of supervision, and this documentation shall be completed and signed by the staff person designated to perform the supervision and oversight. This documentation shall include, at a minimum, the following: (i) date of contact or observation, (ii) person contacted or observed, (iii) a summary about the direct support professional's performance and service delivery, and (iv) any action planned or taken to correct problems identified during supervision and oversight. ]~~

[ ~~a. Date of contact or observation;~~

[ ~~b. Person contacted or observed;~~

[ ~~c. A summary about the direct support professional's performance and service delivery;~~

[ ~~d. Any action planned or taken to correct problems identified during supervision and oversight, and~~

[ ~~e. Individual's satisfaction with the provision of this service documented semiannually by the supervisor. ]~~

## E. Service documentation and requirements.

1. Providers shall include signed and dated documentation of the following in each individual's record:

a. A copy of the completed, standard, age-appropriate assessment form as specified in 12VAC30-122-200.

b. The provider's plan for supports per requirements detailed in 12VAC30-122-120.

c. Documentation [ ~~confirming the individual's days in service and providing specific information regarding the individual's responses to various settings and supports. Observations of the individual's responses to the service shall be available in at least a daily note, as detailed in 12VAC30-122-120. ] Data shall be collected as described in the ISP, analyzed to determine if the strategies are effective, summarized, then clearly documented in the progress notes or supports checklist.~~

d. Documentation to support units of service delivered, and the documentation shall correspond with billing. Providers shall maintain separate documentation for each type of service rendered for an individual. Providers' claims that are not adequately supported by corresponding documentation may be subject to recovery of expenditures made.

e. A written review supported by documentation in the individuals' record will be submitted to the support coordinator at least quarterly with the plan for supports, if modified. [ For the annual review and every time supporting documentation is updated, the supporting documentation shall be reviewed with the individual or family/caregiver, as appropriate, and such review shall be documented. ]

f. All correspondence to the individual and the individual's family/caregiver, as appropriate, the support coordinator, DMAS, and DBHDS.

g. Written documentation of contacts made with the individual's family/caregiver, physicians, providers, and all professionals concerning the individual.

2. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

## 12VAC30-122-400. Group and individual supported employment service.

A. Service description. Group and individual supported employment service may be performed for a single individual (as in individual supported employment (ISE)) or in small groups (as in group supported employment) of individuals (two to eight individuals). This service shall consist of ongoing supports provided by a job coach that enable individuals to be employed in an integrated work setting and may include assisting the individual, either as a sole individual or in small groups, to locate a job or develop a job on behalf of the individual, as well as activities needed by the individual to sustain paid work. Group and individual supported employment service shall be covered in the FIS, CL, and BI waivers.

1. Group and individual supported employment service shall be provided in work settings where persons without disabilities are employed. Group and individual supported employment service shall be designed especially for individuals with developmental disabilities who face impediments to employment due to the nature and complexity of their disabilities, irrespective of age or vocational potential, that is, the individual's ability to perform work.

2. Group and individual supported employment service shall be available to individuals for whom competitive

[ integrated ] employment at or above the minimum wage is unlikely without ongoing supports and who because of their disabilities need ongoing support to perform in a work setting. The individual's assessment and ISP shall clearly reflect the individual's need for employment-related skill-building.

3. Group and individual supported employment service shall be provided in one of two models: individual or group.

a. Individual supported employment service shall be one-on-one ongoing support that enables individuals to work in an integrated setting. The outcome of this service shall be sustained paid employment at or above minimum wage in an integrated setting in the general workforce in a job that meets personal and career goals. For this service, reimbursement of supported employment shall be limited to actual documented interventions or collateral contacts by the provider as required by the individual receiving waiver services [ , but reimbursement. Reimbursement ] shall not be [ limited provided ] for the supervisory activities rendered as a normal part of the regular business setting and not for the amount of time the individual enrolled in the waiver is in the supported employment situation.

b. Group supported employment service shall be continuous support provided by staff in a naturally occurring place of employment to groups of two to eight individuals with disabilities and involves interactions with the public and coworkers who do not have disabilities. This service shall be provided in a community setting that promotes integration into the workplace and interaction in the workplace between participants and people without disabilities. Examples include mobile crews and other business-based workgroups employing small groups of workers with disabilities in the community. Group supported employment settings shall comply with the HCBS setting requirements per 42 CFR 441.301.

B. Criteria and allowable activities.

1. Only activities that specifically pertain to the individual shall be allowable activities under the supported employment service, and DMAS shall cover this service only after determining that this service is not available from DARS or the local school system, for individuals younger than 22 years of age [ , for the individual enrolled in the waiver and eligible for school services under IDEA ].

2. To qualify for this service, the individual shall have demonstrated that competitive employment at or above the minimum wage is unlikely without ongoing supports and that because of the individual's disability, he needs ongoing support to perform in a work setting.

3. The plan for supports shall document the amount of supported employment required by the individual.

4. Allowable activities for both individual and group supported employment service include the following job development tasks, supports, and training. For DMAS reimbursement to occur, the individual shall be present, unless otherwise noted, when these activities occur:

- a. Vocational or job-related discovery or assessment;
- b. Person-centered employment planning that results in employment related outcomes;
- c. Individualized job development, with or without the individual present, that produces an appropriate job match for the individual and the employer to include job analysis or determining job tasks, or both. This element shall be limited to individual supported employment service only and shall not be permitted for group supported employment service.
- d. Negotiation with prospective employers, with or without the individual present;
- e. On-the-job training in work skills required to perform the job;
- f. Ongoing evaluation, supervision, and monitoring of the individual's performance on the job, which does not include supervisory activities rendered as a normal part of the business setting;
- g. Ongoing support necessary to ensure job retention, with or without the individual present;
- h. Supports to ensure the individual's health and safety;
- i. Development of work-related skills essential to obtaining and retaining employment, such as the effective use of community resources, break or lunch areas, and transportation systems; and
- j. Staff provision of transportation between the individual's place of residence and the workplace when other forms of transportation are unavailable or inaccessible. The job coach shall be present with the individual during the provision of transportation.

C. Service units and limits.

1. Providers shall be reimbursed only for the amount and type of supported employment included in the individual's plan for supports. The unit of service for individual supported employment shall be one hour, and the service shall be limited to 40 hours per week per individual. The unit of service for group supported employment shall be one hour, and the service shall be limited to 40 hours per week per individual.

2. Reimbursement for group supported employment service shall be based on the size of the group. Individual supported employment service shall be billed according to the DARS fee schedule.

3. Group and individual supported employment service alone or in combination with the community engagement service, community coaching service, workplace assistance

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service, or group day service shall not exceed 66 hours per week. Group [~~and individual~~] supported employment service shall take place in nonresidential settings separate from the individual's home.

4. For time-limited and service authorized periods (not to exceed 24 hours) individual supported employment service may be provided in combination with day service or residential service for purposes of [ ~~job~~ ] discovery [ under customized employment. Customized employment means a flexible process designed to personalize the employment relationship between a job candidate or employee and an employer in a way that meets the needs of both. It is based on identifying the strengths, conditions, and interests of a job candidate or employee through a process of discovery ].

5. Group and individual supported employment service shall include a skills development component along with the provision of supports, as needed.

6. Individual supported employment service can be provided simultaneously with the workplace assistance service to ensure that the workplace assistant is trained and appropriately supervised about supporting an individual through the best practices of individual supported employment.

a. Individual supported employment may be provided with workplace assistance (WPA) when the individual is nearing stability in his job and the [ ~~employment specialist job coach~~ ] will be transitioning the individual's [ ~~case supports~~ ] to the workplace assistance. Individual supported employment and workplace assistance may be provided concurrently for [ ~~no more than three weeks prior to stability~~ a limited time as defined in the individual's plan for supports in order to assure stability on the job site ].

b. Individual supported employment and WPA may also occur together for the purpose of follow along services as defined by DARS. During follow along, the job coach would oversee the plan implementation as well as continue to interface with the employment provider and the individual's systems to ensure continuity of employment services.

7. Individual ineligibility for supported employment service through DARS or IDEA shall be documented in the individual's record, as applicable. If the individual is ineligible to receive service through IDEA, documentation is required only for lack of DARS funding. Acceptable documentation for the lack of DARS or IDEA funding would include [ ~~a letter from either DARS or the local school system or a record of a telephone call, including~~ either written documentation from DARS or the school system or a progress note that records the content of a communication that includes a ) name, date, and person contacted, documented either in the individual's file maintained by the support coordinator, on the ISP, or [ ~~on~~ ] the supported employment provider's supporting documentation. Unless

the individual's circumstances change, for example, the individual is seeking a new job, the original verification may be forwarded into the current record or repeated on the supporting documentation on an annual basis.

## D. Provider requirements.

1. Providers shall meet all of the requirements set forth in 12VAC30-122-110 through 12VAC30-122-140.

2. Providers shall have a current, signed provider participation agreement with DMAS. The provider designated in this agreement shall directly provide the service and bill DMAS for reimbursement.

3. Providers shall be DARS-contracted providers of supported employment service. DARS shall verify that these providers meet criteria to be providers through a DARS-recognized accrediting body. DARS shall provide the documentation of this accreditation verification to DMAS and DBHDS upon request.

4. Providers shall maintain their accreditation in order to continue to receive Medicaid reimbursement. Providers who lose their accreditation, regardless of the reason, shall not be eligible to receive Medicaid reimbursement and shall have their provider agreements terminated by DMAS effective the same date as the date of the loss of accreditation. Reimbursements made to such providers after the date of the loss of the accreditation shall be subject to recovery by DMAS. Providers whose accreditation is restored shall be permitted to re-enroll with DMAS upon presentation of accreditation documentation and a new signed provider participation agreement.

[ ~~As used in subdivisions 1 and 2 of this subsection, group supported employment service means continuous support provided by a job coach in a naturally occurring place of employment to groups of two to eight individuals with disabilities and involves interactions with the public and coworkers who do not have disabilities. This service shall be provided in a community setting that promotes integration into the workplace and interaction between participants and people without disabilities in the workplace. Examples include mobile crews and other business based workgroups employing small groups of workers with disabilities in the community. ]~~

## E. Service documentation and requirements.

1. Providers shall include signed and dated documentation of the following in each individual's record:

a. A copy of the completed, standard, age-appropriate assessment form as established in 12VAC30-122-200.

b. The provider's plan for supports per requirements detailed in 12VAC30-122-120.

c. Documentation [ ~~confirming the individual's time in service and providing specific information regarding the individual's responses to various settings and supports. Observations of the individual's responses to service shall~~



~~be available in at least a daily note, as detailed in 12VAC30-122-120. ] Data shall be collected as described in the ISP, analyzed to determine if the strategies are effective, summarized, then clearly documented in the progress notes or supports checklist.~~

~~d. Documentation to support units of service delivered, and the documentation shall correspond with billing. Providers shall maintain separate documentation for each type of service rendered for an individual.~~

~~e. A written review supported by documentation in the individuals' record that is submitted to the support coordinator at least quarterly with the plan for supports, if modified. [ For the annual review and every time supporting documentation is updated, the supporting documentation shall be reviewed with the individual or family/caregiver, as appropriate, and such review shall be documented. ]~~

~~f. [ Documentation that indicates the date, type of service rendered, and the number of hours provided, including specific timeframe. ] An attendance log or similar document [ that is shall be ] maintained [ and that indicates the date, type of service rendered, and the number of hours provided, including specific timeframe for group supported employment ].~~

~~g. All correspondence to the individual and the individual's family/caregiver, as appropriate, the support coordinator, DMAS, and DBHDS.~~

~~h. Written documentation of contacts made with the [ individual's individual's ] family/caregiver, physicians, providers, and all professionals concerning the individual.~~

~~i. Documentation of the size of the group [ for group supported employment ].~~

~~2. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.~~

**12VAC30-122-410. In-home support service.**

A. Service description. In-home support service means a residential service that takes place in the individual's home, family home, or community settings that typically supplement the primary care provided by the individual, family, or other unpaid caregiver and is designed to ensure the health, safety, and welfare of the individual. The individual [ shall be enrolled in either the FIS or CL waiver and ] shall be living in his own home or his family home. This service shall include a skill building (formerly called training) component, along with the provision of supports that enable an individual to acquire, retain, or improve the self-help, socialization, and adaptive skills required for successfully living in his community. In-home support service shall be covered in the FIS and CL waivers.

B. Criteria and allowable activities. To be eligible for in-home support service, individuals shall require help with adaptive skills necessary to reside successfully in the home and community-based settings.

Allowable activities include the following as may be appropriate for the individual as documented in his plan for supports:

1. Skill-building and routine supports related to ADLs and IADLs;

2. Skill-building, routine supports, and safety supports related to the use of community resources, such as transportation, shopping, dining at restaurants, and participating in social and recreational activities;

3. Supporting the individual in replacing challenging behaviors with positive, accepted behaviors for home and community environments;

~~4. Authorized to provide additional episodic supports when there is a change in the individual's routine schedule, such as the cancellation of work or a day activity because of a holiday or inclement weather, or support is required in accompanying an individual to a medical appointment. An estimate of the monthly requirement for episodic supports should be included in the initial authorization request. Authorized hours for episodic supports shall only be reimbursed when the service is rendered and supported by documentation.~~

5. 4. ] Monitoring the individual's health and physical condition and providing routine and safety supports with medication or other medical needs;

~~6. 5. ] Providing supports with transportation to and from community sites and resources; and~~

~~7. 6. ] Providing general supports as needed.~~

C. Service units and limitations.

1. The unit shall be one hour and shall be reimbursed according to the number of individuals served.

2. In-home support service shall not typically be provided 24 hours per day but may be authorized for brief periods up to 24 hours a day when [ medically ] necessary.

3. In-home support service shall not be covered for the individual simultaneously with the coverage of the group home residential service, supported living residential service, or sponsored residential service.

4. Individuals may have in-home support service, personal assistance service, and respite service in their ISP but shall not receive these Medicaid-reimbursed services simultaneously (i.e., on the same dates and times).

~~5. [ The individual shall have a back-up plan for times when in-home supports cannot occur as regularly scheduled. All~~

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individuals shall have a backup plan prior to initiating services in cases of emergency or should the provider be unable to render services as needed. This backup plan shall be shared with the provider and support coordinator at the onset of services and updated with the provider and support coordinator as necessary. ]

## D. Provider qualifications and requirements.

1. All providers of the in-home support service shall have current, signed participation agreements with DMAS. The provider designated in this agreement shall directly submit claims to DMAS for reimbursement.

2. Providers of the in-home support service shall be licensed by DBHDS as providers of supportive in-home service.

3. Providers shall ensure that staff providing in-home supports meet provider [ ~~competency~~ ] training [ and competency ] requirements as specified in 12VAC30-122-180.

4. [ ~~Supervision of direct support staff shall be provided by a supervisor meeting the requirements of 12VAC35-105. Documentation of supervision shall be completed, signed, and dated by the supervisor and shall include, at a minimum, the following:~~ Supervision of DSPs shall be provided consistent with the requirements in 12VAC30-122-120 by a supervisor meeting the requirements of 12VAC35-105-590. Providers shall make available for inspection documentation of supervision, and this documentation shall be completed and signed by the staff person designated to perform the supervision and oversight. This documentation shall include, at a minimum, the following: (i) date of contact or observation, (ii) person contacted or observed, (iii) a summary about the direct support professional's performance and service delivery, and (iv) any action planned or taken to correct problems identified during supervision and oversight. ]

[ ~~a. Date of contact or observation;~~

~~b. Person contacted or observed;~~

~~c. A summary about the direct support professional's performance and service delivery;~~

~~d. Any action planned or taken to correct problems identified during supervision and oversight; and~~

~~e. On a semiannual basis, observations documented by the supervisor concerning the individual's satisfaction with service provision. ]~~

## E. Service documentation and requirements.

1. Providers shall include signed and dated documentation of the following in each individual's record:

a. A copy of the completed, standard, age-appropriate assessment form as described in 12VAC30-122-200.

b. The provider's plan for supports per requirements detailed in 12VAC30-122-120.

c. Documentation [ ~~confirming the individual's amount of time in service and providing specific information regarding the individual's response to various settings and supports.~~ as detailed in 12VAC30-122-120. ] Data shall be collected as described in the ISP, analyzed to determine if the strategies are effective, summarized, then clearly documented in the progress notes or supports checklist.

d. Documentation to support units of service delivered, and the documentation shall correspond with billing. Providers shall maintain separate documentation for each type of service rendered for an individual.

e. A written review supported by documentation in the individual's record that is submitted to the support coordinator at least quarterly with the plan for supports, if modified. [ For the annual review and every time supporting documentation is updated, the supporting documentation shall be reviewed with the individual or family/caregiver, as appropriate, and such review shall be documented. ]

f. An attendance log or similar document that is maintained and that indicates the date, type of service rendered, and the number of hours and units provided, including specific timeframe.

g. All correspondence to the individual and the individual's family/caregiver, as appropriate, the support coordinator, DMAS, and DBHDS.

h. Written documentation of all contacts with the individual's family/caregiver, physicians, providers, and all professionals regarding the individual.

2. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims that are not supported by appropriate documentation shall be subject to recovery by DMAS as a result of utilization reviews and audits.

## 12VAC30-122-420. Independent living support service.

A. Service description. Independent living support service means a service provided to adults 18 years of age and older that offers [ targeted ] skill building and supports necessary [ for individuals ] to secure and [ ~~reside in an independent living situation in the community and~~ ] maintain [ their own home in the ] community [ ~~residence~~ ]. An individual receiving this service typically lives alone or with roommates in the individual's own home or apartment. The supports may be provided in the individual's residence or in other community settings. Independent living support service shall be covered in the BI waiver.

B. Criteria and allowable activities. The need for independent living support service shall be clearly indicated in the ISP. Independent living support service shall be authorized for Medicaid reimbursement only when the individual requires this service and the service is set out in the plan for supports. This service shall include a skills development component

along with the provision of supports as needed. Allowable activities include the following:

[ ~~1.~~ 1. Skill building and supports necessary to promote the individual's stability in the individual's own home and community in the absence of a primary caregiver living in the residence; ]

[ ~~2.~~ 2. Skill-building and supports to promote the individual's community participation and inclusion in meaningful activities;

[ ~~3.~~ 3. Skill-building and supports to increase [ the individual's ] socialization skills and maintain relationships;

[ ~~4.~~ 4. Skill-building and supports to improve and maintain the individual's health, safety, and fitness, as necessary;

[ ~~5.~~ 5. Skill-building and supports to promote the individual's decision-making and self-determination;

[ ~~6.~~ 6. Skill-building and supports to improve and maintain, as needed, the individual's skills with ADLs and IADLs;

[ ~~7.~~ 7. Routine supports with transportation to and from community locations and resources; and

[ ~~8.~~ 8. General supports, as needed.

C. Service units and limits.

1. The independent living support service unit of service delivery shall be a month or, when beginning or ceasing the service, may be a partial month. Sufficient hours of service shall be provided to meet the requirements set forth in the plan for supports.

2. Independent living support service shall not be provided in a licensed residential setting.

3. Independent living support service is a tiered service for reimbursement purposes. Providers shall only be reimbursed for the individual's assigned level and tier.

D. Provider requirements.

1. Providers shall meet all of the requirements of 12VAC30-122-110 through 12VAC30-122-140.

2. Independent living support service shall be provided by agencies licensed by DBHDS as providers of supportive in-home service. These providers shall have a signed participation agreement with DMAS.

3. The provider designated on the agreement shall directly render this service and shall directly bill DMAS for reimbursement.

4. Providers shall ensure that staff providing independent living support service meet provider [ ~~competency~~ ] training [ and competency ] requirements as specified in 12VAC30-122-180.

~~5. [ A supervisor meeting the requirements of 12VAC35-105 shall provide supervision of direct support professional staff. Documentation of supervision shall be completed, signed, and dated by the supervisor who performs the supervision and oversight and shall include the following: Supervision of DSPs shall be provided consistent with the requirements in 12VAC30-122-120 by a supervisor meeting the requirements of 12VAC35-105-590. Providers shall make available for inspection documentation of supervision, and this documentation shall be completed, signed by the staff person designated to perform the supervision and oversight. This documentation shall include, at a minimum, the following: (i) date of contact or observation, (ii) person contacted or observed, (iii) a summary about the direct support professional's performance and service delivery, and (iv) any action planned or taken to correct problems identified during supervision and oversight. ]~~

~~[ a. Date of contact or observation;~~

~~b. Person contacted or observed;~~

~~c. A summary about the direct support professional's performance and service delivery;~~

~~d. Any action planned or taken to correct problems identified during supervision and oversight, and~~

~~e. Individual's satisfaction with the provision of service documented semiannually by the supervisor. ]~~

E. Service documentation and requirements.

1. Providers shall include signed and dated documentation of the following in each individual's record:

a. A copy of the completed, standard, age-appropriate assessment form as described in 12VAC30-122-200.

b. The provider's plan for supports per requirements detailed in 12VAC30-122-120.

~~c. Documentation [ ~~confirming the individual's participation in service and providing specific information regarding the individual's responses to various settings and supports~~; as detailed in 12VAC30-122-120. ] Data shall be collected as described in the plan for supports, analyzed to determine if the strategies are effective, summarized, then clearly documented in the progress notes or supports checklist.~~

d. Documentation to support units of service delivered, and the documentation shall correspond with billing. Providers shall maintain separate documentation for each type of service rendered for an individual.

e. A written review supported by documentation in the individual's record that is submitted to the support coordinator at least quarterly with the plan for supports, if modified. [ For the annual review and every time supporting documentation is updated, the supporting documentation shall be reviewed with the individual or family/caregiver, as appropriate, and such review shall be documented. ]

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f. All correspondence to the individual and the individual's family/caregiver, as appropriate, the support coordinator, DMAS, and DBHDS.

g. Written documentation of contacts made with the individual's family/caregiver, physicians, providers, and all professionals concerning the individual.

2. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

## **12VAC30-122-430. Individual and family/caregiver training service.**

A. Service description. Individual and family/caregiver training service provides training and counseling to individuals, families, or caregivers of individuals enrolled in the waiver including participation in educational opportunities designed to improve the family's or caregiver's ability to care for and support the individual enrolled in the waiver. This service shall also provide educational opportunities for the individual to better understand his disability and increase his self-determination and self-advocacy. Individual and family/caregiver training service shall be covered in the FIS waiver.

### B. Criteria and allowable activities.

1. Individuals who are enrolled in the FIS waiver and their family/caregivers, as appropriate, may participate in this service. DMAS shall cover this service as authorized by the individual's ISP.

2. For the purpose of this service, "family" means the ~~[ unpaid people who live with or provide care to an individual served in the waiver and may include a parent, a guardian, a spouse, children, relatives, a foster family, or in-laws but shall not include persons who are compensated, by any possible means, to care for the individual. same as set forth in 12VAC30-122-20. ]~~

### C. Service units and limits.

1. Individual and family/caregiver training service is only available in the FIS waiver.

2. Individual and family/caregiver training service may be authorized for up to \$4,000 per ISP year.

3. Travel expenses and room and board expenses shall not be covered.

### D. Provider requirements.

1. Providers shall meet all of the requirements of 12VAC30-122-110 through 12VAC30-122-140.

2. Providers shall have a signed, current provider participation agreement with DMAS in order to be

reimbursed for providing individual and family/caregiver training.

3. Providers shall have the necessary licensure or certification as required for their profession, that is, RNs shall have a current license to practice nursing in the Commonwealth or shall hold a multistate licensure privilege.

4. Individual and family/caregiver training service shall be provided by enrolled provider entities with expertise in, experience in, or demonstrated knowledge of the training topic set out in the plan for supports.

5. Individual and family/caregiver training service may be provided through seminars and conferences organized by the enrolled provider entities.

6. Individual and family/caregiver training service may also be provided by individual practitioners who have experience in or demonstrated knowledge of the training topics. Individual practitioners may include psychologists, teachers or educators, social workers, medical personnel, personal care providers, therapists, and providers of other services such as day and residential support services.

### 7. Qualified provider types include:

a. Staff of home health agencies, community developmental disabilities service agencies, developmental disabilities residential providers, community mental health centers, public health agencies, hospitals, clinics, or other agencies or organizations; and

b. Individual practitioners, including licensed or certified personnel such as RNs, LPNs, psychologists, speech-language therapists, occupational therapists, physical therapists, licensed clinical social workers, licensed behavior analysts, and persons with other education, training, or experience directly related to the specified needs of the individual as set out in the ISP.

### E. Service documentation and requirements.

1. The support coordinator shall maintain a plan for supports that includes:

a. Identifying information such as provider name, provider number, responsible person and telephone number, effective dates for the service, and if applicable, person-centered review dates;

b. Expected outcomes of the training; and

c. Specific training or activities showing frequency, location, dates and times, and to whom the training was provided.

2. The provider shall maintain and relay to the support coordinator contact notes or a summary documenting:

a. Date, location, hours, and summary of each training event;

b. Plan for support desired outcome that was addressed;

- c. Specific details of the training activities conducted, including person to whom activities were directed;
- d. Training delivered as planned or modified; and
- e. Effectiveness of strategies and satisfaction of the individual or family member/caregiver.

3. Person-centered reviews by the provider (i) shall be required quarterly if the training extends three months or longer, (ii) shall be forwarded to the support coordinator, and (iii) shall include:

- a. A summary of the quarter's activities;
- b. Training recipient's status and satisfaction with the service; and
- c. Training outcomes and effectiveness.

4. Provider and support coordinator documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

**12VAC30-122-440. [ ~~Nonmedical Employment and community~~ ] transportation service. [ ~~(Reserved.)~~ ]**

A. Service description. This service is offered in order to enable individuals to gain access to an individual's place of employment or volunteer activity, other community services or events, activities and resources, homes of family or friends, civic organizations or social clubs, public meetings or other civic activities, and spiritual activities or events as specified by the support plan and when no other means of access is available. The goal of this service is to promote the individual's independence and participation in the life of the individual's community. Use of this service shall be related to the individual's desired outcomes as stated in the ISP. This service is offered in addition to medical transportation required under 42 CFR 431.53 and transportation services under the State Plan, defined at 42 CFR 440.170(a), and does not replace them.

B. Criteria and allowable activities.

- 1. The service may include transportation in a private vehicle by a person such as a coworker or other community member or the purchase of tickets for public transportation such as bus or subway. In either case, an administering agency shall coordinate and bill DMAS.
- 2. Up to three individuals may be transported in a single, private vehicle per trip.
- 3. The administering agency will ensure that pertinent information about the individual is relayed to the driver.

C. Service units and limitations.

- 1. This service shall not be authorized or reimbursed for individuals who can access transportation through the State Plan or other waiver services that include a transportation component. The individual or legal guardian shall attest that

he does not have sufficient personal financial resources (e.g., through wages) to cover the cost of the transportation himself.

2. Private transportation is reimbursed according to a "trip," which is reimbursed for the round-trip, and the number of individuals being transported to the location (maximum of three). There are three trip rates depending on the one-way distance traveled:

- a. Less than 10 miles.
- b. Between 10 and 20 miles.
- c. Over 20 miles.

3. When a private driver is transporting more than one individual to a single destination, the trip rate for all individuals is the same and is determined by the distance between the first individual picked up and the final destination.

4. The purchase of tickets for public transportation and dissemination to the individual is coordinated by the administering agency.

5. A provider delivering other waiver services to an individual may not utilize staff to provide Employment and community transportation (ECT) and may only bill ECT if the transportation would not be a normally required element of service provision.

D. Provider qualifications and requirements.

1. The service may be provided by the individual's family member or legally responsible person, but may not be the guardian, parent, step-parent of an individual younger than 18 years of age, or spouse of an adult who is receiving the service.

2. The service shall be offered through an administering agency that possesses any DBHDS license to provide services to individuals with developmental disabilities, an employment service organization, or a center for independent living. Administering agencies shall be enrolled with DMAS through a participation agreement, to provide these services.

3. In the case of private transportation, the administering agency shall be responsible for screening community persons to drive the individual to designated locations according to the ISP.

4. The private driver shall:

- a. Be 18 years of age or older;
- b. Possess a valid driver's license; and
- c. Possess and maintain at a minimum:

(1) A satisfactory driving record defined as no reckless driving charges within the past 24 months, and

(2) Proof of general liability insurance coverage in compliance with federal or state statutory requirements

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The insurance shall insure the driver or the passengers (i) against loss from any liability imposed by law for damages; (ii) against damages for care and loss of services because of bodily injury to or death of any person; (iii) against injury to or destruction of property caused by accident and arising out of the ownership, use, or operation of such motor vehicle within the Commonwealth, any other state in the United States, or Canada; (iv) subject to a limit or exclusive of interest and costs, with respect to each motor vehicle of \$25,000 because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, to a limit of \$50,000 because of bodily injury to or death of two or more persons in any one accident; and (v) subject to a limit of \$20,000 because of injury to or destruction of property of others in any one accident.

5. The administering agency shall be responsible for screening community persons to drive the individual to designated locations according to the ISP. This includes verification of the private driver's:

- a. Possession of a current, valid driver's license and no reckless driving charges within the past 24 months;
- b. Possession of car insurance;
- c. Ensuring that the driver meets the minimum age requirement of age 18; and
- d. Completion of an attestation signed by the private driver, the individual, and the individual's guardian or authorized representative, as appropriate, that the driver has disclosed any relevant felonies and if listed on any registry. The administering agency shall ensure that the driver is not listed on the Virginia Sex Offender Registry.

6. Initially and annually the administering provider shall verify and document that each private driver possesses a current, valid driver's license, and car insurance.

E. Documentation requirements for service providers.

- 1. Providers shall include in each individual's record:
  - a. A copy of the completed, standard, age-appropriate assessment form as described in 12VAC30-122-200.
  - b. The provider's plan for supports in the form of the ECT Trip Plan form.
  - c. Documentation of the trip distance estimate in the form of a MapQuest, Google Maps, or similar printout with point of origin, destination, and mileage.
  - d. Documentation to support units of service delivered in the form of a monthly trip log signed by the individual recording trips taken that shall correspond with billing. Providers shall maintain separate documentation for each type of service rendered for an individual.
  - e. A written review, supported by documentation in the individual's record, shall be submitted to the support coordinator quarterly, during any quarters in which the

service was provided and if modified, with the plan for supports. This written review shall list the dates and destinations of trips taken and a statement about the individual's satisfaction with the service.

f. For private drivers, (i) copies of valid drivers' licenses, (ii) copies of the automobile insurance policies, (iii) copies of driving records, and (iv) criminal records attestations and Virginia Sex Offender Registry record checks. The driver is responsible for notifying the agency if there are any changes to previously submitted attestations or significant driving record changes, versus requiring the agency to have to obtain these every year (or whatever time period).

g. For public transportation, receipts for purchases of bus tickets, or fare cards.

h. All correspondence to the individual and the individual's family/caregiver, as appropriate, the support coordinator, DMAS, and DBHDS.

i. Written documentation of all contacts with family/caregiver, physicians, formal and informal service providers, and all professionals regarding the individual.

j. The written attestation by the individual or legal guardian that the individual does not have sufficient personal financial resources (e.g., through wages) to cover the cost of the transportation himself.

2. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims that are not supported by appropriate documentation shall be subject to recovery by DMAS as a result of utilization reviews and audits. ]

## 12VAC30-122-450. Peer support service. [ ~~(Reserved.)~~

A. Service description. Peer mentor supports provide information, resources, guidance, and support from an experienced, trained peer mentor to an individual who is a waiver recipient. This service is delivered to waiver recipients by other individuals with developmental disabilities who are or have been service recipients, have shared experiences with the individual, and provide support and guidance to him. The service is designed to foster connections and relationships that build individual resilience. Peer mentor supports encourage individuals with developmental disabilities to share their successful strategies and experiences in navigating a broad range of community resources beyond those offered through the waiver with waiver participants so that the waiver participant is better able to advocate for and make a plan to achieve integrated opportunities and experiences in living, working, socializing, and staying healthy and safe in his own life, as well as to overcome personal barriers which are inhibiting him from being more independent. Peer mentoring is intended to assist with empowering the individual receiving the service. This service is delivered based on the support needs of the individual as outlined in his person-centered plan. This service shall require the use of a peer support service administrative provider enrolled with DMAS that shall be

responsible for directly coordinating the service and directly billing DMAS for reimbursement. This service is designed to be short-term and periodic in nature.

B. Criteria and allowable activities. Allowable activities may include the following for the individual as documented in the individual's plan for supports:

1. The administering agency facilitates peer to peer "matches" and follows up to ensure the matched relationship meets the individual's expectations;
2. The peer mentor has face-to-face contact with the individual to discuss the individual's specific interests or desired outcomes related to realizing greater independence and the barriers to achieving them;
3. The peer mentor explains community services and programs and suggests strategies to the individual to achieve the individual's desired outcomes, particularly related to living more independently, engaging in paid employment, and expanding social opportunities in order to reduce the need for supports from family members or paid staff;
4. The peer mentor provides information from his experiences to help the individual in problem solving, decision making, developing supportive community relationships, and exploring specific community resources that promote increased independence and community integration; or
5. The peer mentor assists the individual in developing a personal plan for accessing the identified integrated community activities, supports, services, or resources.

C. Service units and limitations.

1. Peer mentor supports is expected to be a short, periodically intermittent, intense service associated with a specific outcome. Peer mentor supports may be authorized for up to six consecutive months, and the cumulative total across that timeframe may be no more than 60 hours in a plan year.
2. The peer mentor shall not supplant, replace, or duplicate activities that are required to be provided by the support coordinator. Prior to accessing funding for this waiver service, all other available and appropriate funding sources shall be explored and exhausted.
3. Peer mentors cannot mentor their own family members.
4. Peer mentors shall be at least 21 years of age and may provide these supports only to individuals 16 years of age and older.
5. Individuals who receive supports through DD Waiver or other waivers may be peer mentors.

D. Provider qualifications and requirements.

1. The administering agency shall be a DBHDS licensed provider of DD Waiver services, employment service organization, or center for independent living. The administering agency shall serve as the enrolled provider and maintain the documentation of the peer mentor's qualifications, criminal background and Child Protective Registry (if service recipient is younger than 18 years of age) checks, and other required documentation.

2. Peer mentor supports shall be provided by an individual with a developmental disability who has lived independently in the community for at least one year and is or has been a recipient of services, including to publicly-funded housing, Medicaid waiver services, work incentives, and supported employment.

3. The peer mentor shall have completed DBHDS's DD Peer Mentor training curriculum and passed the accompanying test.

4. The peer mentor supports administering agency shall have a signed provider participation agreement with DMAS.

E. Documentation requirements for service providers.

1. Providers shall include in each individual's record:

- a. A copy of the completed, standard, age-appropriate assessment form as described in 12VAC30-122-200.
- b. The provider's plan for supports per requirements detailed in 12VAC30-122-120.
- c. Documentation which shall confirm the individual's amount of time in services, a log of contacts, and information regarding the type of supports delivered to the individual.
- d. Documentation to support units of service delivered, and the documentation shall correspond with billing. Providers shall maintain separate documentation for each type of service rendered for an individual.
- e. A written review supported by documentation in the individual's record shall be submitted to the support coordinator quarterly, during any quarters in which the service was provided, with the plan for supports, if modified. This written review shall list the dates and nature of contacts and a statement about the individual's satisfaction with the service.
- f. All correspondence to the individual and the individual's family/caregiver, as appropriate, the support coordinator, DMAS, and DBHDS.
- g. Written documentation of all contacts with family/caregiver, physicians, formal and informal service providers, and all professionals regarding the individual.
- h. Documentation of the peer mentor's qualifications, as well as criminal background and Child Protective Registry (if service recipient is younger than 18 years of age) checks.

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2. Administering agency documentation shall support all claims submitted for DMAS reimbursement. Claims that are not supported by appropriate documentation shall be subject to recovery by DMAS as a result of utilization reviews and audits. ]

## **12VAC30-122-460. Personal assistance service.**

A. Service description. Personal assistance service may be provided either through an agency-directed or a consumer-directed model.

1. Personal assistance service means direct support [ or supervision ] with (i) ADLs, (ii) IADLs, (iii) access to the community, (iv) monitoring the self-administration of medication or other medical needs, (v) monitoring health status and physical condition, or (vi) work or postsecondary school-related personal assistance. Personal assistance service substitutes for the absence, loss, diminution, or impairment of a physical, behavioral, or cognitive function.

2. When specified in the plan for supports, personal assistance service may include assistance with IADLs. Assistance with IADLs shall be documented in the plan for supports as essential to the health and welfare of the individual, rather than for the individual's family/caregiver's comfort or convenience, or both. In order to be approved for IADL support, the individual shall also require ADL supports.

3. An additional component to personal assistance service is work personal assistance or postsecondary school-related personal assistance that allows the personal assistance service provider to provide assistance and supports to individuals in the workplace and postsecondary educational institutions. Work-related personal assistance service shall not duplicate supported employment service. [ Personal assistance can be provided simultaneously with supported employment services and can be billed concurrently. ]

4. Personal assistance service shall be covered in the FIS and CL waivers.

### B. Criteria and allowable activities.

1. To qualify for personal assistance service, the individual shall demonstrate a need for assistance with ADLs, [ ~~reminders to take~~ support with taking ] medication [ ~~;~~ ] or other medical needs, or monitoring health status or physical condition.

2. Individuals may receive both agency-directed and consumer-directed personal assistance as long as the two service models do not overlap the same days and times.

3. Individuals choosing the consumer-directed option for personal assistance service may receive support from a services facilitator and shall meet requirements for consumer direction as described in 12VAC30-122-150.

4. For personal assistance service, allowable activities shall include:

a. Support with ADLs;

b. Support with monitoring of health status or physical condition;

c. Support with prescribed use of medication and other medical needs;

d. Support with preparation and eating of meals;

e. Support with housekeeping [ ~~activities~~ activities ], such as bed-making, cleaning, or the individual's laundry;

f. Support with participation in social, recreational, and community activities;

g. Assistance with bowel/bladder care needs, range of motion activities, routine wound care that does not include the sterile technique, and external catheter care when [ trained and ] supervised by an RN;

h. Accompanying the individual to appointments or meetings; and

i. Safety supports. [ For a child younger than 18 years of age the Request for Supervision Hours in Personal Assistance form, DMAS P-257, shall be submitted for service authorization purposes when supervision hours are requested to address safety support needs. ]

### C. Service units and limits.

1. The unit of service for personal assistance service shall be one hour. The hours to be authorized shall be based on the individual's assessed and documented need as reflected in the plan for supports.

2. Any combination of respite service, personal assistance service, and companion service in the consumer-directed service model shall be limited to 40 hours per week for an employer of record (EOR) by the same assistant. Assistants who live with the individual, either full time or for substantial amounts of time, shall not be restricted to only 40 hours per week for the EOR. [ CD services employees shall work no more than 16 hours per day. ]

3. Individuals may receive a combination of personal assistance service, respite service, [ companion, ] and in-home support service as documented in their ISPs but shall not simultaneously receive in-home supports service, personal assistance service, or respite service.

4. Individuals shall require assistance with ADLs in order to receive IADL care through personal care service.

5. An individual shall be permitted to share personal assistance service hours with one other individual who is also receiving waiver-covered personal assistance service and who also lives in the same home [ , however, the number of hours billed shall not exceed the number of hours the assistant worked ].



6. Personal assistance service shall not include skilled nursing (neither practical nor professional nursing) service with the exception of skilled nursing tasks that are delegated in accordance with 18VAC90-19-240 through 18VAC90-19-280. [ Skilled nursing services can be performed as allowed by § 54.1-2901 A 31 of the Code of Virginia. ]

7. Persons rendering personal assistance service for reimbursement by DMAS shall not be the individual's spouse. If the individual is a minor child, service shall not be reimbursed if the service is provided by his parent or guardian.

a. Family members who are approved to be reimbursed by DMAS to provide [ ~~companion~~ personal assistance ] service shall meet all of the [ ~~companion~~ assistance ] qualifications.

b. [ ~~Companion~~ Personal assistance ] service shall not be provided by adult foster care providers or any other paid caregivers for an individual residing in that foster care home.

8. Work personal assistance or postsecondary school-related personal assistance shall not be provided if they should be provided by DARS or under IDEA, or if they are an employer's responsibility under the Americans with Disabilities Act (42 USC § 12101 et seq.), the Virginians with Disabilities Act (Title 51.5 (§ 51.5-1 et seq.) of the Code of Virginia), or § 504 of the Rehabilitation Act (42 USC § 701 et seq.).

9. Personal assistance shall not be reimbursed by DMAS for individuals who receive group home residential service, sponsored residential service, or supported living residential service; who live in assisted living facilities; or who receive comparable services from another program, service, or payment source, except as noted in subdivision A 3 of this section.

~~[ 10. Personal assistance service shall not be covered under the waiver if the individual who is younger than 21 years of age is eligible for personal assistance service through Medicaid's Early and Periodic Screening, Diagnosis and Treatment program (12VAC30-50-130). ]~~

D. Provider requirements.

1. Providers shall meet all of the requirements of 12VAC30-122-110 through 12VAC30-122-140.

2. For agency-directed personal assistance service, the provider shall be licensed by DBHDS as either a group home provider, residential provider, or supportive in-home residential provider or shall meet the VDH licensing requirements or have accreditation from a CMS-recognized organization to be a personal care or respite care provider.

3. Providers of personal assistance service shall have a current, signed participation agreement with DMAS. Providers as designated on this agreement shall render this

service directly and shall bill DMAS directly for Medicaid reimbursement.

4. Supervision requirements for agency-directed personal assistance service.

a. A supervisor shall provide ongoing supervision of all personal assistants.

b. For personal assistance service providers that are licensed by DBHDS, a supervisor meeting the requirements of [ ~~12VAC35-105~~ 12VAC35-105-590 ] shall provide supervision of direct support professional staff.

c. For personal assistance service providers that are licensed by the Virginia Department of Health (VDH), the provider shall employ or subcontract with and directly supervise an RN or an LPN who shall provide ongoing supervision of all assistants. The supervising RN or LPN shall have at least one year of related clinical nursing experience that may include work in an acute care hospital, public health clinic, home health agency, ICF/IID, or nursing facility.

d. The supervisor shall make a home visit to conduct an initial assessment prior to the start of service for all individuals enrolled in the waiver requesting and who have been approved to receive personal assistance. The supervisor shall also perform any subsequent reassessments or changes to the plan for supports. All changes that are indicated for an individual's plan for supports shall be reviewed with and agreed to by the individual and, if appropriate, the individual's family/caregiver.

e. The supervisor shall make supervisory home visits as often as needed to ensure both quality and appropriateness of the service. The minimum frequency of these visits shall be every 30 to 90 days under the agency-directed model, depending on the individual's needs.

f. Based on continuing evaluations of the assistant's performance and the individual's needs, the supervisor shall identify any gaps in the assistant's ability to function competently and shall provide training as indicated.

5. Service facilitation requirements for the personal assistance service shall be the same as those set forth in 12VAC30-122-150.

6. ~~[ The provider of personal assistance shall have a back-up plan in case the personal assistant does not report for work as expected or terminates employment without prior notice. All individuals shall have a backup plan prior to initiating services in cases of emergency or should the provider be unable to render services as needed. This backup plan shall be shared with the provider and support coordinator at the onset of services and updated with the provider and support coordinator as necessary. ]~~

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~~[ 7. In the consumer directed model, the individual, EOR, or family/caregiver shall also have a back-up plan in case the personal assistant does not report for work as expected or terminates employment without prior notice.~~

## 8. 7. ] Requirements for agency-directed assistants.

a. Providers shall ensure that staff providing the personal assistance service meet provider [ ~~competency~~ ] training [ and competency ] requirements as specified in 12VAC30-122-180.

b. Assistants employed by personal assistance agencies licensed by VDH shall have completed an educational curriculum of at least 40 hours of study related to the needs of individuals who have disabilities, including intellectual and developmental disabilities. The provider shall ensure, prior to assigning assistants to support an individual, that the assistants have the required skills and training to perform the service as specified in the individual's plan for supports and related supporting documentation. Assistants' required training shall be met in one of the following ways:

(1) Registration with the Board of Nursing as a certified nurse aide;

(2) Graduation from an approved educational curriculum as listed by the Board of Nursing; or

(3) Completion of the provider's educational curriculum, as conducted by a licensed RN who shall have at least one year of related clinical nursing experience that may include work in an acute care hospital, public health clinic, home health agency, ICF/IID, or nursing facility.

c. Assistants shall have a satisfactory work record, as evidenced by two references from prior job experiences, if applicable, including no evidence of possible abuse, neglect, or exploitation of elderly persons, children, or adults with disabilities.

d. Provider inability to render the service and substitution of assistants. When assistants are absent or otherwise unable to render scheduled supports to individuals enrolled in the waiver, the provider shall be responsible for ensuring that the service continues to be provided to the affected individuals.

(1) The provider may either obtain a substitute assistant from another provider if the lapse in coverage is to be less than two weeks in duration or transfer the individual's services to another personal assistance service provider. [ ~~The provider who holds the service authorization to provide service to the individual enrolled in the waiver shall contact the support coordinator to determine if additional or modified service authorization is necessary.~~ ]

(2) If no other provider is available who can supply a substitute assistant, the provider shall notify the individual and the individual's family/caregiver, as appropriate, and the support coordinator so that the support coordinator

may find another available provider of the individual's choice.

(3) During temporary, short-term lapses in coverage that are not expected to exceed approximately two weeks in duration, the following procedures shall apply:

(a) The service-authorized provider shall provide the supervision for the substitute assistant;

(b) The provider of the substitute assistant shall send a copy of the assistant's daily documentation signed by the assistant, the individual, and the individual's family/caregiver, as appropriate, to the provider having the service authorization; and

(c) The service authorized provider shall bill DMAS for service rendered by the substitute assistant.

e. If a provider secures a substitute assistant, the provider agency shall be responsible for ensuring that all DMAS requirements continue to be met including documentation of service rendered by the substitute assistant and documentation that the substitute assistant's qualifications meet DMAS requirements. The two providers involved shall be responsible for negotiating the financial arrangements of paying the substitute assistant.

[ 8. Persons functioning as assistants shall meet the following requirements:

a. Be at least 18 years of age;

b. Be able to read and write English to the degree required to function in this capacity and create and maintain the required documentation to support billing and possess basic math skills;

c. Be capable of following a plan for supports with minimal supervision and physically able to perform the required work;

d. Possess a valid Social Security Number that has been issued by the Social Security Administration to the person who is to function as the assistant;

e. Be capable of aiding in IADLs;

f. Receive a tuberculosis screening according to the requirements of the Virginia Department of Health; and

g. For consumer directed assistants, be willing to attend training at the individual's or family/caregiver's request. ]

## E. Agency-directed service documentation and requirements.

1. The record for agency-directed providers shall at a minimum contain [ all of the following ]:

a. The most recently updated plan for supports and supporting documentation, and all provider documentation [ ~~;~~ ]

b. A copy of the most recently updated age-appropriate assessment form as set out in 12VAC30-122-200, the initial assessment by the DBHDS-licensed agency supervisor or RN supervisory nurse completed prior to or

on the date the service is initiated, subsequent reassessments, and changes to the supporting documentation by the RN supervisory nurse [ 5. ]

c. Supervisor's summarizing notes recorded and dated during any contacts with the personal assistant during supervisory visits to the individual's home [ 5. ]

d. The specific service delivered to the individual enrolled in the waiver by the personal assistant dated the day of service delivery, and the individual's unique, specific responses [ 5. ]

e. The personal assistant's arrival and departure times [ 5. ]

f. The personal assistant's weekly comments or observations about the individual enrolled in the waiver to include individual-specific observations of the individual's physical and emotional condition, daily activities, and responses to the service [ 5. ]

g. The personal assistant's, individual's and the individual's family/caregiver's, as appropriate, weekly signatures recorded on the last day of service delivery for any given week to verify that the personal assistance service during that week has been rendered [ 5. ]

h. A written review supported by documentation in the individuals' record that is submitted to the support coordinator at least quarterly with the plan for supports, if modified [ 5. For the annual review and every time supporting documentation is updated, the supporting documentation shall be reviewed with the individual or family/caregiver, as appropriate, and such review shall be documented. ]

i. All correspondence to the individual and the individual's family/caregiver, as appropriate, the support coordinator, DMAS, and DBHDS [ 5. and. ]

j. Written documentation of all contacts with the individual's family/caregiver, physicians, providers, and all professionals regarding the individual.

2. Personal assistant service records shall be separated from those of other nonwaiver services, such as home health service.

3. Provider progress notes shall meet the standards contained in 12VAC30-122-120 A.

4. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

F. Consumer-directed documentation requirements are set forth in 12VAC30-122-500 E.

### **12VAC30-122-470. Personal emergency response system service.**

A. Service description. Personal emergency response system (PERS) service is an electronic device and monitoring service that enables certain individuals to secure help in an emergency. PERS service shall be limited to those individuals who live alone or are alone for significant parts of the day and who have no regular caregiver for extended periods of time and who would otherwise require supervision. PERS service shall be covered in the FIS, CL, and BI waivers.

B. Criteria. PERS may be authorized when there is no one else in the home with the individual enrolled in the waiver who is competent or continuously available to call for help in an emergency.

#### C. Service units and service limitations.

1. The one-time installation of the unit shall include installation, account activation, individual and caregiver instruction, and removal of PERS equipment. A unit of service is the one-month rental price set by DMAS.

2. PERS service shall be capable of being activated by a remote wireless device and shall be connected to the individual's telephone system. The PERS console unit shall provide hands-free voice-to-voice communication with the response center. The activating device shall be waterproof, automatically transmit to the response center an activator low battery alert signal prior to the battery losing power, and be able to be worn by the individual.

3. PERS service shall not be used as a substitute for providing adequate supervision for the individual enrolled in the waiver.

4. Physician-ordered medication monitoring units shall be provided simultaneously with PERS service.

5. PERS service shall not be covered for individuals who are simultaneously receiving group home residential service, sponsored residential service, or supported living residential service.

#### D. Provider requirements.

1. Providers shall meet all requirements of 12VAC30-122-110 through 12VAC30-122-140.

2. Providers shall be either a (i) licensed home health or personal care agency, (ii) a durable medical equipment provider, (iii) a hospital, or (iv) a PERS manufacturer that has the ability to provide PERS equipment, direct services (i.e., installation, equipment maintenance, and service calls), and PERS monitoring.

3. Providers shall have a current, signed provider participation agreement with DMAS. This agreement shall be renewed promptly when requested by DMAS. The provider named on the participation agreement shall directly

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render the PERS service and shall submit his claims to DMAS for reimbursement.

4. Providers shall provide an emergency response center staff with fully trained operators who are capable of (i) receiving signals for help from an individual's PERS equipment 24 hours a day, 365 or 366, as appropriate, days per year; (ii) determining whether an emergency exists; and (iii) notifying an emergency response organization or an emergency responder that the individual needs emergency help.

5. Providers shall comply with all applicable federal and state laws and regulations, all applicable regulations of DMAS, and all other governmental agencies having jurisdiction over the service to be performed.

6. Providers shall have the primary responsibility to furnish, install, maintain, test, and service the PERS equipment, as required to keep it fully operational. The provider shall replace or repair the PERS device within 24 hours of the individual's or family/caregiver's notification of a malfunction of the console unit, activating devices, or medication-monitoring unit while the original equipment is being repaired.

7. Providers shall properly install all PERS equipment into the functioning telephone line or cellular system of an individual receiving PERS and shall furnish all supplies necessary to ensure that the system is installed and working properly.

8. The PERS installation shall include local seize line circuitry, which guarantees that the unit will have priority over the telephone connected to the console unit should the phone be off the hook or in use when the unit is activated.

9. Providers shall install, test, and demonstrate to the individual and the individual's family/caregiver, as appropriate, the PERS system before submitting the claim for reimbursement to DMAS.

10. Providers shall maintain all installed PERS equipment in proper working order.

11. Providers shall maintain a data record for each individual receiving PERS service at no additional cost to DMAS. The record shall document all of the following:

- a. Delivery date and installation date of the PERS;
- b. The signature of the individual or the individual's family/caregiver, as appropriate, verifying receipt of PERS device;
- c. Verification by a test that the PERS device is operational, monthly or more frequently as needed;
- d. Updated and current individual responder and contact information, as provided by the individual or the individual's care provider, or support coordinator/case manager; and

e. A case log documenting the individual's utilization of the system and contacts and communications with the individual or the individual's family/caregiver, as appropriate, support coordinator/case manager, or responder.

12. Providers shall have back-up monitoring capacity in case the primary system cannot handle incoming emergency signals.

13. All PERS equipment shall be approved by the Federal Communications Commission and meet the Underwriters' Laboratories, Inc. (UL) safety standard Number 1635 for Digital Alarm Communicator System Units and Number 1637, which is the UL safety standard for home health care signaling equipment. The UL listing mark on the equipment will be accepted as evidence of the equipment's compliance with such standard. The PERS device shall be automatically reset by the response center after every activation ensuring that subsequent signals can be transmitted without requiring manual reset by the individual enrolled in the waiver or family/caregiver, as appropriate.

14. Providers shall instruct the individual, his family/caregiver, as appropriate, and responders in the use of the PERS.

15. The emergency response activator shall be activated either by breath, by touch, or by some other means and shall be usable by persons who have visual or hearing impairments or physical disabilities. The emergency response communicator shall be capable of operating without external power during a power failure at the individual's home for a minimum period of 24 hours and automatically transmit a low battery alert signal to the response center if the back-up battery is low. The emergency response console unit shall also be able to self-disconnect and redial the back-up monitoring site without the individual resetting the system in the event the unit cannot get its signal accepted at the response center.

16. Monitoring agencies shall be capable of continuously monitoring and responding to emergencies under all conditions, including power failures and mechanical malfunctions. The provider is responsible for ensuring that the monitoring agency and the agency's equipment meet the requirements of this section. The monitoring agency shall be capable of simultaneously responding to multiple signals for help from multiple individuals' PERS equipment. The monitoring agency's equipment shall include the following:

- a. A primary receiver and a back-up receiver, which shall be independent and interchangeable;
- b. A back-up information retrieval system;
- c. A clock printer, which shall print out the time and date of the emergency signal, the PERS individual's identification code, and the emergency code that indicates whether the signal is active, passive, or a responder test;

- d. A back-up power supply;
- e. A separate telephone service;
- f. A toll-free number to be used by the PERS equipment in order to contact the primary or back-up response center; and
- g. A telephone line monitor, which shall give visual and audible signals when the incoming telephone line is disconnected for more than 10 seconds.

17. The monitoring agency shall maintain detailed technical and operations manuals that describe PERS service elements, including the installation, functioning, and testing of PERS equipment; emergency response protocols; and recordkeeping and reporting procedures.

18. Providers shall document and furnish within 30 calendar days of the action taken a written report to the support coordinator/case manager for each emergency signal that results in action being taken on behalf of the individual. This excludes test signals or activations made in error.

**E. Service documentation and requirements:**

1. Providers shall include signed and dated documentation of the following in each individual's record:

- a. [ ~~A plan for supports as detailed in 12VAC30-122-120.~~ ] The appropriate service authorization to be completed by the support coordinator may serve as the plan for supports for the provision of PERS service. A rehabilitation engineer may be involved for PERS service if disability expertise is required that a general contractor may not have. The plan for supports and service authorization shall include justification and explanation if a rehabilitation engineer is needed. The service authorization request shall be submitted to the state-designated agency or its designee in order for service authorization to occur;
- b. For PERS service, written documentation regarding the process and results of ensuring that the item is not covered by the State Plan for Medical Assistance as durable medical equipment (DME) and supplies, and that the item is not available from a DME provider;
- c. Documentation of the recommendation for the item by an independent professional consultant and the amount of service that is needed;
- d. Documentation of the date the service is rendered;
- e. Any other relevant information regarding the device or modification;
- f. Documentation in the support coordination record of notification by the designated individual or the individual's representative or family/caregiver of satisfactory completion or receipt of the service or item; and
- g. Instructions regarding any warranty, repairs, complaints, or servicing that may be needed.

2. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

**12VAC30-122-480. Private duty nursing service.**

A. Service description. Private duty nursing (PDN) service means individual and continuous nursing care that [ ~~may shall~~ ] be provided [ ~~, concurrently with other services,~~ ] due to the intensity of medical supports required by individuals who have complex health care needs that have been certified by a physician as medically necessary to enable the individual to remain at home rather than in a hospital, nursing facility, or ICF/IID. [ ~~PDN service shall be rendered to the individual in his residence or other community settings.~~ PDN shall be provided on a one-to-one basis, and cannot be provided concurrently with skilled nursing services, personal assistance services, respite services, or companion services. Individuals receiving PDN services shall not be authorized for skilled nursing services except in the case of nurse delegation responsibility activities. PDN shall support and not replace caregiver responsibilities. ] PDN service shall be covered in the FIS and CL waivers.

**B. Criteria and allowable activities.**

- 1. The individual shall require PDN service that has been certified by a Virginia-licensed physician as medically necessary to enable the individual to remain at home or otherwise in the community rather than in a hospital, a nursing facility, an ICF/IID, or any other type of institution.
- 2. The medical necessity for PDN service shall be documented in the individual's ISP. Once the medical necessity can no longer be demonstrated, this service shall be terminated.

**3. Allowable activities shall include:**

- a. [ ~~Monitoring~~ On-going monitoring ] of an individual's medical status [ as it relates to the specified medical and nursing needs ];
- b. Administering medications or other medical treatment; and
- [ ~~c. Training of family and other caregivers, for up to 30 days after an acute care episode or new diagnosis that requires regular intervention by caregivers.~~ Assistance with ADLs in conjunction with medical treatment and care.
- d. Training for family or other caregivers in relation to those activities that are part of the nursing plan for supports. ]

**C. Service units and limits.**

- 1. The unit of service shall be a quarter hour.

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2. Individuals enrolled in the waiver shall not be authorized to receive private duty nursing service [ ~~during the same authorized period as with~~ and ] skilled nursing service.

3. Private duty nursing service shall not be covered under the waiver if the individual who is younger than 21 years of age is eligible for private duty nursing service covered through Medicaid's Early and Periodic Screening, Diagnosis and Treatment program.

## D. Provider requirements.

1. Providers shall meet all of the requirements set out in 12VAC30-122-110 through 12VAC30-122-140.

[ ~~2. If the provider designated in the participation agreement employs LPNs to render direct care, then the provider shall also employ an RN or be an RN himself in order to supervise the LPNs.~~

~~3. 2. ] Private duty nursing service may be provided by either (i) a licensed RN or (ii) licensed LPN who is under the supervision of a licensed RN. The licensed RN or LPN shall be employed by a DMAS-enrolled home health provider or contracted with or employed by a DBHDS-licensed day support service, respite service, or residential service provider.~~

[ ~~4. 3. ] Both RNs and LPNs providing private duty nursing service shall have current licenses issued by the Virginia Board of Nursing or hold current multistate licensure privileges to practice nursing in the Commonwealth.~~

## E. Service documentation and requirements.

1. Providers shall include signed and dated documentation of the following in each individual's record:

a. A copy of the completed, standard, age-appropriate assessment form as described in 12VAC30-122-200.

b. The provider's plan for supports per requirements detailed in 12VAC30-122-120 [ and the CMS 485 ].

c. Documentation of all training, including the dates and times provided to family/caregivers or staff, or both, including the person being trained and the content of the training. [ ~~Training of professional staff shall be consistent with the Regulations Governing the Practice of Nursing (18VAC90-19).~~ ]

d. Documentation that the RN and LPN has the experience or skills necessary to perform the tasks [ as ordered by the physician included ] in the plan for supports.

e. Documentation of nursing licenses [ ~~and,~~ ] qualifications of providers [ , and physician's orders done every six months ],

f. Documentation of the physician's determination of medical necessity prior to service being rendered.

g. [ ~~Documentation indicating the dates and times that this service is provided and the amount and type of nursing interventions provided.~~ Documentation summarizing

interventions, results of treatment, the dates and times of nursing interventions that are provided, and the amount and type of service. ]

h. A review of the supporting documentation with the individual or his family/caregiver, as appropriate, and documentation that shows a written summary of this review was submitted to the support coordinator/case manager at least quarterly with the plan for supports modified as appropriate. For the annual review and anytime supporting documentation is updated, the supporting documentation shall be reviewed with the individual or his family/caregiver, as appropriate, and such review shall be documented.

[ ~~i. Documentation that the plan for supports has been reviewed by a physician within 30 days of initiation of the service, when any changes are made to the plan for supports, and also reviewed and approved at least annually by a physician.~~

~~j. i. ] All correspondence to the individual and the individual's family/caregiver, as appropriate, the support coordinator, DMAS, and DBHDS.~~

[ ~~k. j. ] Written documentation of all contacts with the individual's family/caregiver, physicians, providers, and all professionals regarding the individual.~~

2. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

## 12VAC30-122-490. Respite service.

### A. Service description.

1. Respite service is temporary, substitute care that is normally provided [ ~~by an unpaid,~~ on a short-term basis for temporary relief of the ] primary caregiver. [ ~~Service shall be provided on a short-term basis for periodic relief of the primary caregiver. Respite service may be provided either through an agency directed or consumer directed model.~~ ]

2. Respite service [ ~~may be provided in home and community settings to enable~~ enables ] an individual to maintain the health status and functional skills necessary to live in the community or participate in community activities.

3. [ ~~Respite service may be provided either through an agency-directed or consumer-directed model. Respite service shall be provided:~~

a. In home and community settings, which may be based in the individual's home; or

b. Under the agency-directed model by enrolled providers licensed to provide center-based respite service, to include a group home or a sponsored residential home.

4.] Respite service shall be covered in the FIS and CL waivers.

B. Criteria.

1. To qualify for respite service, the individual shall demonstrate (i) a need for assistance with ADLs, community access, self-administration of medications or other medical needs, or monitoring of health status or physical condition and (ii) the family or other unpaid [ caregiver's caregiver has expressed the ] need for relief of caregiving duties.

2. The need for respite service shall be documented in the plan for supports.

3. Allowable activities shall include:

- a. Assistance [ support ] with ADLs and IADLs;
- b. Support with monitoring [ of ] health status or physical condition;
- c. Support with [ prescribed use of ] medication and [ other ] medical needs;
- d. [ Support with preparation and eating of meals;
- e. Support with housekeeping activities, such as bed-making, cleaning, or the individual's laundry;
- f. ] Safety supports;  
[ e. g. ] Support [ to participate with participation ] in social, recreational, and community activities;  
[ f. h. ] Accompanying the individual to appointments or meetings; and  
[ g. i. ] Assistance with bowel/bladder care needs, range of motion activities, routine wound care that does not include sterile technique, and external catheter care when trained and supervised by an RN.

[ 4. Individuals may receive both agency-directed and consumer-directed personal assistance as long as the two service models do not overlap the same days and times.

5. Individuals choosing the consumer-directed option for respite service may receive support from a services facilitator and shall meet requirements for consumer direction as described in 12VAC30-122-150. ]

C. Service units and service limitations.

1. The unit of service shall be one hour. Respite service shall be limited to 480 hours per individual per state fiscal year. If an individual changes waiver programs, this same maximum number of respite hours shall apply. No additional respite hours beyond the 480 hours maximum limit shall be approved for payment. Individuals who are receiving respite service in the FIS or CL waivers through both the agency-directed and consumer-directed models shall not exceed 480 hours per year combined.

2. A person rendering respite service for reimbursement by DMAS shall [ not be the individual's spouse meet the requirements set forth in 12VAC30-122-120 B. ].

3. Any combination of companion service, personal assistance service, and respite service delivered by a single assistant or companion to one individual in the consumer-directed service model shall be limited to 40 hours per week [ for an employer of record (EOR) ]. Assistants who live with the individual, either full time or for substantial amounts of time, shall not be restricted to only 40 hours per week [ for the EOR ]. Individuals may receive more than 40 hours per week, if needed, of respite service from multiple assistants. [ The assistant shall not provide more than 16 hours of consumer-directed services per day. The 16-hour limit shall include hours worked in one day providing a combination of companion, personal assistance, and respite services. ]

4. When specified in the provider's plan for supports, such supportive service may include assistance with IADLs. Respite assistance shall not include skilled nursing service, with the exception of skilled nursing tasks that are delegated pursuant to 18VAC90-19-240 through 18VAC90-19-280, regulated in Chapters 30 (§ 54.1-3000 et seq.) and 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia, as appropriate.

[ 5. Each provider, the individual, the EOR, and the individual's family/caregiver shall have a back up plan for the individual's care in case the respite assistant does not report for work as expected or terminates employment without prior notice. The support coordinator/case manager shall review the back up plan and confirm that it will meet the individual's needs.

6- 5.] Respite service shall not be provided for DMAS reimbursement to relieve staff of group homes, supported living service, or sponsored residential service, as defined by 12VAC35-105-20, or assisted living facilities, as defined by 22VAC40-73-10, where residential supports are provided in shifts. Respite service shall not be provided for DMAS reimbursement by adult foster care providers for an individual residing in that foster home.

[ 7- 6. ] Skill development shall not be provided with respite service.

[ 8- 7. ] The hours to be authorized shall be based on the individual's need. Two individuals in the same home may share supports delivered by one assistant; however, the number of hours billed shall not exceed the number of hours the assistant worked.

[ 9- 8. ] Consumer-directed and agency-directed respite service shall meet the same standards for service limits and authorizations.

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## D. Provider requirements.

1. Providers shall meet the requirements in 12VAC30-122-110 through 12VAC30-122-140.

2. For [ agency directed ] respite service, the provider shall (i) be licensed by DBHDS as a [ ~~supportive in-home residential service provider,~~ ] center-based respite service provider, [ supportive ] in-home respite service provider, out-of-home respite service provider, or residential respite service provider; (ii) a VDSS-certified foster care home for children or a VDSS-certified adult foster care home for individuals who do not reside in that foster home; (iii) meet the Virginia Department of Health (VDH) licensing requirements; or (iv) have accreditation from a CMS-recognized organization to be a personal care or respite care provider.

3. Providers of [ agency-directed ] respite service shall have a current, signed participation agreement with DMAS. Providers designated on this agreement shall render this service directly and shall bill DMAS directly for Medicaid reimbursement.

4. [ For respite service, the service provider shall complete:

a. An assessment for all individuals prior to admission to services.

b. A plan for supports.

c. Any subsequent reassessments or changes to the plan for supports. All changes that are indicated for an individual's plan for supports shall be reviewed with and agreed to by the individual and, if appropriate, the individual's family/caregiver.

5. Respite assistants shall:

a. Be at least 18 years of age or older;

b. Be able to read and write English to the degree necessary to perform the expected tasks and create and maintain the required documentation;

c. Be physically able to perform the required tasks and have the required skills to perform services as specified in the waiver individual's supporting documentation;

d. Have a valid Social Security Number that has been issued to the respite service provider by the Social Security Administration;

e. Meet the requirements of 12VAC30-122-120 A regarding criminal record checks and, if the waiver individual is a minor, consent to a search of the VDSS Child Protective Services Central Registry.

f. Understand and agree to comply with the DMAS DD Waiver requirements; and

g. Receive tuberculosis screening as specified in the criteria used by the VDH.

h. For consumer directed respite assistants, be willing to attend training at the individual's or family/caregiver's request.

6. Requirements for agency-directed assistants

a. Providers shall ensure that staff providing respite service meet provider training and competency requirements as specified in 12VAC30-122-180.

b. Assistants employed by DBHDS licensed agencies shall meet the requirements as specified in 12VAC35-105-420.

c. Assistants employed by personal care agencies licensed by VDH or having accreditation from a CMS-recognized organization shall have completed an educational curriculum of at least 40 hours of study related to the needs of individuals who have disabilities, including intellectual and developmental disabilities, as ensured by the provider prior to being assigned to support an individual. Assistants shall have the required skills and training to perform the service as specified in the individual's plan for supports and related supporting documentation. An assistant's required training shall be met in one of the following ways:

(1) Registration with the Board of Nursing as a certified nurse aide;

(2) Graduation from an approved educational curriculum as listed by the Board of Nursing; or

(3) Completion of the provider's educational curriculum, as conducted by a licensed RN who shall have at least one year of related clinical nursing experience that may include work in an acute care hospital, public health clinic, home health agency, ICF/IID, or nursing facility.

d. Assistants shall have a satisfactory work record, as evidenced by two references from prior job experiences, if applicable, including no evidence of possible abuse, neglect, or exploitation of elderly persons, children, or adults with disabilities.

e. Persons functioning as assistants shall meet the requirements as specified in 12VAC5-381.

7. Supervision shall be provided to all DSPs and respite assistants.

a. Documentation of supervision shall be completed, signed, and dated by the supervisor and shall include, at a minimum, the following:

(1) Date of contact or observation;

(2) DSP contacted or observed; and

(3) A summary of the contact or observation.

b. When respite service is routine in nature, that is, occurring with a scheduled regularity for specific periods of time and offered in conjunction with personal assistance service, the supervisory visit conducted for personal assistance service may serve as the supervisory visit for the respite service. However, the supervisor shall



document supervision of the respite service separately. For this purpose, the same individual record shall be used with a separate section clearly marked for respite service documentation.

c. Based on continuing evaluations of the assistant's performance and individual's needs, the supervisor shall identify any gaps in the assistant's ability to function competently and shall provide training as indicated.

8. ] Supervision requirements for agency-directed respite service.

a. A supervisor shall provide ongoing supervision of all respite assistants. [ ~~b.~~ ] For respite providers that are licensed by DBHDS, a supervisor meeting the requirements of [ ~~12VAC35-105 12VAC35-105-590~~ ] shall provide supervision of direct support professional staff.

[ ~~e. b.~~ ] For respite providers who are licensed by VDH or have accreditation from a CMS-recognized organization to be a personal care or respite care provider, the provider shall employ or subcontract with and directly supervise an RN or an LPN, or be an RN or LPN himself, who shall provide ongoing supervision of all assistants. The supervising RN or LPN shall have at least one year of related clinical nursing experience that may include work in an acute care hospital, public health clinic, home health agency, ICF/IID, or nursing facility.

[ ~~9.~~ For agency directed respite service provided based from the individual's home, in addition to 12VAC30-122-490 D 7: ]

[ ~~d. a.~~ ] The supervisor shall make a home visit to conduct an initial assessment prior to the start of service for all individuals enrolled in a DD Waiver who have been approved to receive respite service. [ ~~The supervisor shall also perform any subsequent reassessments or changes to the plan for supports. All changes that are indicated for an individual's plan for supports shall be reviewed with and agreed to by the individual and, if appropriate, the individual's family/caregiver.~~

~~e.~~ The supervisor shall make supervisory home visits or center-based visits to DBHDS-licensed settings as often as needed to ensure both quality and appropriateness of the service. When respite service is received on a routine basis, the minimum frequency of these supervisory visits shall be at least every 90 days under the agency-directed model, depending on the individual's needs. Documentation of supervision shall be completed, signed, and dated by the supervisor and shall include, at a minimum, the following:

- (1) Date of contact or observation;
- (2) Person contacted or observed; and
- (3) A summary of the contact or observation.

~~f.~~ When respite service is not received on a routine basis but is episodic in nature, the supervisor shall conduct the initial home visit with the respite assistant immediately preceding the start of service and make a second home visit within the respite service period. The supervisor or services facilitator, as appropriate, shall review the use of the respite service either every six months or upon the use of 240 respite service hours, whichever comes first.

~~g.~~ When respite service is routine in nature, that is, occurring with a scheduled regularity for specific periods of time and offered in conjunction with personal assistance service, the supervisory visit conducted for personal assistance service may serve as the supervisory visit for the respite service. However, the supervisor or service facilitator, as appropriate, shall document supervision of the respite service separately. For this purpose, the same individual record shall be used with a separate section clearly marked for respite service documentation.

~~h.~~ Based on continuing evaluations of the assistant's performance and individual's needs, the supervisor shall identify any gaps in the assistant's ability to function competently and shall provide training as indicated.

b. If the individual is also attempting to access an assessment for personal assistance services, one assessment may be conducted for both services at the same time. However, the supervisor shall document supervision of the respite service separately. For this purpose, the same individual record shall be used with a separate section clearly marked for respite service documentation.

c. When the service is delivered on a routine basis, the minimum frequency of required supervisory visits shall be every 90 days.

d. When respite service is not received on a routine basis but is episodic in nature, the supervisor shall conduct the initial home visit with the DSP/respite assistant immediately preceding the start of service and make a second home visit within the respite service period. The supervisor or services facilitator, as appropriate, shall review the use of the respite service either every six months or upon the use of 240 respite service hours, whichever comes first.

10. For center-based respite service, in addition to 12VAC30-122-490 D 7, the supervisor shall provide ongoing supervision to all DSPs/respite assistants in DBHDS-licensed settings no less than quarterly to ensure both quality and appropriateness of the service ].

[ ~~5- 11.~~ ] Service facilitation requirements for respite service shall be the same as those set forth in 12VAC30-122-150.

[ ~~6.~~ Requirements for agency directed assistants:

a. Providers shall ensure that staff providing respite service meet provider competency training requirements as specified in 12VAC30-122-180.

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~~b. Assistants employed by personal assistance agencies licensed by VDH or having accreditation from a CMS-recognized organization shall have completed an educational curriculum of at least 40 hours of study related to the needs of individuals who have disabilities, including intellectual and developmental disabilities, as ensured by the provider prior to being assigned to support an individual. Assistants shall have the required skills and training to perform the service as specified in the individual's plan for supports and related supporting documentation. An assistant's required training shall be met in one of the following ways:~~

~~(1) Registration with the Board of Nursing as a certified nurse aide;~~

~~(2) Graduation from an approved educational curriculum as listed by the Board of Nursing; or~~

~~(3) Completion of the provider's educational curriculum, as conducted by a licensed RN who shall have at least one year of related clinical nursing experience that may include work in an acute care hospital, public health clinic, home health agency, ICF/IID, or nursing facility.~~

~~c. Assistants shall have a satisfactory work record, as evidenced by two references from prior job experiences, if applicable, including no evidence of possible abuse, neglect, or exploitation of elderly persons, children, or adults with disabilities.~~

~~d. When assistants are absent or otherwise unable to render scheduled supports to individuals enrolled in the waiver, the provider shall be responsible for ensuring that the service continues to be provided to the affected individuals.~~

~~(1) The provider may either provide another assistant, obtain a substitute assistant from another provider if the lapse in coverage is to be less than two weeks in duration, or transfer the individual to another respite provider. The provider who holds the service authorization to provide service to the individual enrolled in the waiver shall contact the support coordinator/case manager to determine if additional or modified service authorization is necessary.~~

~~(2) If no other provider is available who can supply a substitute assistant, the provider shall notify the individual and the individual's family/caregiver, as appropriate, and the support coordinator/case manager so that the support coordinator/case manager may find another available provider of the individual's choice.~~

~~e. During temporary, short-term lapses in coverage that are not expected to exceed approximately two weeks in duration, the following procedures shall apply:~~

~~(1) The service authorized provider shall supervise the substitute assistant;~~

~~(2) The provider of the substitute assistant shall send a copy of the assistant's daily documentation signed by the~~

~~assistant, the individual, and the individual's family/caregiver, as appropriate, to the provider having the service authorization; and~~

~~(3) The service authorized provider shall bill DMAS for service rendered by the substitute assistant.~~

~~f. If a provider secures a substitute assistant, the provider agency shall be responsible for ensuring that all DMAS requirements continue to be met, including documentation of service rendered by the substitute assistant and documentation that the substitute assistant's qualifications meet DMAS requirements. The two providers involved shall be responsible for negotiating the financial arrangements of paying the substitute assistant~~

12. For agency directed respite based in an individual's home, when assistants are absent or otherwise unable to render scheduled supports to individuals enrolled in the waiver, the provider shall be responsible for ensuring that the service continues to be provided to the affected individuals.

13. All individuals shall have a backup plan prior to initiating services in cases of emergency or should the provider be unable to render services as needed. This backup plan shall be documented and shared with the provider, services facilitator, and support coordinator at the onset of services and updated with the provider and support coordinator as necessary ].

E. Service documentation and requirements [ for agency-directed service and consumer directed service ].

1. Agency-directed providers [ or the services facilitator, or the EOR in the absence of a services facilitator, ] shall maintain records regarding each individual who is receiving respite service.

2. At a minimum, the records shall contain:

a. A copy of the most recently completed age-appropriate assessment and, as needed, an initial assessment completed by the supervisor or services facilitator prior to or on the date service is initiated.

b. [ The provider's most recently updated plan for supports detailed in 12VAC30-122-120. The provider and service facilitator's plan for supports per requirements detailed in 12VAC30-122-120. ]

c. [ Documentation indicating that the plan for supports desired outcomes and support activities have been reviewed by the provider quarterly, annually, and more often as needed. At a minimum, monthly verification by the supervisor of the service and hours rendered and billed to DMAS. The results of the review shall be submitted to the support coordinator. A written review supported by documentation in the individual's record that is submitted to the support coordinator at least quarterly if services are delivered that quarter with the plan for supports if modified. ] For the annual review and in cases where the

plan for supports is modified, the plan for supports shall be reviewed with and agreed to by the individual enrolled in the waiver and the individual's family/caregiver, as appropriate;

d. Supervisor's ~~[ or services facilitator's ]~~ summarizing notes recorded and dated during any contacts with the assistant ~~[ and during supervisory visits to the individual's home ]~~;

e. Documentation by the service supervisor ~~[ or consumer-directed services facilitator ]~~ in a summary note following significant contacts with the assistant and home visits with the individual the following:

- (1) Whether the service continues to be appropriate;
- (2) Whether the plan for supports is adequate to meet the individual's needs or changes are needed in the plan;

~~[ (3) The individual's satisfaction with the service;~~

~~(4) (3) ] The presence or absence of the assistant during the supervisor's visit [ if not a center-based service ];~~

~~[ (5) (4) ] Any suspected abuse, neglect, or exploitation and to whom it was reported; and~~

~~[ (6) (5) ] Any hospitalization or change in medical condition, functioning, or cognitive status;~~

f. All correspondence to the individual and the individual's family/caregiver, as appropriate, the ~~[ support coordinator/case manager support coordinator ]~~, DMAS, and DBHDS;

g. Contacts made with the individual's family/caregiver, physicians, providers, and all professionals concerning the individual; and

h. The specific service delivered to the individual enrolled in the waiver by the assistant dated the day of service delivery and the individual's unique, specific responses as well as:

~~[ (1) The respite assistant's arrival and departure times;~~

~~(2) The respite assistant's weekly comments or observations about the individual enrolled in the waiver to include individual specific observations of the individual's physical and emotional condition, daily activities, and responses to the service rendered; and~~

~~(3) The respite assistant's, individual's, and the individual's family/caregiver's, as appropriate, weekly signatures recorded on the last day of service delivery for any given week to verify that respite service during that week have been rendered.~~

3. (1) For home-based respite service, the respite assistant's arrival and departure times, in addition to the weekly signatures of the respite assistant, individual, and the individual's family member/caregiver, as appropriate, recorded on the last day of service delivery for any given week to verify that respite service during that week have been rendered.

(2) For center-based respite service, the individual's arrival and departure times from the center, group home, or sponsored residential site and documentation specific to 12VAC30-122-120 A 10 d. ]

(3) ] Respite service records shall be separated from those of other nonwaiver services, such as home health service.

~~[ 4. (4) ] Progress notes shall meet the standards contained in 12VAC30-122-120 A.~~

~~[ 5. (5) Consumer-directed documentation requirements are set forth in 12VAC30-122-500 E.~~

(6) ] Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

**12VAC30-122-500. [ Service Services ] facilitation service.**

A. Service description. Individuals enrolled in the ~~[ waiver FIS or CL waivers ]~~ may select the consumer-directed model of service delivery for certain services, absent any of the specified conditions that preclude such a choice, and may also receive support from a services facilitator. Services facilitation service shall be a separate waiver service and shall be used only in conjunction with consumer-directed personal assistance service, respite service, or companion service.

B. Criteria and allowable activities.

1. ~~[ Service Services ]~~ facilitators shall train individuals enrolled in the waiver, or the individual's employer of record (EOR), as appropriate, to direct, such as select, hire, train, supervise, and authorize timesheets of their own assistants who are rendering personal assistance services, respite services, and companion services.

2. The ~~[ service services ]~~ facilitator shall also make an initial comprehensive home visit to collaborate with the individual and the individual's family/caregiver, as appropriate, (i) to identify the individual's needs for a requested consumer-directed service; (ii) to assist in the development of the plan for supports with the individual and the individual's family/caregiver, as appropriate; (iii) provide employer management training to the individual or EOR, as appropriate, on his responsibilities as an employer; and (iv) to provide ongoing support of the consumer-directed model of service. The ~~[ service services ]~~ facilitator shall provide employer management training to the ~~[ individual or ]~~ EOR ~~[ as appropriate, ]~~ within seven days of the initial visit.

a. The initial comprehensive home visit shall be completed only once upon the individual's entry into the consumer-directed model of service regardless of the number or type of consumer-directed services that an individual is approved to receive.

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b. If an individual changes [ service services ] facilitators, the new services facilitator shall complete a reassessment visit in lieu of a comprehensive visit.

c. The employer management training shall be completed before the individual or EOR may hire an assistant who is to be reimbursed by DMAS.

d. After the initial visit, the [ service services ] facilitator shall continue to monitor the individual's plan for supports quarterly (i.e., every 90 days) and more often as needed. If consumer-directed respite service is provided, the services facilitator shall review the utilization of consumer-directed respite service either every six months or upon the use of 240 respite service hours, whichever comes first.

3. [ A face-to-face An in-person ] meeting shall occur between the [ service services ] facilitator and the individual at least every six months to reassess the individual's needs and to ensure appropriateness of any consumer-directed service received by the individual. During these visits with the individual, the [ service services ] facilitator shall observe, evaluate, and consult with the individual, EOR, and the individual's family/caregiver, as appropriate, for the purpose of assessing the adequacy and appropriateness of consumer-directed service with regard to the individual's current functioning, medical needs, and social needs. The services facilitator's written summary of the visit shall include:

a. Discussion with the individual and EOR or individual's family/caregiver, as appropriate, whether the particular consumer-directed service is adequate to meet the individual's needs;

b. Any suspected abuse, neglect, or exploitation and to whom it was reported;

c. Any special tasks performed by the assistant or companion and the assistant's or companion's qualifications to perform these tasks;

d. The individual's and EOR's or individual's family/caregiver's, as appropriate, satisfaction with the assistant's or companion's service;

e. Any hospitalization or change in medical condition, functioning, or cognitive status;

f. The presence or absence of the assistant or companion in the home during the [ service services ] facilitator's visit; and

g. Any other service received and the amount.

4. The [ service services ] facilitator, during routine quarterly visits, shall also review and verify [ timesheets time worked ] as needed to ensure that the number of hours approved in the plan for supports is not exceeded. If discrepancies are identified, the [ service services ] facilitator shall discuss these with the individual or EOR to resolve discrepancies and shall notify the fiscal/employer agent as defined in 12VAC30-122-170. If an individual is

consistently identified as having discrepancies in his timesheets, the [ service services ] facilitator shall contact the support coordinator. Failure to review and verify timesheets and maintain documentation of such reviews shall subject the provider to recovery of payments made by DMAS in accordance with 12VAC30-80-130.

5. The [ service services ] facilitator shall be available during standard business hours to the individual or EOR by telephone.

6. The consumer-directed [ service services ] facilitator shall assist the individual or EOR with employer issues as requested by either the individual or EOR.

7. The [ service services ] facilitator shall also complete the assessments, reassessments, and supporting documentation necessary for consumer-directed service.

8. Service facilitation service shall be provided on an as-needed basis as mutually agreed to by the individual, EOR, and [ service services ] facilitator but at a minimum quarterly routine visits [ shall take place ]. [ Service Services ] facilitator service shall be documented in the supporting documentation for consumer-directed service, and the service facilitation provider shall bill consistent with the supporting documentation. Claims that are not adequately supported by this supporting documentation may be subject to a DMAS recovery of expenditures.

9. If an EOR is consistently unable to hire and retain an assistant to provide consumer-directed services, the [ service services ] facilitator shall contact the support coordinator and DBHDS to transfer the individual, at the choice of the individual, to a provider that provides Medicaid-funded agency-directed companion service, personal assistance service, or respite care service, as may be appropriate.

10. If an individual enrolled in consumer-directed service has a lapse in consumer-directed service for more than 60 consecutive calendar days, the [ service services ] facilitator, or the individual or family/caregiver functioning as the [ service services ] facilitator, shall notify the support coordinator so that consumer-directed service may be discontinued, and the option afforded to the individual to change to agency-directed service as long as the individual still qualifies for the service.

C. Service units and limits. The limits and requirements for individuals' selection of consumer-directed service shall be as follows:

1. In order to be approved to use the consumer-directed model of service, the individual enrolled in the waiver shall meet the requirements as specified in 12VAC30-122-150. Support coordinators shall document in the individual support plan the individual's choice for the consumer-directed model and whether or not the individual chooses service facilitation. The support coordinator shall document

in the individual's record that the individual ~~can~~ will serve as the EOR or ~~if that~~ there is a need ~~or desire~~ for another person to serve as the EOR on behalf of the individual.

2. The consumer-directed ~~service services~~ ~~facilitator~~ who is to be reimbursed by DMAS shall not be the individual enrolled in the waiver; a direct service provider; the individual's spouse; a parent or legal guardian of the individual who is a minor child; or the EOR who is employing the assistant or companion.

3. The services facilitator shall document the individual's back-up plan in case the assistant or companion does not report for work as expected or terminates employment without prior notice.

4. Should the assistant or companion not report for work or terminate his employment without notice, then the ~~service services~~ ~~facilitator~~ shall, upon the individual's or EOR's request, provide management training to ensure that the individual or the EOR is able to recruit and employ a new assistant or companion.

D. Provider requirements.

1. To be enrolled as a ~~service services~~ ~~facilitator~~ and maintain provider status, the services facilitator provider shall have sufficient resources to perform the required activities, including the ability to maintain and retain business and professional records sufficient to document fully and accurately the nature, scope, and details of the service provided.

2. All consumer-directed ~~service services~~ ~~facilitators~~, whether employed by or contracted with a DMAS enrolled ~~service services~~ ~~facilitator~~ provider, shall meet all of the qualifications set out in this subsection. To be enrolled, the ~~service services~~ ~~facilitator~~ shall also meet the combination of work experience and relevant education set out in this subsection that indicate the possession of the specific knowledge, skills, and abilities to perform this function.

a. If the ~~service services~~ ~~facilitator~~ is not an RN then, within 30 days from the start of such service, the ~~service services~~ ~~facilitator~~ shall inform the primary health care provider for the individual enrolled in the waiver that consumer-directed service is being provided and request skilled nursing or other consultation as needed by the individual. Prior to contacting the primary health care provider, the ~~service services~~ ~~facilitator~~ shall obtain the individual's written consent to make such contact. This written consent shall be retained by the ~~service services~~ ~~facilitator~~ in the individual's record.

b. All ~~service services~~ ~~facilitators~~ shall possess, at a minimum, either (i) an associate's degree from an accredited college in a health or human services field or be a registered nurse currently licensed to practice in the

Commonwealth or hold a multistate licensure privilege, and demonstrate at least two years of satisfactory direct care experience supporting individuals with disabilities or older adults or children or (ii) have a bachelor's degree in a non-health or human services field and a minimum of three years of satisfactory direct care experience supporting individuals with disabilities or older adults. ~~Service Services~~ ~~facilitators~~ enrolled prior to January 11, 2016, are not required to meet the education requirements.

c. All consumer-directed ~~service services~~ ~~facilitators~~ shall:

(1) Have a satisfactory work record as evidenced by two references from prior job experiences from any human services work. Such references shall not include any evidence of abuse, neglect, or exploitation of elderly individuals, persons with disabilities, or children;

(2) Submit to a criminal background check ~~within 15 days of~~ prior to employment. Proof that the criminal record check was conducted shall be maintained in the record of the ~~service services~~ ~~facilitator~~;

(3) If providing service to minors, submit to a search of the VDSS Child Protective Services Central Registry; and

(4) Not be debarred, suspended, or otherwise excluded from participating in federal health care programs, as listed on the federal List of Excluded Individuals and Entities (LEIE) database at [http://www.olg.hhs.gov/fraud/exclusions/exclusions\\_list.asp](http://www.olg.hhs.gov/fraud/exclusions/exclusions_list.asp).

d. The services facilitator shall not be compensated for service provided to the waiver individual ~~after the initial~~ prior to the results of the background check ~~or any subsequent background check verifies that the~~ ~~service services~~ ~~facilitator~~ (i) has been convicted of a barrier crime as defined in 12VAC30-122-20; (ii) has a founded complaint confirmed by the VDSS Child Protective Services Central Registry; or (iii) is found to be listed on the LEIE database. In accordance with 12VAC30-80-130, DMAS shall seek refunds of overpayments.

e. All ~~service services~~ ~~facilitators~~ shall complete the DMAS-approved services facilitator training and pass the corresponding competency assessment with a score of at least 80% prior to being approved as a ~~service services~~ ~~facilitator~~ or being reimbursed for waiver services. The competency assessment and all corresponding competency assessments shall be kept in the ~~service services~~ ~~facilitator's~~ personnel record.

f. Failure to complete the competency assessment prior to providing this service shall result in a retraction of Medicaid payment or the termination of the provider agreement, or both.

g. As a component of the renewal of the provider agreement, all consumer-directed ~~service services~~ ~~facilitators~~

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facilitators shall take and pass the competency assessment every five years and achieve a score of at least 80%.

h. The consumer-directed [ ~~service~~ services ] facilitator shall have access to a computer with secure Internet access that meets the requirements of 45 CFR Part 164 for the electronic exchange of information. Electronic exchange of information shall include, for example, checking individual eligibility, submission of service authorizations, submission of information to the fiscal employer agent, and billing for service.

i. All consumer-directed [ ~~service~~ services ] facilitators shall possess a demonstrable combination of work experience and relevant education that indicates possession of the following knowledge, skills, and abilities. Such knowledge, skills, and abilities shall be documented on the application form, found in supporting documentation, or be observed during the job interview. Observations during the interview shall be documented. The knowledge, skills, and abilities include:

(1) Knowledge of:

(a) Types of functional limitations and health problems that may occur in individuals with developmental disabilities, as well as strategies to reduce limitations and health problems;

(b) Physical assistance that may be required by individuals with developmental disabilities, such as transferring, bathing techniques, bowel and bladder care, and the approximate time those activities normally take;

(c) Equipment and environmental modifications that may be required by individuals with developmental disabilities that reduce the need for human help and improve safety;

(d) Various long-term care program requirements, including nursing home and ICF/IID placement criteria; Medicaid waiver services; and other federal, state, and local resources that provide personal assistance service, respite service, and companion service;

(e) DD Waivers requirements, as well as the administrative duties for which the [ ~~service~~ services ] facilitator will be responsible;

(f) Conducting assessments, including environmental, psychosocial, health, and functional factors, and their uses in service planning;

(g) Interviewing techniques;

(h) The individual's right to make decisions about, direct the provisions of, and control his consumer-directed personal assistance service, companion service, and respite service, including hiring, training, managing, approving timesheets, and firing an assistant or companion;

(i) The principles of human behavior and interpersonal relationships; and

(j) General principles of record documentation.

(2) Skills in:

(a) Negotiating with individuals and the individual's family/caregivers, as appropriate, and providers;

(b) Assessing, supporting, observing, recording, and reporting behaviors;

(c) Identifying, developing, or providing service to individuals with developmental disabilities; and

(d) Identifying services within the established system to meet the individual's needs.

(3) Abilities to:

(a) Report findings of the assessment or onsite visit, either in writing or an alternative format, for individuals who have visual impairments;

(b) Demonstrate a positive regard for individuals and their families;

(c) Be persistent and remain objective;

(d) Work independently, performing position duties under general supervision;

(e) Communicate effectively, orally and in writing; and

(f) Develop a rapport and communicate with individuals of diverse cultural backgrounds.

E. Service documentation and requirements.

1. In addition to the documentation required by 12VAC30-122-340, 12VAC30-122-460, and 12VAC30-122-490, the services facilitator shall maintain a record of each individual containing elements as set out in this section. The [ ~~service~~ services ] facilitator's record about the individual shall contain:

a. Documentation of all employer management training provided to the individual enrolled in the waiver and the EOR, as appropriate, including the individual's or the EOR's, as appropriate, receipt of training on his responsibility for the accuracy and timeliness of the assistant's or companion's timesheets;

b. All documents signed by the individual enrolled in the waiver or the EOR, as appropriate, that acknowledge their legal responsibilities as the employer; and

c. All contacts and consultations documented in the individual's medical record. Failure to document such contacts and consultations shall be subject to a DMAS recovery of payments made.

2. [ ~~Provider documentation of service rendered that merely constitutes notes that are copied from previous dates of service and redated or that are prepackaged shall not constitute satisfactory progress notes.~~ ] Progress notes shall meet the standards contained in 12VAC30-122-120.

3. CD [ ~~service~~ services ] facilitators responsible for individual assessment and reassessment shall maintain the following listed records and documentation in individuals' records:

a. All copies of the consumer-directed plan for support, all supporting documentation related to consumer-directed services, and DMAS-225 (Medicaid Tong-Term Care Communication Form), which is the form used by the support coordinator to report information about patient pay amount changes in an individual's situation.

b. A copy of the most recently completed SIS<sup>®</sup> assessment or the approved alternative assessment form noted in 12VAC30-122-200 A, and an initial assessment completed by the [ service services ] facilitator prior to or on the date the service is initiated.

c. Consumer-directed [ service services ] facilitator's notes recorded and dated at the time of service delivery. The consumer-directed services facilitator's written summary of visits shall include at minimum:

(1) Discussion with the individual and EOR or individual's family/caregiver, as appropriate, whether the particular consumer-directed service is adequate to meet the individual's needs;

(2) Any suspected abuse, neglect, or exploitation and to whom it was reported;

(3) Any special tasks performed by the assistant and the assistant's qualifications to perform these tasks;

(4) The individual's and EOR's or individual's family/caregiver's, as appropriate, satisfaction with the assistant's service;

(5) Any hospitalization or change in medical condition, functioning, or cognitive status; and

(6) The presence or absence of the assistant in the home during the services facilitator's visit.

d. All correspondence to the individual and EOR, as appropriate, to others concerning the individual, and to the support coordinator, DMAS, and DBHDS.

e. All management training provided to the individual or EOR, as appropriate, including the responsibility for the accuracy of the timesheets.

f. All documents signed by the individual or EOR, as appropriate, that acknowledge the responsibilities of the employer.

g. Documentation indicating that desired outcomes and support activities of the plan for supports have been reviewed by the consumer-directed [ service services ] facilitator provider quarterly, annually, and more often as needed. The results of the review shall be submitted to the support coordinator. For the annual review and in cases where the plan for supports is modified, the plan for supports shall be reviewed with and agreed to by the individual enrolled in the waiver and the individual's family/caregiver, as appropriate, and signed and dated by the individual or the individual's family/caregiver

h. Contacts made with the individual's family/caregiver, physicians, providers, and all professionals concerning the individual.

4. Service facilitation records shall be provided to DMAS or DBHDS upon request.

5. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

**12VAC30-122-510. Shared living [ support ] service.**

A. Service description. Shared living [ support ] service means Medicaid coverage of a portion of the total cost of rent, food, and utilities that can be reasonably attributed to a live-in roommate who has no legal responsibility to financially support the individual who is enrolled in the waiver. The types of assistance provided are expected to vary from individual to individual and shall be set out in a detailed, signed, and dated agreement between the individual and roommate. This service shall require the use of a shared living [ support ] service administrative provider enrolled with DMAS that shall be responsible for directly coordinating the service and directly billing DMAS for reimbursement. Shared living [ support ] service shall be covered in the FIS, CL, and BI waivers.

B. Criteria and allowable activities.

1. The individual, who shall be at least 18 years of age, shall select his roommate, who shall also be at least 18 years of age, and, together through a [ person-centered ] planning process, they shall determine the assistance to be provided by the roommate based on the individual's needs and preferences. The individual shall reside in his own home or in a residence leased by the individual.

2. Reimbursable room and board for the roommate shall be established through the service authorization process per the CMS-approved rate methodology.

3. The individual shall be receiving at least one other waiver service in order to receive Medicaid coverage of shared living [ support ] service.

4. Allowable activities shall include:

a. Fellowship [ , which means a close association or communion with friends or equals with whom an individual has shared interests, experiences, and purpose ];

b. Safety supports;

c. Limited help with ADLs and IADLs that shall account for no more than 20% of the anticipated roommate time and may include:

(1) Meal preparation;

(2) Light housework;

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(3) Medications reminders; and

(4) Routine prompting or intermittent direct assistance with ADLs.

C. Service units and limits. The unit of service shall be a month or may be a partial month for months in which the service begins or ends.

1. The roommate shall complete and pass background checks, including criminal registry checks required by §§ 37.2-416, 37.2-506, and 37.2-607 of the Code of Virginia.

2. The roommate shall successfully meet the training requirements set out in the written [ supports ] agreement including CPR training, safety awareness, fire safety and disaster planning, and conflict management and resolution.

3. Shared living [ support ] service shall not be covered for individuals who are simultaneously receiving group home residential service, sponsored residential service, or supported living residential service.

4. The roommate shall not have the responsibility for providing skill-building or medical services.

5. The roommate shall not be the spouse, parent, [ grandparent, ] or guardian of the individual.

[ 6. If the individual is without a roommate for more than 60 calendar days, the administrating agency must submit a termination for services pending the replacement of the roommate. ]

D. Provider requirements.

1. Providers shall meet the service coverage requirements in this section and the general conditions and requirements for home and community-based participating providers as specified in 12VAC30-122-110 through 12VAC30-122-140.

2. Shared living [ support ] service administrative providers shall be licensed by DBHDS to provide service to individuals with developmental disabilities and shall manage the administrative aspects of this service, including roommate matching as needed, background checks, training, periodic onsite monitoring, and disbursing funds to the individual.

3. Shared living [ support ] service administrative providers shall have a current, signed participation agreement with DMAS in order to provide this service. The provider designated in this agreement shall coordinate the shared living [ support ] service and submit claims directly to DMAS for reimbursement. This shared living [ support ] service administrative provider shall be reimbursed a flat fee payment for the completion of these duties. DMAS may audit such provider's records for compliance with the requirements in this section.

4. Reimbursement for shared living [ support ] service shall be based upon compliance with DMAS submission requirements for claims and supporting [ progress notes ] documentation as may be required as proof of service delivery. Claims that are not supported by the required [ progress ] notes documentation shall be subject to recovery by DMAS of any expenditures that may have been made.

5. [ ~~The administrative provider shall ensure that there is a back-up plan in place in the event that the roommate is unable or unavailable to provide the agreed to supports. All individuals shall have a backup plan prior to initiating services in cases of emergency or should the roommate be unable to render services as needed. This backup plan shall be shared with the administrative provider and support coordinator at the onset of services and updated with the administrative provider and support coordinator as necessary.~~ ]

6. The administrative provider shall submit monthly claims for shared living [ support ] service for reimbursement based upon the amount determined through the service authorization process.

E. Service documentation and requirements.

1. The administrative provider shall maintain documentation of the actual rent and submit the documentation with the service authorization request for shared living [ support ] service.

2. For quality management review and utilization review purposes, the administrative provider shall be required to maintain and present to DMAS, as requested, an agreement that identifies what supports the roommate will provide, and this [ supports ] agreement shall be signed by the individual and the roommate. The individual's support coordinator shall retain a copy of this signed, executed agreement in the particular individual's file.

3. [ ~~The administrative provider shall maintain documentation of the roommate's participation in all required training.~~

4. ] The administrative provider shall submit monthly claims for shared living [ support ] service reimbursement based upon the amount determined through the service authorization process.

[ ~~4. 5.~~ ] The administrative provider shall maintain weekly summaries of supports provided by the roommate and signed by the roommate.

[ ~~5. 6.~~ ] Documentation of the [ administrative provider's ] 90-day face-to-face contact with the individual that includes the status of the individual [ ~~, satisfaction with the service,~~ ] and resolution of any issues related to service provision. This 90-day face-to-face shall take place in the individual's home. [ ~~A progress note documenting~~ Documentation of ] the



[ ~~face to face in-person~~ ] contact and observations shall be provided to the support coordinator quarterly.

[ ~~6-7~~ ] Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

#### **12VAC30-122-520. Skilled nursing service.**

A. Services description. Skilled nursing service shall provide [ ~~part time or~~ ] intermittent care [ , up to, but not to exceed 21 hours per week, ] that may be provided concurrently with other services due to the medical nature of the supports provided [ , excluding private duty nursing services ]. Skilled nursing service shall be provided for individuals enrolled in the waiver having serious medical conditions and complex health care needs who have exhausted their home health benefits and who require specific skilled nursing services [ ~~that cannot be provided by non-nursing personnel~~ ]. Skilled nursing service shall be covered in the FIS and CL waivers.

B. Criteria and allowable activities. The individuals who are authorized to receive this service shall require specific skilled nursing service as documented in the plan for supports [ and ordered by a physician ]. This service shall be rendered to the individual in his residence or other community settings on a regularly scheduled or intermittent basis in accordance with the plan for supports. Allowable activities shall be ordered and certified as medically necessary by a Virginia-licensed physician. The ordered services may include:

1. [ ~~Consultation, assistance to direct support staff, and nurse delegation; Administering medications and other medical treatment; ]~~
2. [ ~~Training~~ Skilled training ] of family and other caregivers;
3. Monitoring an individual's medical status;
4. [ ~~Administering medications and other medical treatment~~ Consultation, guidance, and delegation of skilled tasks to direct support staff in accordance with 18VAC90-19-280 ]; ~~or~~
5. Assurance that all items listed in subdivisions B 1 through B 4 of this section are carried out in accordance with the plan for supports.

#### C. Service units and limits.

1. Skilled nursing service shall be ordered by a physician and shall be medically necessary. [ The medical necessity for skilled nursing services shall be documented in the individual's ISP. Once the medical necessity can no longer be demonstrated, this service shall be terminated. ]
2. Skilled nursing service shall not be available unless an individual has exhausted all available home health benefits.

3. This service shall be rendered and billed in quarter-hour increments. [ ~~Individuals receiving this service shall not be required to meet the criteria for the receipt of home health services. Skilled nursing service shall not be limited by the acute, time limited standards for home health services as contained in the State Plan for Medical Assistance.~~ ]

4. Individuals enrolled in the waiver shall not be authorized to receive waiver skilled nursing service when private duty nursing service is authorized [ ~~or concurrently (i.e., the same dates and times) with personal assistance service. For an individual younger than 21 years of age, waiver skilled nursing services shall not be authorized or covered if the necessary service is available under EPSDT. The support coordinator shall assist such a child with obtaining the medically necessary service through the EPSDT benefit except in cases that require nurse delegation~~ ].

[ ~~5. Foster care providers shall not be the skilled nursing service providers for the same individuals for whom they provide foster care.~~

~~6. The support coordinator shall assist an individual who has short term, acute, and limited in nature skilled nursing needs in accessing the home health service benefit under the State Plan for Medical Assistance.~~

~~7. The support coordinator shall assist an individual who has skilled nursing needs that are expected to be longer term, but intermittent in nature, with accessing waiver skilled nursing service.~~ ]

#### D. Provider requirements.

1. Providers shall either employ or subcontract with nurses who are currently licensed as either RNs or LPNs under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia or who hold a current multistate licensure privilege to practice nursing in the Commonwealth.

2. Skilled nursing service may be provided by either (i) a licensed RN or LPN, who is under the supervision of a licensed RN, employed by a DMAS-enrolled home health provider or (ii) a licensed RN or LPN, who is under the supervision of a licensed RN, contracted with or employed by a DBHDS-licensed day support, respite, or residential services provider.

3. Providers shall maintain documentation of required licenses in the appropriate employee personnel records. Such documentation shall be provided to either DMAS or DBHDS upon request.

[ ~~4. Foster care providers shall not act as skilled nursing service providers for individuals for whom they provide foster care.~~ ]

#### E. Service documentation and requirements.

1. Providers shall include signed and dated documentation of the following in each individual's record:

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a. A copy of the completed age-appropriate assessment as detailed in 12VAC30-122-200;

b. A plan for supports as detailed in 12VAC30-122-120 and the CMS-485;

c. ~~[ Progress note documentation~~ Documentation ] of all training, including the dates and times, provided to family/caregivers or staff, or both, including the person being trained and the content of the training. Training of professional staff shall be consistent with the Regulations Governing the Practice of Nursing (18VAC90-19);

d. Documentation of the physician's determination of medical necessity prior to services being rendered;

e. ~~[ Progress note documentation indicating Documentation summarizing interventions, results of treatment,]~~ the dates and times of nursing interventions that are provided, and the amount and type of service;

f. A written review supported by documentation in the individuals' record that is submitted to the support coordinator at least quarterly with the plan for supports, if modified;

~~[ g. Documentation that the plan for supports has been reviewed by a physician within 30 days of initiation of services, when any changes are made to the plan for supports, and also reviewed and approved at least annually by a physician;~~

~~h. g.]~~ All correspondence to the individual and the individual's family/caregiver, as appropriate, the support coordinator, DMAS, and DBHDS; and

~~[ i. h.]~~ Written documentation of all contacts with the individual's family/caregiver, physicians, providers, and all professionals regarding the individual [ as well as written confirmation from the individual or family that they received services unless services are delivered in a group home ].

2. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

## **12VAC30-122-530. Sponsored residential service.**

A. Service description. Sponsored residential service means a residential service that consists of skill-building, routine supports, general supports, and safety supports that are provided in the homes of families or persons (sponsors) providing supports under the supervision of a DBHDS-licensed provider that enable an individual to acquire, retain, or improve the self-help, socialization, and adaptive skills necessary to reside successfully in home and community settings. This service shall include skills development with the provision of supports, as needed. Sponsored residential service shall be covered in the CL waiver.

## B. Criteria and allowable activities.

1. This service shall only be authorized for Medicaid reimbursement when through the person-centered planning process this service is determined necessary to meet the individual's needs. This service may be provided individually or simultaneously to up to two individuals living in the same home, depending on the required support.

### 2. Allowable activities shall include:

a. Skill-building and routine supports related to ADLs and IADLs;

b. Skill-building and routine and safety supports related to the use of community resources, such as transportation, shopping, restaurant dining, and participating in social and recreational activities. The cost of participation in the actual social or recreational activity shall not be reimbursed;

c. Supporting the individual in replacing challenging behaviors with positive, accepted behaviors for home and community environments;

d. Monitoring and supporting the individual's health and physical condition and providing supports with medication management and other medical needs;

e. Providing routine supports and safety supports with transportation to and from community locations and resources;

f. Providing general supports, as needed; and

g. Providing safety supports to ensure the individual's health and safety.

## C. Service units and limits.

1. The unit of service shall be one day and billing shall not exceed 344 days per ISP year, as indicated in the plan for supports of the individuals who are authorized to receive this service.

2. This service shall be provided on an individual-specific basis according to the ISP and service setting requirements.

3. Sponsored residential service shall be a tiered service for reimbursement purposes and providers shall only be reimbursed for the individual's assigned level and tier.

4. DMAS coverage of this service shall be limited to no more than two individuals per residential setting. Providers shall not bill for service rendered to more than two individuals living in the same residential setting.

5. This service shall be provided to individuals up to 24 hours per day by the sponsor family or qualified staff.

6. Room and board shall not be components of this service.

7. This service shall not be simultaneously covered for individuals who are receiving personal assistance or other residential service under the waiver, such as shared living

service, supported living service, in-home support service, or group home residential service that provide comparable supports, as determined by DMAS.

D. Provider requirements.

1. Providers shall meet all of the requirements set forth in 12VAC30-122-110 through 12VAC30-122-140.

2. Sponsored residential service shall be provided by agencies licensed by DBHDS as a provider of sponsored residential service.

3. Providers of this service shall have a current, signed participation agreement with DMAS. Providers as designated on this agreement shall render this service directly and shall bill DMAS directly for Medicaid reimbursement.

4. Providers shall ensure that sponsors providing [ sponsored residential ] service meet provider [ ~~competency~~ ] training [ and competency ] requirements as specified in 12VAC30-122-180.

5. ~~A supervisor meeting the requirements of 12VAC35-105 shall provide supervision of the sponsor. Documentation of supervision shall be completed, signed by the sponsor designated to perform the supervision and oversight, and include the following:~~ Supervision of direct support staff shall be provided consistent with the requirements in 12VAC30-122-120 by a supervisor meeting the requirements of 12VAC35-105-590. Providers shall make available for inspection documentation of supervision, and this documentation shall be completed and signed by the staff person designated to perform the supervision and oversight. This documentation shall include, at a minimum, the following: (i) date of contact or observation, (ii) person contacted or observed, (iii) a summary about the direct support professional's performance and service delivery, and (iv) any action planned or taken to correct problems identified during supervision and oversight. ]

~~[ a. Date of contact or observation;~~

~~b. Person contacted or observed;~~

~~c. A summary about the sponsor's performance and service delivery;~~

~~d. Any action planned or taken to correct problems identified during supervision and oversight; and~~

~~e. On a semiannual basis, observations documented by the supervisor concerning the individual's satisfaction with service provision. ]~~

6. Sponsored residential settings shall comply with the HCBS setting requirements per 42 CFR 441.301. [ In these settings, lease or residency agreements shall comply with and support individual choice of service and setting. ]

E. Service documentation and requirements.

1. Providers shall include signed and dated documentation of the following in each individual's record:

a. A copy of the most current, completed, standard, age-appropriate assessment form as detailed in 12VAC30-122-200.

b. The provider's plan for supports per requirements detailed in 12VAC30-122-120.

c. ~~[ Progress note documentation confirming the amount of the individual's time in service and providing specific information regarding the individual's responses to various settings and supports. Observations of the individual's responses to service shall be available in at least a daily note. Documentation as detailed in 12VAC30-122-120. ] Data shall be collected as described in the ISP, analyzed to determine if the strategies are effective, summarized, then clearly documented in the progress notes or [ supports ] checklist.~~

d. Documentation to support units of service delivered, and the documentation shall correspond with billing. Providers shall maintain separate documentation for each type of service rendered for an individual.

e. A written review supported by documentation in the individuals' record that is submitted to the support coordinator at least quarterly with the plan for supports, if modified. [ For the annual review and every time supporting documentation is updated, the supporting documentation shall be reviewed with the individual or family/caregiver, as appropriate, and such review shall be documented. ]

f. All correspondence to the individual and the individual's family/caregiver, as appropriate, the support coordinator, DMAS, and DBHDS.

g. Written documentation of contacts made with the individual's family/caregiver, physicians, providers, and all professionals concerning the individual.

2. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

**12VAC30-122-540. Supported living residential service.**

A. Service description. Supported living residential service shall take place in [ ~~an apartment~~ a residential ] setting operated by a DBHDS-licensed provider of supervised living residential service or supportive in-home service [ ~~This service shall consist~~ and consists ] of skill-building, routine and general supports, and safety supports that enable an individual to acquire, retain, or improve the self-help, socialization, and adaptive skills necessary to reside successfully in home and community-based settings. [ ~~Providers shall be reimbursed only for the amount and type of supported living residential service that is included in the~~

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individual's ISP. ] Supported living residential service shall be authorized for Medicaid reimbursement in the plan for supports only when the individual requires this service. This service shall include a skills development component along with the provision of supports, as needed. Supported living residential service shall be covered in the FIS and CL waivers.

## B. Criteria and allowable activities.

1. Skill-building and routine supports related to ADLs and IADLs;

2. Skill-building and routine and safety supports related to the use of community resources such as transportation, shopping, restaurant dining, and participating in social and recreational activities. The cost of participation in the actual social or recreational activity shall not be reimbursed;

3. Supporting the individual in replacing challenging behaviors with positive, accepted behaviors for home and community-based environments;

4. Monitoring and supporting the individual's health and physical conditions and providing supports with medication or other medical needs;

5. Providing routine supports and safety supports with transportation to and from community locations and resources;

6. Providing general supports as needed; and

7. Providing safety supports to ensure the individual's health and safety.

## C. Service units and limits.

1. The unit of service shall be one day and billing shall not exceed 344 days per ISP year.

2. Total billing shall not exceed the amount authorized in the ISP. ~~[ The provider shall maintain progress note documentation of the dates that service has been provided and of specific circumstances that prevented provision of all of the scheduled service, should that occur. ]~~ This service shall be provided on an individual-specific basis according to the ISP and service setting requirements.

3. Supported living residential service shall not be provided to any individual who receives personal assistance service or other residential service under the FIS or CL waiver, such as group home residential service, shared living service, in-home support service, or sponsored residential service that provide a comparable level of care.

4. Room and board shall not be components of supported residential service.

5. Supported living residential service shall not be used solely to provide routine or emergency respite care for the individual's family/caregiver with whom the individual lives.

6. Medicaid reimbursement shall be available only for supported living residential service when the individual receives supports from the plan of supports and when an enrolled Medicaid provider is providing the service.

7. Supported living residential service shall be a tiered service for reimbursement purposes. Providers shall only be reimbursed for the individual's assigned level and tier.

8. Supported living residential service shall be provided to the individual in the form of around-the-clock availability of paid provider staff who have the ability to respond in a timely manner. This service may be provided individually or simultaneously to more than one individual living in the apartment, depending on the required supports.

## D. Provider requirements.

1. The provider shall be licensed by DBHDS as a provider of supervised residential service or supportive in-home service.

2. The provider shall also be currently enrolled with DMAS as a [ providers provider ]. The provider designated on the provider participation agreement shall render this service and submit claims to DMAS for reimbursement.

3. Providers shall ensure that staff providing supported living residential service meets provider [ ~~competency~~ ] training [ and competency ] requirements as specified in 12VAC30-122-180.

4. ~~[ A supervisor meeting the requirements of 12VAC35-105 shall provide supervision of direct support professional staff. Documentation of supervision shall be completed, signed by the staff person designated to perform the supervision and oversight, and shall include the following: Supervision of direct support staff shall be provided consistent with the requirements in 12VAC30-122-120 by a supervisor meeting the requirements of 12VAC35-105-590. Providers shall make available for inspection documentation of supervision, and this documentation shall be completed and signed by the staff person designated to perform the supervision and oversight. This documentation shall include, at a minimum, the following: (i) date of contact or observation, (ii) person contacted or observed, (iii) a summary about the direct support professional's performance and service delivery, and (iv) any action planned or taken to correct problems identified during supervision and oversight. ]~~

~~[ a. Date of contact or observation;~~

~~b. Person contacted or observed;~~

~~c. A summary about direct support professional staff performance and service delivery;~~

~~d. Any action planned or taken to correct problems identified during supervision and oversight; and~~

~~e. Documentation of observations, on a semiannual basis by the supervisor, concerning the individual's satisfaction with service provision. ]~~

5. Supported living residential service shall comply with the HCBS settings requirements when provided in DBHDS licensed settings per 42 CFR 441.301. [ In these settings, lease or residency agreements shall comply with and support individual choice of service and setting. ]

E. Service documentation and requirements.

1. Providers shall include signed and dated documentation of the following in each individual's record:

- a. A copy of the completed, standard, age-appropriate assessment form as detailed in 12VAC30-122-200.
- b. The provider's plan for supports per requirements detailed in 12VAC30-122-120.
- c. ~~[ Progress note documentation confirming the amount of the individual's time in service and providing specific information regarding the individual's responses to various settings and supports. Observations of the individual's responses to service shall be available in at least a daily note. Documentation as detailed in 12VAC30-122-120. ]~~ Data shall be collected as described in the ISP, analyzed to determine if the strategies are effective, summarized, then clearly documented in the progress notes or supports checklist.
- d. Documentation to support units of service delivered, and the documentation shall correspond with billing. Providers shall maintain separate documentation for each type of service rendered for an individual.
- e. A written review supported by documentation in the individuals' record that is submitted to the support coordinator at least quarterly with the plan for supports, if modified. [ For the annual review and every time supporting documentation is updated, the supporting documentation shall be reviewed with the individual or family/caregiver, as appropriate, and such review shall be documented. ]
- f. All correspondence to the individual and the individual's family/caregiver, as appropriate, the support coordinator, DMAS, and DBHDS.
- g. Written documentation of contacts made with the individual's family/caregiver, physicians, providers, and all professionals concerning the individual.

2. Documentation shall be provided upon request to DMAS.

3. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

**12VAC30-122-550. Therapeutic consultation service.**

A. Service description. Therapeutic consultation service means professional consultation provided by members of psychology, social work, rehabilitation engineering, [ behavioral behavior ] analysis/consultation, speech-language

pathology therapy, occupational therapy, psychiatry, psychiatric clinical nursing, therapeutic recreation, or physical therapy disciplines that are designed to assist individuals, parents, guardians, family members, and any other providers of support services with implementing the individual support plan. This service shall provide assessments, development of a therapeutic consultation support plan, and teaching in any of these designated specialty areas to assist family members, caregivers, and other providers in supporting the individual enrolled in the waiver. The individual's therapeutic consultation service support plan shall clearly reflect the individual's needs, as documented in the assessment information, for specialized consultation provided to family/caregivers and providers. Therapeutic consultation service shall be covered in the FIS and CL waivers.

A therapeutic consultation service support plan is the report of recommendations resulting from a therapeutic consultation that is developed by the professional consultant after he spends time with the individual to determine the individual's needs in his area of expertise.

B. Criteria and allowable activities.

1. To qualify for therapeutic consultation service, the individual shall have a documented need for consultation. Documented need shall indicate that the ISP cannot be implemented effectively and efficiently without such consultation as provided by this covered service and approved through service authorization. The need for this service shall be based on the individual's ISP and shall be provided to an individual for whom specialized consultation is clinically necessary. Therapeutic consultation service may be provided in individuals' homes and in appropriate community settings, such as licensed or approved homes or day support programs, as long as they are intended to facilitate implementation of individuals' desired outcomes as identified in their ISP.

2. Allowable activities for this service shall include:

- a. Interviewing the individual, family members, caregivers, and relevant others to identify issues to be addressed and desired outcomes of consultation;
- b. Observing the individual in daily activities and natural environments and observing and assessing the current interventions, support strategies, or assistive devices being used with the individual;
- c. Assessing the individual's need for an assistive device for a modification or adjustment of an assistive device, or both, in the environment or service, including reviewing documentation and evaluating the efficacy of assistive devices and interventions identified in the therapeutic consultation plan;
- d. Developing data collection mechanisms and collecting baseline data as appropriate for the type of consultation service provided;

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e. Designing a written therapeutic consultation plan [ or a behavioral support plan ] detailing the interventions, environmental adaptations, and support strategies to address the identified issues and desired outcomes, including recommendations related to specific devices, technology, or adaptation of other training programs or activities. The plan may recommend training relevant persons to better support the individual simply by observing the individual's environment, daily routines, and personal interactions;

f. Demonstrating (i) specialized, therapeutic interventions; (ii) individualized supports; or (iii) assistive devices;

g. Training family/caregivers and other relevant persons to assist the individual in using an assistive device; to implement specialized, therapeutic interventions; or to adjust currently utilized support techniques;

h. Intervening directly, by behavioral consultants, with the individual and demonstrating to family/caregivers or staff such interventions. Such intervention modalities shall relate to the individual's identified behavioral needs as detailed in established specific goals and procedures set out in the ISP; and

i. Consulting related to person centered therapeutic outcomes, in person [ ~~or~~, ] over the phone [ , or via video feed consistent with in accordance with the requirements of the Health Insurance Portability and Accountability Act (HIPAA) ];

## C. Service units and limits.

1. The unit of service shall be one hour.

2. The [ ~~services~~ services ] shall be explicitly detailed in the plan for supports.

3. Travel time [ , and ] written preparation [ , ~~and telephone communication~~ ] shall be considered as in-kind expenses within therapeutic consultation service and shall not be reimbursed as separate items.

4. Therapeutic consultation shall not be billed solely for purposes of monitoring the individual.

5. [ Behavioral consultation. ]

[ a. ] Only behavioral consultation in the therapeutic consultation service may be offered in the absence of any other waiver service.

[ b. ] Initial requests for behavioral consultation may not be authorized for more than 180 days.

c. Behavioral support plans will be submitted with subsequent authorizations as well as baseline data for the initial request after assessment and then an annual summary of quarterly data for re-renewals. ]

6. Other than behavioral consultation, therapeutic consultation service shall not include direct therapy provided to individuals enrolled in the waiver and shall not duplicate

the activities of other services that are available to the individual through the State Plan for Medical Assistance. Behavior consultation may include direct behavioral interventions and demonstration of such interventions to family members or staff.

D. Provider requirements. Professionals rendering therapeutic consultation service, including behavior consultation, shall meet all applicable state licensure or certification requirements.

1. Behavior consultation shall only be provided by (i) a [ ~~board-certified behavioral~~ licensed behavior ] analyst or a [ ~~board-certified associate~~ licensed assistant ] behavior analyst or (ii) a positive [ ~~behavioral~~ behavior ] supports facilitator endorsed by a recognized positive [ ~~behavioral~~ behavior ] supports organization or who meets the criteria for psychology consultation.

2. Psychology consultation shall only be provided by the following individuals licensed in the Commonwealth of Virginia: (i) a psychologist, (ii) a licensed professional counselor, (iii) a licensed clinical social worker, (iv) a psychiatric clinical nurse specialist, or (v) a psychiatrist.

3. Speech consultation shall only be provided by a speech-language pathologist who is licensed by the Commonwealth of Virginia.

4. Occupational therapy consultation shall only be provided by an occupational therapist who is licensed by the Commonwealth of Virginia.

5. Physical therapy consultation shall only be provided by a physical therapist who is licensed by the Commonwealth of Virginia.

6. Therapeutic recreation consultation shall only be provided by a therapeutic recreation specialist who is certified by the National Council for Therapeutic Recreation Certification.

7. Rehabilitation consultation shall only be provided by a rehabilitation engineer or certified rehabilitation specialist.

## E. Service documentation and requirements.

1. Providers shall include signed and dated documentation of the following in each individual's record:

a. A copy of the completed age-appropriate assessment as detailed in 12VAC30-122-200.

b. [ ~~A plan for support, that contains at a minimum the following elements:~~

(1) Identifying information;

(2) Desired outcomes, support activities, and timeframes; ~~and~~

(3) Specific consultation activities. The provider's plan for supports per requirements detailed in 12VAC30-122-120. ]

c. A written therapeutic consultation support plan detailing the recommended interventions or support strategies for providers and family/caregivers to better support the individual enrolled in the waiver in the service.

[ (1) Behavior support plans will contain the following information, at a minimum: (i) demographic information, (ii) person-centered information, (iii) history and rationale, (iv) functional behavior assessment, (v) behaviors targeted for decrease, (vi) hypothesized functions of behavior, (vii) proactive strategies and antecedent interventions, (viii) replacement behaviors and behaviors targeted for increase; (ix) consequence interventions (when indicated), (x) safety and crisis guidelines (when indicated), (xi) any additional recommendations (linkages, etc.), and (xii) appropriate signatures and plan for training.

(2) Documentation of who was trained on the plan and when and where should be maintained and a plan for ongoing training should be determined. ]

d. Ongoing progress note documentation of rendered consultative service that may be in the form of contact-by-contact or monthly notes that must be contemporaneously signed and dated, that identify each contact [ including location and recipient of training activities ], the amount of time spent on the activity, what was accomplished, and the professional who made the contact and rendered the service.

e. If the consultation service extends three months or longer, written quarterly reviews that are completed by the provider and forwarded to the support coordinator. If the consultation service extends beyond one year or when there are changes to the plan for supports, the plan for supports shall be reviewed by the provider with the individual, individual's family/caregiver, as appropriate, and the support coordinator and shall be submitted to the support coordinator for service authorization, as appropriate.

[ (1) For behavioral therapeutic consultation, the quarterly review shall include graphed data and a summary of this data.

(2) For behavioral therapeutic consultation, the annual review shall include graphed or tabled data that is trended across the first three quarters. ]

f. All correspondence to the individual and the individual's family/caregiver, as appropriate, the support coordinator, DMAS, and DBHDS.

g. Written progress note documentation of contacts made with the individual's family/caregiver, physicians, providers, and all professionals concerning the individual.

h. A contemporaneously signed and dated final disposition summary that is forwarded to the support coordinator within 30 days following the end of this service and that includes:

- (1) Strategies utilized;
- (2) Objectives met;
- (3) Unresolved issues; and
- (4) Consultant recommendations.

2. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

**12VAC30-122-560. Transition service.**

A. Service description. Transition service shall be consistent with the requirements and limits set out in 12VAC30-120-2010.

B. Criteria and allowable required activities. This service shall be the same as set out in [ ~~12VAC30-120-2000 and~~ ] 12VAC30-120-2010.

C. Service units and limits shall be the same as those set out in [ ~~12VAC30-120-2000 and~~ ] 12VAC30-120-2010.

D. Provider requirements shall be the same as those set out in [ ~~12VAC30-120-2000 and~~ ] 12VAC30-120-2010. All transition service provided in this waiver shall be reimbursed consistent with the agency's service limits and payment amounts as set out in the fee schedule.

E. Service documentation and requirements shall be the same as those set out in [ ~~12VAC30-120-2000 and~~ ] 12VAC30-120-2010.

F. Transition service is covered in the FIS, CL, and BI waivers.

**12VAC30-122-570. Workplace assistance service.**

A. Service description. Workplace assistance service means supports provided to an individual who has completed job development and completed or nearly completed job placement training (i.e., individual supported employment) but requires more than the typical job coach services, as in 12VAC30-122-400, to maintain stabilization in his employment. This service is supplementary to individual supported employment service. Workplace assistance service shall be covered in the FIS and CL waivers.

B. Criteria and allowable activities.

1. The activity shall not be work skills training that would normally be provided by a job coach.

2. [ ~~The~~ This ] service shall be delivered in their natural employment setting, where and when [ ~~they are~~ the service is ] needed.

3. The service shall facilitate the maintenance [ of ] and inclusion [ of the individual ] in an employment situation.

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## 4. Allowable activities include:

- a. Habilitative supports related to nonwork skills needed for the individual to maintain employment such as appropriate behavior, health maintenance, time management, or other skills without which the individual's continued employment would be endangered;
- b. Habilitative supports needed to make and strengthen community connections;
- c. Routine supports with personal care needs; however, this cannot be the sole use of workplace assistance service; and
- d. Safety supports needed to ensure the individual's health and safety.

## C. Service units and limits.

1. A unit shall be one hour. Workplace assistance service may be provided during the time that the individual being served is working, up to and including 40 hours a week. There shall be no annual limit on how long this service may remain authorized.
2. Workplace assistance service shall not be provided simultaneously (i.e., the same dates and times) with work-related personal assistance service. This service shall not be provided solely for the purpose of providing assistance with ADLs to the individual when the individual is working.
3. The service delivery ratio shall be one staff person to one waiver individual.
4. The combination of workplace assistance service, community engagement service, community coaching service, supported employment service, and group day service shall not exceed 66 hours per week.
5. Workplace assistance service can be provided simultaneously with individual supported employment (ISE) service to ensure that the workplace assistant is trained and supervised appropriately in supporting the individual through ISE best practices.

## D. Provider requirements. Providers shall meet the following requirements:

1. Providers shall be either:
  - a. Providers of supported employment services with DARS. DARS shall verify that these providers meet criteria to be providers through a DARS-recognized accrediting body. DARS shall provide the documentation of this accreditation verification to DMAS and DBHDS upon request.
  - (1) DARS-contracted providers shall maintain their accreditation in order to continue to receive Medicaid reimbursement.
  - (2) DARS-contracted providers that lose their accreditation, regardless of the reason, shall not be eligible to receive Medicaid reimbursement and shall have their

provider agreement terminated by DMAS. Reimbursements made to such providers after the date of the loss of the accreditation shall be subject to recovery by DMAS; or

b. Licensed by DBHDS as a provider of non-center-based day support service.

2. These providers shall hold current provider participation agreements with DMAS. The provider designated on the signed agreement shall submit claims to DMAS for reimbursement and shall maintain the required documentation that supports the claims submitted for reimbursement.

3. Providers shall ensure that staff providing workplace assistance service meet provider [ ~~competency~~ ] training [ and competency ] requirements as specified in 12VAC30-122-180. In addition, prior to seeking reimbursement for this service from DMAS, these providers shall ensure that staff providing workplace assistance service have completed training regarding the principles of supported employment. The documentation of the completion of this training shall be maintained by the provider and shall be provided to DMAS and DBHDS upon request.

4. The direct support professional providing workplace assistance service shall coordinate his service provision with the job coach if there is one working with the individual providing individual supported employment service to the individual being supported.

[ 5. Supervision of direct support staff shall be provided consistent with the requirements in 12VAC30-122-120 by a supervisor meeting the requirements of 12VAC35-105-590. Providers shall make available for inspection documentation of supervision, and this documentation shall be completed and signed by the staff person designated to perform the supervision and oversight. This documentation shall include, at a minimum, the following: (i) date of contact or observation, (ii) person contacted or observed, (iii) a summary about the direct support professional's performance and service delivery, and (iv) any action planned or taken to correct problems identified during supervision and oversight. ]

## E. Service documentation and requirements.

1. Providers shall include signed and dated documentation of the following in each individual's record:

- a. A copy of the completed age-appropriate assessment as detailed in 12VAC30-122-200.
- b. The provider's plan for supports per requirements detailed in 12VAC30-122-120.
- c. [ ~~Provider documentation confirming the individual's amount of time in service and providing specific information regarding the individual's response to various settings and supports as agreed to in the plan for supports.~~ ]



~~This documentation shall be available in at least a daily note or a weekly summary.~~ Documentation as detailed in 12VAC30-122-120. ] Data shall be collected as described in the plan for supports, reviewed, summarized, and included in the regular progress note supporting documentation.

d. A written review supported by documentation in the individuals' record that is submitted to the support coordinator at least quarterly with the plan for supports, if modified. [ For the annual review and every time supporting documentation is updated, the supporting documentation shall be reviewed with the individual or family/caregiver, as appropriate, and such review shall be documented. ]

e. All correspondence to the individual and the individual's family/caregiver, as appropriate, the support coordinator, DMAS, and DBHDS.

f. Written progress note documentation of contacts made with the individual's family/caregiver, physicians, providers, and all professionals concerning the individual.

2. Provider documentation shall support all claims submitted for DMAS reimbursement. Claims for payment that are not supported by supporting documentation shall be subject to recovery by DMAS or its designee as a result of utilization reviews or audits.

**NOTICE:** The following forms used in administering the regulation were filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

## FORMS (12VAC30-122)

[Supports Intensity Scale - Adult Version™ \(ages 16 and up\), SIS-A, copyright 2015, American Association on Intellectual and Developmental Disabilities](#)

[Supports Intensity Scale - Children's Version™ \(ages 5-16\), SIS-C, copyright 2016, American Association on Intellectual and Developmental Disabilities](#)

[Virginia Supplemental Questions \(eff. 10/2014\)](#)

[Skill Competencies for Professionals and Direct Support Staff in Virginia Supporting Adolescents and Adults with Autism, developed by Virginia Autism Council, June 1, 2014, DMAS-P201 \(filed 1/2019\)](#)

[Medicaid Long-Term Care Communication Form, DMAS-225 \(rev. 12/2015\)](#)

[Virginia Individual Developmental Disabilities Eligibility Survey - Infants' Version, DMAS-P235 \(eff. 3/2016\)](#)

[Virginia Individual Developmental Disabilities Eligibility Survey - Children's Version, DMAS-P236 \(eff. 4/2016\)](#)

[Virginia Individual Developmental Disabilities Eligibility Survey - Adult Version, DMAS-P237 \(eff. 3/2016\)](#)

[Behavioral Support Competencies for Direct Support Providers and Professionals in Virginia Supporting Individuals with Developmental Disabilities, developed by the Virginia Department of Behavioral Health and Developmental Services, August 2015, DMAS-P240a \(filed 1/2019\)](#)

[Virginia's Competencies for Direct Professionals and Supervisors Who Support Individuals with Developmental Disabilities - DSP and Supervisor's Competencies Checklist, DMAS-P241a \(eff. 6/2016\)](#)

[Direct Support Professional Assurance for Non-DBHDS-Licensed Providers to Confirm Successful Completion of Testing and Competency Requirements for the DD Waivers, DMAS-P243a \(eff. 6/2016\)](#)

[Virginia's Health Competencies for Direct Support Professionals and Supervisors Who Support Individuals with Developmental Disabilities - Health Competencies Checklist, DMAS-P244a \(eff. 6/2016\)](#)

[Supervisor Assurance for DBHDS-licensed Providers to Confirm Successful Completion of Training, Testing, and Competency Requirements for the DD Waivers, DMAS-P245a \(eff. 7/2016\)](#)

[Supervisor Assurance for Non-DBHDS-Licensed Services to Confirm Successful Completion of Training and Testing Requirements for the DD Waivers, DMAS-P245a \(eff. 7/2016\)](#)

[ [Community Housing Guide: Housing Road Map \(eff. 10/2019\)](#)

[Community Housing Guide: Tenant Screening \(eff. 10/2019\)](#)

[FIS Request for Supervision Hours in Personal Assistance, DMAS-P257 \(eff. 5/2020\)](#)

[CL Request for Supervision Hours in Personal Assistance, DMAS-P257 \(eff. 5/2020\) \]](#)

VA.R. Doc. No. R17-4614; Filed February 5, 2021, 2:22 p.m.

## Fast-Track Regulation

**Titles of Regulations:** **12VAC30-50. Amount, Duration, and Scope of Medical and Remedial Care Services (amending 12VAC30-50-130, 12VAC30-50-226).**

**12VAC30-60. Standards Established and Methods Used to Assure High Quality Care (amending 12VAC30-60-143).**

**12VAC30-130. Amount, Duration and Scope of Selected Services (amending 12VAC30-130-5160, 12VAC30-130-5170, 12VAC30-130-5190).**

**Statutory Authority:** § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

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# Regulations

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

**Public Comment Deadline:** March 31, 2021.

**Effective Date:** April 14, 2021.

**Agency Contact:** Emily McClellan, Regulatory Supervisor, Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, or email [emily.mcclellan@dmass.virginia.gov](mailto:emily.mcclellan@dmass.virginia.gov).

**Basis:** Section 32.1-325 of the Code of Virginia authorizes the Board of Medical Assistance Services to administer and amend the State Plan for Medical Assistance and to promulgate regulations. Section 32.1-324 of the Code of Virginia authorizes the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the State Plan for Medical Assistance and to promulgate regulations according to the board's requirements. The Medicaid authority as established by § 1902(a) of the Social Security Act (42 USC § 1396a) provides governing authority for payments for services.

**Purpose:** These regulatory changes are essential to protect the health, safety, and welfare of citizens in that they ensure (i) that the regulations reflect current practices (i.e., the end of the Behavioral Health Services Administrator (BHSA) contract); (ii) a broader employee pool for Peer Recovery Support Services, and therefore greater member access to these services; and (iii) continued federal financial participation for Peer Recovery Support Services by eliminating outdated annual limits that are in violation of federal regulations under the Mental Health Parity and Addiction Equity Act. The federal regulations may be found in the Federal Register, Volume 81, Number 61, March 30, 2016, pages 18390 through 18445.

**Rationale for Use of Fast-Track Rulemaking Process:** These changes are expected to be noncontroversial and appropriate for the fast-track rulemaking process for several reasons. First, replacing the references to the Behavioral Health Services Administrator or BHSA with references to DMAS or its contractor does not affect providers, Medicaid members, or members of the public. Second, clarifications are being made to the Peer Recovery Support Services regulations, including changes to correct the inadvertent omission of LMHP-Resident, Resident in Psychology, and Supervisee in Social Work so that they may perform appropriate functions within Peer Recovery Support Services. Fixing this omission will benefit providers and members by ensuring that the rules match current practice. Supervision requirements for peer recovery specialists have also been added to these regulations, which have been in DBHDS guidance documents since June 29, 2017, and are now included in DMAS regulatory text. These changes are noncontroversial because they replicate supervision requirements that have been in place for several years. Neither DHBDS nor DMAS have received concerns or complaints about these requirements from providers, Medicaid

members, or members of the public. Finally, DMAS is complying with federal mental health parity rules to remove the annual limits from certain community mental health services. The Centers for Medicare and Medicaid Services required DMAS to remove the service limits from the State Plan, and, as a result, DMAS instructed the BHSA to use medical necessity criteria rather than enforcing the service limits that appeared in the regulations. These changes do not impact providers, Medicaid members, or members of the public.

**Substance:** This regulatory action contains three different updates:

1. References to the BHSA are stricken and replaced with references to DMAS or its contractor. The BHSA contract was extended for one year and will end in 2020, and these references are being updated in anticipation of that change.
2. Clarifications are being made to the Peer Recovery Support Services regulations, including changes to correct the inadvertent omission of licensed mental health professional (LMHP)-Resident, LMHP-Resident in Psychology, and LMHP-Supervisee in Social Work, so that those professionals may perform appropriate functions within Peer Recovery Support Services. Supervision requirements for peer recovery specialists have also been added to these regulations, which have been in DBHDS guidance documents since June 29, 2017.
3. Changes remove the annual limits from certain community mental health services. These limits are prohibited because they conflict with mental health parity requirements under federal law. There is no cost to this change, because these limits have not been enforced since the Magellan BHSA was brought on to administer these services. The Magellan BHSA has approved requests for community mental health services when the individual meets medical necessity criteria for the service, even if the amount of service will exceed these outdated annual limits.

**Issues:** The primary advantages of these changes are the removal of references to the BHSA that will soon be out of date; that individuals who are working toward their LMHP, and are appropriately registered with the Department of Health Professions as an LMHP-R, LMHP-RP, or LMHP-S will be permitted to perform certain functions within Peer Recovery Support Services, which will increase the pool of individuals who are available to perform this service, and therefore increase member access to this service; and bringing DMAS into compliance with the federal regulations under the Mental Health Parity and Addiction Equity Act.

There are no disadvantages to the public, the agency, or the Commonwealth.

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

Summary of the Proposed Amendments to Regulation. The Director (Director) of the Department of Medical Assistance

Services (DMAS) is proposing a fast-track action to update portions of the regulations relating to behavioral health services. Proposed changes include removing annual limits on the provision of peer support services to comply with federal rules, clarifying staff requirements, and replacing references to the Behavioral Health Services Administrator (or BHSA) with references to DMAS or its contractor.

**Background.** These regulations primarily apply to peer support services, which is an evidence-based mental health model of care intended to help an individual remain engaged in the recovery process by extending the reach of treatment beyond the clinical setting into an individual's community and natural environment. These services are provided by a qualified peer recovery specialist who provides collaborative support and assistance to individuals recovering from a primary diagnosis of mental illness, substance use disorders, or both. Peer recovery specialists are either (a) self-identified consumers who are in a successful and ongoing recovery from mental illness and/or substance use disorders, or (b) family members of individuals who are receiving or have received mental health or substance abuse services.

**Estimated Benefits and Costs.** The Director proposes to update this regulation to reflect the removal of the annual limits on peer support services<sup>1</sup> for the same or similar diagnosis or treatment plan for psychiatric inpatient hospitalization. On March 30, 2016, the Centers for Medicare and Medicaid Services issued the Mental Health Parity Rule,<sup>2</sup> which removed service limits for peer support services. The parity rule was designed to ensure that mental health and substance use disorder services are no more difficult to access than medical and surgical services. The proposed changes are intended to allow peer support services to be authorized based on medical necessity and not be limited. DMAS has not applied the annual limits in delivery of peer support services since 2016. Accordingly, this action updates the regulation to reflect the practice that have been followed since 2016.

Removal of the annual limits in 2016 allowed providers to provide, and recipients to receive, peer support services without limits. Based on approximately six months of data since August 1, 2019, claims for eight out of 1,101 individuals exceeded the limits that were previously in place. Claims for one individual exceeded the limit of 60 days of crisis stabilization by 55 days; after the limit was exceeded, 359 units were billed for a total of \$31,951. Claims for the other seven individuals exceeded the yearly limit of 130 units of intensive community treatment; the total exceeded units for these seven individuals was 122 for a total cost of \$18,666. Thus, the main impact of this change has been provision of peer support services as medically needed at an added cost of \$50,617 to the Commonwealth and the federal government in the last six months. However, given that a single individual was solely responsible for a large portion of the additional cost, this estimate should not be taken as a robust estimate of the likely ongoing impact.

The Director also proposes make changes to correct the inadvertent omission of certain licensed mental health professionals (LMHP-Resident, Resident in Psychology, and Supervisee in Social Work) in the regulatory language. According to DMAS, despite the inadvertent omission of the titles of these professionals in the regulation, they have been allowed to provide their services. This change will simply update the regulatory language to conform to practice without any significant economic impact.

Finally, the Director proposes to strike references to the Behavioral Health Services Administrator (or BHSA) and replace it with references to DMAS or its contractor. The BHSA contract was extended for one year, and will end in 2020. In that contract, DMAS plans to discontinue the use of the term BHSA which would make that reference obsolete. This change is also not expected create a significant economic impact other than amending the language to conform to the anticipated changes in the contract.

**Businesses and Other Entities Affected.** The proposed amendments affect the 59 peer support services providers, 3,938 community mental health services providers, and peer support service recipients in the Commonwealth.<sup>3</sup> Medicaid recipients who would otherwise be prevented from receiving medically needed peer support services particularly benefit from the proposed changes.

**Small Businesses<sup>4</sup> Affected.** Most if not all of the affected providers are small businesses. The proposed amendments do not appear to adversely affect small businesses.

**Localities<sup>5</sup> Affected<sup>6</sup>.** The proposed amendments do not disproportionately affect any particular localities. The proposed amendments do not introduce costs for local governments. Accordingly, no additional funds would be required and no locality would be particularly affected.

**Projected Impact on Employment.** The proposed amendments do not appear to significantly affect total employment.

**Effects on the Use and Value of Private Property.** The proposed changes do not appear to affect the use and value of private property and real estate development costs.

<sup>1</sup>The annual limits being removed are psychosocial rehab services (936 units), partial hospitalization (780 units), mental health skill building (520 units), crisis intervention (720 units), intensive community treatment (130 units), and crisis stabilization (60 days).

<sup>2</sup><https://www.govinfo.gov/content/pkg/FR-2016-03-30/pdf/2016-06876.pdf>

<sup>3</sup>Data source: DMAS

<sup>4</sup>Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.

<sup>5</sup>Locality can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>6</sup>§ 2.2-4007.04 defines particularly affected" as bearing disproportionate material impact.

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Agency's Response to Economic Impact Analysis: The agency has reviewed the economic impact analysis prepared by the Department of Planning and Budget and raises no issues with this analysis.

Summary:

*The amendments (i) remove references to the Behavioral Health Services Administrator and replace them with references to the Department of Medical Assistance Services or its contractor; (ii) correct the inadvertent omission of licensed mental health professional (LMHP)-Resident, LMHP-Resident in Psychology, and LMHP-Supervisee in Social Work so that those professionals may perform appropriate functions within Peer Recovery Support Services; (iii) remove the annual limits from certain community mental health services, which conflict with mental health parity requirements under federal law; and (iv) add supervision requirements for peer recovery specialists, which have been in Department of Behavioral Health and Developmental Services guidance since June 29, 2017.*

**12VAC30-50-130. Nursing facility services, EPSDT, including school health services and family planning.**

A. Nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older. Service must be ordered or prescribed and directed or performed within the scope of a license of the practitioner of the healing arts.

B. General provisions for early and periodic screening, diagnosis, and treatment (EPSDT) of individuals younger than 21 years of age, and treatment of conditions found.

1. Payment of medical assistance services shall be made on behalf of individuals younger than 21 years of age who are Medicaid eligible for medically necessary stays in acute care facilities and the accompanying attendant physician care in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination.

2. Routine physicals and immunizations (except as provided through EPSDT) are not covered except that well-child examinations in a private physician's office are covered for foster children of the local departments of social services on specific referral from those departments.

3. Orthoptics services shall only be reimbursed if medically necessary to correct a visual defect identified by an EPSDT examination or evaluation. DMAS shall place appropriate utilization controls upon this service.

4. Consistent with § 6403 of the Omnibus Budget Reconciliation Act of 1989, early and periodic screening, diagnostic, and treatment services means the following services: screening services, vision services, dental services, hearing services, and such other necessary health care,

diagnostic services, treatment, and other measures described in Social Security Act § 1905(a) to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services and that are medically necessary, whether or not such services are covered under the State Plan and notwithstanding the limitations, applicable to recipients 21 years of age and older, provided for by § 1905(a) of the Social Security Act.

C. Community mental health services ~~provided through early and periodic screening diagnosis and treatment (EPSDT) for individuals younger than 21 years of age.~~ These services in order to be covered (i) shall meet medical necessity criteria based upon diagnoses made by LMHPs who are practicing within the scope of their licenses and (ii) ~~shall be~~ are reflected in provider records and on ~~provider~~ providers' claims for services by recognized diagnosis codes that support and are consistent with the requested professional services.

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

"Activities of daily living" means personal care activities and includes bathing, dressing, transferring, toileting, feeding, and eating.

"Adolescent" or "child" means the individual receiving the services described in this section. For the purpose of the use of ~~this term~~ these terms, adolescent means an individual 12 through 20 years of age; child means an individual from birth up to 12 years of age.

"Behavioral health service" means the same as defined in 12VAC30-130-5160.

~~"Behavioral health services administrator" or "BHSA" means an entity that manages or directs a behavioral health benefits program under contract with DMAS.~~

"Care coordination" means collaboration and sharing of information among health care providers who are involved with an individual's health care to improve the care.

"Caregiver" means the same as defined in 12VAC30-130-5160.

~~"Child" means an individual ages birth through 11 years.~~

"Certified prescriber" means an employee of the local community services board or behavioral health authority, or its designee, who is skilled in the assessment and treatment of mental illness and has completed a certification program approved by the Department of Behavioral Health and Developmental Services.

"Clinical experience" means providing direct behavioral health services on a full-time basis or equivalent hours of part-time work to children and adolescents who have diagnoses of mental illness and includes supervised internships, supervised practicums, and supervised field experience for the purpose of Medicaid reimbursement of

(i) intensive in-home services, (ii) day treatment for children and adolescents, (iii) community-based residential services for children and adolescents who are younger than 21 years of age (Level A), or (iv) therapeutic behavioral services (Level B). Experience shall not include unsupervised internships, unsupervised practicums, and unsupervised field experience. The equivalency of part-time hours to full-time hours for the purpose of this requirement shall be as established by DBHDS in the document entitled Human Services and Related Fields Approved Degrees/Experience, issued March 12, 2013, revised May 3, 2013.

"DBHDS" means the Department of Behavioral Health and Developmental Services.

"Direct supervisor" means the person who provides direct supervision to the peer recovery specialist. The direct supervisor (i) shall have two consecutive years of documented practical experience rendering peer support services or family support services, have certification ~~training~~ as a PRS under a certifying body approved by DBHDS, and have documented completion of the DBHDS PRS supervisor training; (ii) shall be a qualified mental health professional (QMHP-A, QMHP-C, or QMHP-E) as defined in 12VAC35-105-20 with at least two consecutive years of documented experience as a QMHP, and who has documented completion of the DBHDS PRS supervisor training; or (iii) shall be an LMHP who has documented completion of the DBHDS PRS supervisor training who is acting within his scope of practice under state law. An LMHP providing services before April 1, 2018, shall have until April 1, 2018, to complete the DBHDS PRS supervisor training.

"DMAS" means the Department of Medical Assistance Services and its contractors.

"EPSDT" means early and periodic screening, diagnosis, and treatment.

"Family support partners" means the same as defined in 12VAC30-130-5170.

"Human services field" means the same as the term is defined by ~~the Department of Health Professions DBHDS~~ in the document entitled ~~Approved Degrees in Human Services and Related Fields for QMHP Registration, adopted November 3, 2017, revised February 9, 2018~~ Human Services and Related Fields Approved Degrees/Experience, issued March 12, 2013, revised May 3, 2013.

"Individual service plan" or "ISP" means the same as the term is defined in 12VAC30-50-226.

"Licensed mental health professional" or "LMHP" means the same as defined in 12VAC35-105-20.

"LMHP-resident" or "LMHP-R" means the same as "resident" as defined in (i) 18VAC115-20-10 for licensed professional counselors; (ii) 18VAC115-50-10 for

licensed marriage and family therapists; or (iii) 18VAC115-60-10 for licensed substance abuse treatment practitioners. An LMHP-resident shall be in continuous compliance with the regulatory requirements of the applicable counseling profession for supervised practice and shall not perform the functions of the LMHP-R or be considered a "resident" until the supervision for specific clinical duties at a specific site has been preapproved in writing by the Virginia Board of Counseling. For purposes of Medicaid reimbursement to their supervisors for services provided by such residents, they shall use the title "Resident" in connection with the applicable profession after their signatures to indicate such status.

"LMHP-resident in psychology" or "LMHP-RP" means the same as an individual in a residency, as that term is defined in 18VAC125-20-10, program for clinical psychologists. An LMHP-resident in psychology shall be in continuous compliance with the regulatory requirements for supervised experience as found in 18VAC125-20-65 and shall not perform the functions of the LMHP-RP or be considered a "resident" until the supervision for specific clinical duties at a specific site has been preapproved in writing by the Virginia Board of Psychology. For purposes of Medicaid reimbursement by supervisors for services provided by such residents, they shall use the title "Resident in Psychology" after their signatures to indicate such status.

"LMHP-supervisee in social work," "LMHP-supervisee," or "LMHP-S" means the same as "supervisee" as defined in 18VAC140-20-10 for licensed clinical social workers. An LMHP-supervisee in social work shall be in continuous compliance with the regulatory requirements for supervised practice as found in 18VAC140-20-50 and shall not perform the functions of the LMHP-S or be considered a "supervisee" until the supervision for specific clinical duties at a specific site is preapproved in writing by the Virginia Board of Social Work. For purposes of Medicaid reimbursement to their supervisors for services provided by supervisees, these persons shall use the title "Supervisee in Social Work" after their signatures to indicate such status.

"Peer recovery specialist" or "PRS" means the same as defined in ~~12VAC30-130-5160~~ 12VAC35-250-10.

"Peer recovery support services" means the same as defined in 12VAC35-250-10.

"Person centered" means the same as defined in 12VAC30-130-5160.

"Progress notes" means individual-specific documentation that contains the unique differences particular to the individual's circumstances, treatment, and progress that is also signed and contemporaneously dated by the provider's professional staff who have prepared the notes. Individualized and member-specific progress notes are part of the minimum documentation requirements and



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shall convey the individual's status, staff interventions, and, as appropriate, the individual's progress, or lack of progress, toward goals and objectives in the ISP. The progress notes shall also include, at a minimum, the name of the service rendered, the date of the service rendered, the signature and credentials of the person who rendered the service, the setting in which the service was rendered, and the amount of time or units or hours required to deliver the service. The content of each progress note shall corroborate the units or hours billed. Progress notes shall be documented for each service that is billed.

"Psychoeducation" means (i) a specific form of education aimed at helping individuals who have mental illness and their family members or caregivers to access clear and concise information about mental illness and (ii) a way of accessing and learning strategies to deal with mental illness and its effects in order to design effective treatment plans and strategies.

"Psychoeducational activities" means systematic interventions based on supportive and cognitive behavior therapy that emphasizes an individual's and his family's needs and focuses on increasing the individual's and family's knowledge about mental disorders, adjusting to mental illness, communicating and facilitating problem solving, and increasing coping skills.

"Qualified mental health professional-child" or "QMHP-C" means the same as the term is defined in 12VAC35-105-20.

"Qualified mental health professional-eligible" or "QMHP-E" means the same as the term is defined in 12VAC35-105-20 and consistent with the requirements of 12VAC35-105-590 ~~including a "QMHP trainee" as defined by the Department of Health Professions.~~

"Qualified paraprofessional in mental health" or "QPPMH" means the same as the term is defined in 12VAC35-105-20 and consistent with the requirements of 12VAC35-105-1370.

"Recovery-oriented services" means the same as defined in 12VAC30-130-5160.

"Recovery, resiliency, and wellness plan" means the same as defined in 12VAC30-130-5160.

"Resiliency" means the same as defined in 12VAC30-130-5160.

"Self-advocacy" means the same as defined in 12VAC30-130-5160.

"Service-specific provider intake" means the face-to-face interaction in which the provider obtains information from the child or adolescent, and parent or other family member, as appropriate, about the child's or adolescent's mental health status. It includes documented history of the severity, intensity, and duration of mental health care problems and issues and shall contain all of the following elements: (i) the presenting issue or reason for referral, (ii)

mental health history/hospitalizations, (iii) previous interventions by providers and timeframes and response to treatment, (iv) medical profile, (v) developmental history including history of abuse, if appropriate, (vi) educational or vocational status, (vii) current living situation and family history and relationships, (viii) legal status, (ix) drug and alcohol profile, (x) resources and strengths, (xi) mental status exam and profile, (xii) diagnosis, (xiii) professional summary and clinical formulation, (xiv) recommended care and treatment goals, and (xv) the dated signature of the LMHP, LMHP-supervisee, LMHP-resident, or LMHP-RP.

"Services provided under arrangement" means the same as defined in 12VAC30-130-850.

"Strength-based" means the same as defined in 12VAC30-130-5160.

"Supervision" means the same as defined in 12VAC30-130-5160.

2. Intensive in-home services (IIH) to children and adolescents younger than 21 years of age shall be time-limited interventions provided in the individual's residence and when clinically necessary in community settings. All interventions and the settings of the intervention shall be defined in the Individual Service Plan. All IIH services shall be designed to specifically improve family dynamics, ~~and~~ provide modeling, and the clinically necessary interventions that increase functional and therapeutic interpersonal relations between family members in the home. IIH services are designed to promote psychoeducational benefits of ~~psychoeducation~~ in the home setting of an individual who is at risk of being moved into an out-of-home placement or who is being transitioned to home from an out-of-home placement due to a documented medical need of the individual. These services provide crisis treatment; individual and family counseling; communication skills (e.g., counseling to assist the individual and the individual's parents or guardians, as appropriate, to understand and practice appropriate problem solving, anger management, and interpersonal interaction, etc.); care coordination with other required services; and 24-hour emergency response.

a. Service authorization shall be required for Medicaid reimbursement prior to the onset of services. Services rendered before the date of authorization shall not be reimbursed.

b. Service-specific provider intakes shall be required ~~prior to the start~~ at the onset of services and ISPs shall be required during the entire duration of services. Services based upon incomplete, missing, or outdated service-specific provider intakes or ISPs shall be denied reimbursement. Requirements for service-specific provider intakes and ISPs are set out in this section.

c. These services shall only be rendered by an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, a QMHP-C, or a QMHP-E.

3. Therapeutic day treatment (TDT) shall be provided two or more hours per day in order to provide therapeutic interventions (a unit is defined in 12VAC30-60-61 D 11). Day treatment programs provide evaluation; medication education and management; opportunities to learn and use daily living skills and to enhance social and interpersonal skills (e.g., problem solving, anger management, community responsibility, increased impulse control, and appropriate peer relations, etc.); and individual, group, and family counseling.

a. Service authorization shall be required for Medicaid reimbursement.

b. Service-specific provider intakes shall be required ~~prior to the start~~ at the onset of services, and ISPs shall be required during the entire duration of services. Services based upon incomplete, missing, or outdated service-specific provider intakes or ISPs shall be denied reimbursement. Requirements for service-specific provider intakes and ISPs are set out in this section.

c. These services shall be rendered only by an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, a QMHP-C, or a QMHP-E.

D. Therapeutic group home services and psychiatric residential treatment facility (PRTF) services for early and periodic screening diagnosis and treatment (EPSDT) of individuals younger than 21 years of age.

1. Definitions. The following words and terms when used in this subsection shall have the following meanings:

"Active treatment" means implementation of an initial plan of care (IPOC) and comprehensive individual plan of care (CIPOC).

"Assessment" means the face-to-face interaction by an LMHP, LMHP-R, LMHP-RP, or LMHP-S to obtain information from the child or adolescent and parent, guardian, or other family member, as appropriate, utilizing a tool or series of tools to provide a comprehensive evaluation and review of the child's or adolescent's mental health status. The assessment shall include a documented history of the severity, intensity, and duration of mental health problems and behavioral and emotional issues.

"Certificate of need" or "CON" means a written statement by an independent certification team that services in a therapeutic group home or PRTF are or were needed.

"Combined treatment services" means a structured, therapeutic milieu and planned interventions that promote (i) the development or restoration of adaptive functioning, self-care, and social skills; (ii) community integrated activities and community living skills that each individual requires to

live in less restrictive environments; (iii) behavioral consultation; (iv) individual and group therapy; (v) skills restoration, the restoration of coping skills, family living and health awareness, interpersonal skills, communication skills, and stress management skills; (vi) family education and family therapy; and (vii) individualized treatment planning.

"Comprehensive individual plan of care" or "CIPOC" means a person centered plan of care that meets all of the requirements of this subsection and is specific to the individual's unique treatment needs and acuity levels as identified in the clinical assessment and information gathered during the referral process.

"Crisis" means a deteriorating or unstable situation that produces an acute, heightened emotional, mental, physical, medical, or behavioral event.

"Crisis management" means immediately provided activities and interventions designed to rapidly manage a crisis. The activities and interventions include behavioral health care to provide immediate assistance to individuals experiencing acute behavioral health problems that require immediate intervention to stabilize and prevent harm and higher level of acuity. Activities shall include assessment and short-term counseling designed to stabilize the individual. Individuals are referred to long-term services once the crisis has been stabilized.

"Daily supervision" means the supervision provided in a PRTF through a resident-to-staff ratio approved by the Office of Licensure at the Department of Behavioral Health and Developmental Services with documented supervision checks every 15 minutes throughout a 24-hour period.

"Discharge planning" means family and locality-based care coordination that begins upon admission to a PRTF or therapeutic group home with the goal of transitioning the individual out of the PRTF or therapeutic group home to a less restrictive care setting with continued, clinically-appropriate, and possibly intensive, services as soon as possible upon discharge. Discharge plans shall be recommended by the treating physician, psychiatrist, or treating LMHP responsible for the overall supervision of the plan of care and shall be approved by the DMAS contractor.

"DSM-5" means the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, copyright 2013, American Psychiatric Association.

"Emergency admissions" means those admissions that are made when, pending a review for the certificate of need, it appears that the individual is in need of an immediate admission to a therapeutic group home or PRTF and likely does not meet the medical necessity criteria to receive crisis intervention, crisis stabilization, or acute psychiatric inpatient services.

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"Emergency services" means unscheduled and sometimes scheduled crisis intervention, stabilization, acute psychiatric inpatient services, and referral assistance provided over the telephone or face-to-face if indicated, and available 24 hours a day, seven days per week.

"Family engagement" means a family-centered and strengths-based approach to partnering with families in making decisions, setting goals, achieving desired outcomes, and promoting safety, permanency, and well-being for children, adolescents, and families. Family engagement requires ongoing opportunities for an individual to build and maintain meaningful relationships with family members, for example, frequent, unscheduled, and noncontingent telephone calls and visits between an individual and family members. Family engagement may also include enhancing or facilitating the development of the individual's relationship with other family members and supportive adults responsible for the individual's care and well-being upon discharge.

"Family engagement activity" means an intervention consisting of family psychoeducational training or coaching, transition planning with the family, family and independent living skills, and training on accessing community supports as identified in the plan of care. Family engagement activity does not include and is not the same as family therapy.

"Family therapy" means counseling services involving the individual's family and significant others to advance the treatment goals when (i) the counseling with the family member and significant others is for the direct benefit of the individual, (ii) the counseling is not aimed at addressing treatment needs of the individual's family or significant others, and (iii) the individual is present except when it is clinically appropriate for the individual to be absent in order to advance the individual's treatment goals. Family therapy shall be aligned with the goals of the individual's plan of care. All family therapy services furnished are for the direct benefit of the individual, in accordance with the individual's needs and treatment goals identified in the individual's plan of care, and for the purpose of assisting in the individual's recovery.

"FAPT" means the family assessment and planning team.

"ICD-10" means International Statistical Classification of Diseases and Related Health Problems, 10th Revision, published by the World Health Organization.

"Independent certification team" means a team that has competence in diagnosis and treatment of mental illness, preferably in child psychiatry; has knowledge of the individual's situation; and is composed of at least one physician and one LMHP. The independent certification team shall be a DMAS-authorized contractor with contractual or employment relationships with the required team members.

"Individual" means the child or adolescent younger than 21 years of age who is receiving therapeutic group home or PRTF services.

"Individual and group therapy" means the application of principles, standards, and methods of the counseling profession in (i) conducting assessments and diagnosis for the purpose of establishing treatment goals and objectives and (ii) planning, implementing, and evaluating plans of care using treatment interventions to facilitate human development and to identify and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health.

"Initial plan of care" or "IPOC" means a person centered plan of care established at admission that meets all of the requirements of this subsection and is specific to the individual's unique treatment needs and acuity levels as identified in the clinical assessment and information gathered during the referral process.

"Intervention" means scheduled therapeutic treatment such as individual or group psychoeducation; skills restoration; structured behavior support and training activities; recreation, art, and music therapies; community integration activities that promote or assist in the child's or adolescent's ability to acquire coping and functional or self-regulating behavior skills; day and overnight passes; and family engagement activities. Interventions shall not include individual, group, and family therapy; medical or dental appointments; or physician services, medication evaluation, or management provided by a licensed clinician or physician and shall not include school attendance. Interventions shall be provided in the therapeutic group home or PRTF and, when clinically necessary, in a community setting or as part of a therapeutic pass. All interventions and settings of the intervention shall be established in the plan of care.

"Plan of care" means the initial plan of care (IPOC) and the comprehensive individual plan of care (CIPOC).

"Physician" means an individual licensed to practice medicine or osteopathic medicine in Virginia, as defined in § 54.1-2900 of the Code of Virginia.

"Psychiatric residential treatment facility" or "PRTF" means the same as defined in 42 CFR 483.352 and is a 24-hour, supervised, clinically and medically necessary, out-of-home active treatment program designed to provide necessary support and address mental health, behavioral, substance abuse, cognitive, and training needs of an individual younger than 21 years of age in order to prevent or minimize the need for more intensive treatment.

"Recertification" means a certification for each applicant or recipient for whom therapeutic group home or PRTF services are needed.



"Room and board" means a component of the total daily cost for placement in a licensed PRTF. Residential room and board costs are maintenance costs associated with placement in a licensed PRTF and include a semi-private room, three meals and two snacks per day, and personal care items. Room and board costs are reimbursed only for PRTF settings.

"Services provided under arrangement" means services including physician and other health care services that are furnished to children while they are in a freestanding psychiatric hospital or PRTF that are billed by the arranged practitioners separately from the freestanding psychiatric hospital's or PRTF's per diem.

"Skills restoration" means a face-to-face service to assist individuals in the restoration of lost skills that are necessary to achieve the goals established in the beneficiary's plan of care. Services include assisting the individual in restoring self-management, interpersonal, communication, and problem solving skills through modeling, coaching, and cueing.

"Therapeutic group home" means a congregate residential service providing 24-hour supervision in a community-based home having eight or fewer residents.

"Therapeutic pass" means time at home or time with family consisting of partial or entire days of time away from the therapeutic group home or psychiatric residential treatment facility as clinically indicated in the plan of care and as paired with facility-based and community-based interventions to promote discharge planning, community integration, and family engagement activities. Therapeutic passes are not recreational but are a therapeutic component of the plan of care and are designed for the direct benefit of the individual.

"Treatment planning" means development of a person centered plan of care that is specific to the individual's unique treatment needs and acuity levels.

## 2. Therapeutic group home services pursuant to 42 CFR 440.130(d).

a. Therapeutic group home services for children and adolescents younger than 21 years of age shall provide therapeutic services to restore or maintain appropriate skills necessary to promote prosocial behavior and healthy living, including skills restoration, family living and health awareness, interpersonal skills, communication skills, and stress management skills. Therapeutic services shall also engage families and reflect family-driven practices that correlate to sustained positive outcomes post-discharge for youth and their family members. Each component of therapeutic group home services is provided for the direct benefit of the individual, in accordance with the individual's needs and treatment goals identified in the individual's plan of care, and for the purpose of assisting

in the individual's recovery. These services are provided under 42 CFR 440.130(d) in accordance with the rehabilitative services benefit.

b. The plan of care shall include individualized activities, including a minimum of one intervention per 24-hour period in addition to individual, group, and family therapies. Daily interventions are not required when there is documentation to justify clinical or medical reasons for the individual's deviations from the plan of care. Interventions shall be documented on a progress note and shall be outlined in and aligned with the treatment goals and objectives in the IPOC and CIPOC. Any deviation from the plan of care shall be documented along with a clinical or medical justification for the deviation.

c. Medical necessity criteria for admission to a therapeutic group home. The following requirements for severity of need and intensity and quality of service shall be met to satisfy the medical necessity criteria for admission.

(1) Severity of need required for admission. All of the following criteria shall be met to satisfy the criteria for severity of need:

(a) The individual's behavioral health condition can only be safely and effectively treated in a 24-hour therapeutic milieu with onsite behavioral health therapy due to significant impairments in home, school, and community functioning caused by current mental health symptoms consistent with a DSM-5 diagnosis.

(b) The certificate of need must demonstrate all of the following: (i) ambulatory care resources (all available modalities of treatment less restrictive than inpatient treatment) available in the community do not meet the treatment needs of the individual; (ii) proper treatment of the individual's psychiatric condition requires services on an inpatient basis under the direction of a physician; and (iii) the services can reasonably be expected to improve the individual's condition or prevent further regression so that the services will no longer be needed.

(c) The state uniform assessment tool shall be completed. The assessment shall demonstrate at least two areas of moderate impairment in major life activities. A moderate impairment is defined as a major or persistent disruption in major life activities. A moderate impairment is evidenced by, but not limited to (i) frequent conflict in the family setting such as credible threats of physical harm, where "frequent" means more than expected for the individual's age and developmental level; (ii) frequent inability to accept age-appropriate direction and supervision from caretakers, from family members, at school, or in the home or community; (iii) severely limited involvement in social support, which means significant avoidance of appropriate social interaction, deterioration of existing relationships, or refusal to participate in therapeutic interventions; (iv) impaired ability to form a trusting relationship with at least one caretaker in the

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home, school, or community; (v) limited ability to consider the effect of one's inappropriate conduct on others; and (vi) interactions consistently involving conflict, which may include impulsive or abusive behaviors.

(d) Less restrictive community-based services have been given a fully adequate trial and were unsuccessful or, if not attempted, have been considered, but in either situation were determined to be unable to meet the individual's treatment needs and the reasons for that are discussed in the certificate of need.

(e) The individual's symptoms, or the need for treatment in a 24 hours a day, seven days a week level of care (LOC), are not primarily due to any of the following: (i) intellectual disability, developmental disability, or autistic spectrum disorder; (ii) organic mental disorders, traumatic brain injury, or other medical condition; or (iii) the individual does not require a more intensive level of care.

(f) The individual does not require primary medical or surgical treatment.

(2) Intensity and quality of service necessary for admission. All of the following criteria shall be met to satisfy the criteria for intensity and quality of service:

(a) The therapeutic group home service has been prescribed by a psychiatrist, psychologist, or other LMHP who has documented that a residential setting is the least restrictive clinically appropriate service that can meet the specifically identified treatment needs of the individual.

(b) The therapeutic group home is not being used for clinically inappropriate reasons, including (i) an alternative to incarceration or preventative detention; (ii) an alternative to a parent's, guardian's, or agency's capacity to provide a place of residence for the individual; or (iii) a treatment intervention when other less restrictive alternatives are available.

(c) The individual's treatment goals are included in the service specific provider intake and include behaviorally defined objectives that require and can reasonably be achieved within a therapeutic group home setting.

(d) The therapeutic group home is required to coordinate with the individual's community resources, including schools and FAPT as appropriate, with the goal of transitioning the individual out of the program to a less restrictive care setting for continued, sometimes intensive, services as soon as possible and appropriate.

(e) The therapeutic group home program must incorporate nationally established, evidence-based, trauma-informed services and supports that promote recovery and resiliency.

(f) Discharge planning begins upon admission, with concrete plans for the individual to transition back into the community beginning within the first week of admission,

with clear action steps and target dates outlined in the plan of care.

(3) Continued stay criteria. The following criteria shall be met in order to satisfy the criteria for continued stay:

(a) All of the admission guidelines continue to be met and continue to be supported by the written clinical documentation.

(b) The individual shall meet one of the following criteria: (i) the desired outcome or level of functioning has not been restored or improved in the timeframe outlined in the individual's plan of care or the individual continues to be at risk for relapse based on history or (ii) the nature of the functional gains is tenuous and use of less intensive services will not achieve stabilization.

(c) The individual shall meet one of the following criteria: (i) the individual has achieved initial CIPOC goals, but additional goals are indicated that cannot be met at a lower level of care; (ii) the individual is making satisfactory progress toward meeting goals but has not attained plan of care goals, and the goals cannot be addressed at a lower level of care; (iii) the individual is not making progress, and the plan of care has been modified to identify more effective interventions; or (iv) there are current indications that the individual requires this level of treatment to maintain level of functioning as evidenced by failure to achieve goals identified for therapeutic visits or stays in a nontreatment residential setting or in a lower level of residential treatment.

(d) There is a written, up-to-date discharge plan that (i) identifies the custodial parent or custodial caregiver at discharge; (ii) identifies the school the individual will attend at discharge, if applicable; (iii) includes individualized education program (IEP) and FAPT recommendations, if necessary; (iv) outlines the aftercare treatment plan (discharge to another residential level of care is not an acceptable discharge goal); and (v) lists barriers to community reintegration and progress made on resolving these barriers since last review.

(e) The active plan of care includes structure for combined treatment services and activities to ensure the attainment of therapeutic mental health goals as identified in the plan of care. Combined treatment services reinforce and practice skills learned in individual, group, and family therapy such as community integration skills, coping skills, family living and health awareness skills, interpersonal skills, and stress management skills. Combined treatment services may occur in group settings, in one-on-one interactions, or in the home setting during a therapeutic pass. In addition to the combined treatment services, the child or adolescent must also receive psychotherapy services, care coordination, family-based discharge planning, and locality-based transition activities. The child or adolescent shall receive intensive family interventions at least twice per month, although it

is recommended that the intensive family interventions be provided at a frequency of one family therapy session per week. Family involvement begins immediately upon admission to therapeutic group home. If the minimum requirement cannot be met, the reasons must be reported, and continued efforts to involve family members must also be documented. Other family members or supportive adults may be included as indicated in the plan of care.

(f) Less restrictive treatment options have been considered but cannot yet meet the individual's treatment needs. There is sufficient current clinical documentation or evidence to show that therapeutic group home level of care continues to be the least restrictive level of care that can meet the individual's mental health treatment needs.

(4) Discharge shall occur if any of the following applies: (i) the level of functioning has improved with respect to the goals outlined in the plan of care, and the individual can reasonably be expected to maintain these gains at a lower level of treatment; (ii) the individual no longer benefits from service as evidenced by absence of progress toward plan of care goals for a period of 60 days; or (iii) other less intensive services may achieve stabilization.

d. The following clinical activities shall be required for each therapeutic group home resident:

(1) An assessment be performed by an LMHP, LMHP-R, LMHP-RP, or LMHP-S.

(2) A face-to-face evaluation shall be performed by an LMHP, LMHP-R, LMHP-RP, or LMHP-S within 30 calendar days prior to admission with a documented DSM-5 or ICD-10 diagnosis.

(3) A certificate of need shall be completed by an independent certification team according to the requirements of subdivision D 4 of this section. Recertification shall occur at least every 60 calendar days by an LMHP, LMHP-R, LMHP-RP, or LMHP-S acting within his scope of practice.

(4) An IPOC that is specific to the individual's unique treatment needs and acuity levels. The IPOC shall be completed on the day of admission by an LMHP, LMHP-R, LMHP-RP, or LMHP-S and shall be signed by the LMHP, LMHP-R, LMHP-RP, or LMHP-S and the individual and a family member or legally authorized representative. The IPOC shall include all of the following:

(a) Individual and family strengths and personal traits that would facilitate recovery and opportunities to develop motivational strategies and treatment alliance;

(b) Diagnoses, symptoms, complaints, and complications indicating the need for admission;

(c) A description of the functional level of the individual;

(d) Treatment objectives with short-term and long-term goals;

(e) Orders for medications, psychiatric, medical, dental, and any special health care needs whether or not provided in the facilities, treatments, restorative and rehabilitative services, activities, therapies, therapeutic passes, social services, community integration, diet, and special procedures recommended for the health and safety of the individual;

(f) Plans for continuing care, including review and modification to the plan of care; and

(g) Plans for discharge.

(5) A CIPOC shall be completed no later than 14 calendar days after admission. The CIPOC shall meet all of the following criteria:

(a) Be based on a diagnostic evaluation that includes examination of the medical, psychological, social, behavioral, and developmental aspects of the individual's situation and shall reflect the need for therapeutic group home care;

(b) Be based on input from school, home, other health care providers, FAPT if necessary, the individual, and the family or legal guardian;

(c) Shall state treatment objectives that include measurable short-term and long-term goals and objectives, with target dates for achievement;

(d) Prescribe an integrated program of therapies, activities, and experiences designed to meet the treatment objectives related to the diagnosis; and

(e) Include a comprehensive discharge plan with necessary, clinically appropriate community services to ensure continuity of care upon discharge with the individual's family, school, and community.

(6) The CIPOC shall be reviewed, signed, and dated every 30 calendar days by the LMHP, LMHP-R, LMHP-RP, or LMHP-S and the individual or a family member or primary caregiver. Updates shall be signed and dated by the LMHP, LMHP-R, LMHP-RP, or LMHP-S and the individual or a family member or legally authorized representative. The review shall include all of the following:

(a) The individual's response to the services provided;

(b) Recommended changes in the plan as indicated by the individual's overall response to the CIPOC interventions; and

(c) Determinations regarding whether the services being provided continue to be required.

(7) Crisis management, clinical assessment, and individualized therapy shall be provided to address both behavioral health and substance use disorder needs as indicated in the plan of care to address intermittent crises and challenges within the therapeutic group home setting or community settings as defined in the plan of care and to avoid a higher level of care.

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(8) Care coordination shall be provided with medical, educational, and other behavioral health providers and other entities involved in the care and discharge planning for the individual as included in the plan of care.

(9) Weekly individual therapy shall be provided in the therapeutic group home, or other settings as appropriate for the individual's needs, by an LMHP, LMHP-R, LMHP-RP, or LMHP-S, which shall be documented in progress notes in accordance with the requirements in 12VAC30-60-61.

(10) Weekly (or more frequently if clinically indicated) group therapy shall be provided by an LMHP, LMHP-R, LMHP-RP, or LMHP-S, which shall be documented in progress notes in accordance with the requirements in 12VAC30-60-61 and as planned and documented in the plan of care.

(11) Family treatment shall be provided as clinically indicated, provided by an LMHP, LMHP-R, LMHP-RP, or LMHP-S, and documented in progress notes in accordance with the requirements in 12VAC30-60-61 and as planned and documented in the plan of care.

(12) Family engagement activities shall be provided in addition to family therapy or counseling. Family engagement activities shall be provided at least weekly as outlined in the plan of care, and daily communication with the family or legally authorized representative shall be part of the family engagement strategies in the plan of care. For each service authorization period when family engagement is not possible, the therapeutic group home shall identify and document the specific barriers to the individual's engagement with the individual's family or legally authorized representatives. The therapeutic group home shall document on a weekly basis the reasons why family engagement is not occurring as required. The therapeutic group home shall document alternative family engagement strategies to be used as part of the interventions in the plan of care and request approval of the revised plan of care by DMAS. When family engagement is not possible, the therapeutic group home shall collaborate with DMAS on a weekly basis to develop individualized family engagement strategies and document the revised strategies in the plan of care.

(13) Therapeutic passes shall be provided as clinically indicated in the plan of care and as paired with facility-based and community-based interventions to promote discharge planning, community integration, and family engagement activities.

(a) The provider shall document how the family was prepared for the therapeutic pass to include a review of the plan of care goals and objectives being addressed by the planned interventions and the safety and crisis plan in effect during the therapeutic pass.

(b) If a facility staff member does not accompany the individual on the therapeutic pass and the therapeutic pass

exceeds 24 hours, the provider shall make daily contacts with the family and be available 24 hours per day to address concerns, incidents, or crises that may arise during the pass.

(c) Contact with the family shall occur within seven calendar days of the therapeutic pass to discuss the accomplishments and challenges of the therapeutic pass along with an update on progress toward plan of care goals and any necessary changes to the plan of care.

(d) Twenty-four therapeutic passes shall be permitted per individual, per admission, without authorization as approved by the treating LMHP and documented in the plan of care. Additional therapeutic passes shall require service authorization. Any unauthorized therapeutic passes shall result in retraction for those days of service.

(14) Discharge planning shall begin at admission and continue throughout the individual's stay at the therapeutic group home. The family or guardian, the community services board (CSB), the family assessment and planning team (FAPT) case manager, and the DMAS contracted care manager shall be involved in treatment planning and shall identify the anticipated needs of the individual and family upon discharge and available services in the community. Prior to discharge, the therapeutic group home shall submit an active and viable discharge plan to the DMAS contractor for review. Once the DMAS contractor approves the discharge plan, the provider shall begin actively collaborating with the family or legally authorized representative and the treatment team to identify behavioral health and medical providers and schedule appointments for service-specific provider intakes as needed. The therapeutic group home shall request permission from the parent or legally authorized representative to share treatment information with these providers and shall share information pursuant to a valid release. The therapeutic group home shall request information from post-discharge providers to establish that the planning of pending services and transition planning activities has begun, shall establish that the individual has been enrolled in school, and shall provide individualized education program recommendations to the school if necessary. The therapeutic group home shall inform the DMAS contractor of all scheduled appointments within 30 calendar days of discharge and shall notify the DMAS contractor within one business day of the individual's discharge date from the therapeutic group home.

(15) Room and board costs shall not be reimbursed. Facilities that only provide independent living services or nonclinical services that do not meet the requirements of this subsection are not eligible for reimbursement.

(16) Therapeutic group home services providers shall be licensed by the Department of Behavioral Health and

Developmental Services (DBHDS) under the Regulations for Children's Residential Facilities (12VAC35-46).

(17) Individuals shall be discharged from this service when treatment goals are met or other less intensive services may achieve stabilization.

(18) Services that are based upon incomplete, missing, or outdated service-specific provider intakes or plans of care shall be denied reimbursement.

(19) Therapeutic group home services may only be rendered by and within the scope of practice of an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, a QMHP-C, a QMHP-E, or a QPPMH as defined in 12VAC35-105-20.

(20) The psychiatric residential treatment facility or therapeutic group home shall coordinate necessary services and discharge planning with other providers as medically and clinically necessary. Documentation of this care coordination shall be maintained by the facility or group home in the individual's record. The documentation shall include who was contacted, when the contact occurred, what information was transmitted, and recommended next steps.

(21) Failure to perform any of the items described in this subsection shall result in a retraction of the per diem for each day of noncompliance.

3. PRTF services are a 24-hour, supervised, clinically and medically necessary out-of-home program designed to provide necessary support and address mental health, behavioral, substance use, cognitive, or other treatment needs of an individual younger than 21 years of age in order to prevent or minimize the need for more inpatient treatment. Active treatment and comprehensive discharge planning shall begin prior to admission. In order to be covered for individuals younger than 21 years of age, these services shall (i) meet DMAS-approved psychiatric medical necessity criteria or be approved as an EPSDT service based upon a diagnosis made by an LMHP, LMHP-R, LMHP-RP, or LMHP-S who is practicing within the scope of his license and (ii) be reflected in provider records and on the provider's claims for services by recognized diagnosis codes that support and are consistent with the requested professional services.

a. PRTF services shall be covered for the purpose of diagnosis and treatment of mental health and behavioral disorders when such services are rendered by a psychiatric facility that is not a hospital and is accredited by the Joint Commission on Accreditation of Healthcare Organizations, the Commission on Accreditation of Rehabilitation Facilities, the Council on Accreditation of Services for Families and Children, or by any other accrediting organization with comparable standards that is recognized by the state.

b. Providers of PRTF services shall be licensed by DBHDS.

c. PRTF services are reimbursable only when the treatment program is fully in compliance with (i) 42 CFR Part 441 Subpart D, specifically 42 CFR 441.151 (a) and (b) and 42 CFR 441.152 through 42 CFR 441.156 and (ii) the Conditions of Participation in 42 CFR Part 483 Subpart G. Each admission must be service authorized, and the treatment must meet DMAS requirements for clinical necessity.

d. The PRTF benefit for individuals younger than 21 years of age shall include services defined at 42 CFR 440.160 that are provided under the direction of a physician pursuant to a certification of medical necessity and plan of care developed by an interdisciplinary team of professionals and shall involve active treatment designed to achieve the child's discharge from PRTF services at the earliest possible time. The PRTF services benefit shall include services provided under arrangement furnished by Medicaid enrolled providers other than the PRTF, as long as the PRTF (i) arranges for and oversees the provision of all services, (ii) maintains all medical records of care furnished to the individual, and (iii) ensures that the services are furnished under the direction of a physician. Services provided under arrangement shall be documented by a written referral from the PRTF. For purposes of pharmacy services, a prescription ordered by an employee or contractor of the facility who is licensed to prescribe drugs shall be considered the referral.

e. PRTFs, as defined at 42 CFR 483.352, shall arrange for, maintain records of, and ensure that physicians order these services: (i) medical and psychological services, including those furnished by physicians, licensed mental health professionals, and other licensed or certified health professionals (i.e., nutritionists, podiatrists, respiratory therapists, and substance abuse treatment practitioners); (ii) pharmacy services; (iii) outpatient hospital services; (iv) physical therapy, occupational therapy, and therapy for individuals with speech, hearing, or language disorders; (v) laboratory and radiology services; (vi) durable medical equipment; (vii) vision services; (viii) dental, oral surgery, and orthodontic services; (ix) nonemergency transportation services; and (x) emergency services.

f. PRTF services shall include assessment and reassessment; room and board; daily supervision; combined treatment services; individual, family, and group therapy; care coordination; interventions; general or special education; medical treatment (including medication, coordination of necessary medical services, and 24-hour onsite nursing); specialty services; and discharge planning that meets the medical and clinical needs of the individual.

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g. Medical necessity criteria for admission to a PRTF. The following requirements for severity of need and intensity and quality of service shall be met to satisfy the medical necessity criteria for admission:

(1) Severity of need required for admission. The following criteria shall be met to satisfy the criteria for severity of need:

(a) There is clinical evidence that the individual has a DSM-5 disorder that is amenable to active psychiatric treatment.

(b) There is a high degree of potential of the condition leading to acute psychiatric hospitalization in the absence of residential treatment.

(c) Either (i) there is clinical evidence that the individual would be a risk to self or others if the individual were not in a PRTF or (ii) as a result of the individual's mental disorder, there is an inability for the individual to adequately care for his own physical needs, and caretakers, guardians, or family members are unable to safely fulfill these needs, representing potential serious harm to self.

(d) The individual requires supervision seven days per week, 24 hours per day to develop skills necessary for daily living; to assist with planning and arranging access to a range of educational, therapeutic, and aftercare services; and to develop the adaptive and functional behavior that will allow the individual to live outside of a PRTF setting.

(e) The individual's current living environment does not provide the support and access to therapeutic services needed.

(f) The individual is medically stable and does not require the 24-hour medical or nursing monitoring or procedures provided in a hospital level of care.

(2) Intensity and quality of service necessary for admission. The following criteria shall be met to satisfy the criteria for intensity and quality of service:

(a) The evaluation and assignment of a DSM-5 diagnosis must result from a face-to-face psychiatric evaluation.

(b) The program provides supervision seven days per week, 24 hours per day to assist with the development of skills necessary for daily living; to assist with planning and arranging access to a range of educational, therapeutic, and aftercare services; and to assist with the development of the adaptive and functional behavior that will allow the individual to live outside of a PRTF setting.

(c) An individualized plan of active psychiatric treatment and residential living support is provided in a timely manner. This treatment must be medically monitored, with 24-hour medical availability and 24-hour nursing services availability. This plan includes (i) at least once-a-week psychiatric reassessments; (ii) intensive family or support system involvement occurring at least once per week or

valid reasons identified as to why such a plan is not clinically appropriate or feasible; (iii) psychotropic medications, when used, are to be used with specific target symptoms identified; (iv) evaluation for current medical problems; (v) evaluation for concomitant substance use issues; and (vi) linkage or coordination with the individual's community resources, including the local school division and FAPT case manager, as appropriate, with the goal of returning the individual to his regular social environment as soon as possible, unless contraindicated. School contact should address an individualized educational plan as appropriate.

(d) A urine drug screen is considered at the time of admission, when progress is not occurring, when substance misuse is suspected, or when substance use and medications may have a potential adverse interaction. After a positive screen, additional random screens are considered and referral to a substance use disorder provider is considered.

(3) Criteria for continued stay. The following criteria shall be met to satisfy the criteria for continued stay:

(a) Despite reasonable therapeutic efforts, clinical evidence indicates at least one of the following: (i) the persistence of problems that caused the admission to a degree that continues to meet the admission criteria (both severity of need and intensity of service needs); (ii) the emergence of additional problems that meet the admission criteria (both severity of need and intensity of service needs); or (iii) that disposition planning or attempts at therapeutic reentry into the community have resulted in or would result in exacerbation of the psychiatric illness to the degree that would necessitate continued PRTF treatment. Subjective opinions without objective clinical information or evidence are not sufficient to meet severity of need based on justifying the expectation that there would be a decompensation.

(b) There is evidence of objective, measurable, and time-limited therapeutic clinical goals that must be met before the individual can return to a new or previous living situation. There is evidence that attempts are being made to secure timely access to treatment resources and housing in anticipation of discharge, with alternative housing contingency plans also being addressed.

(c) There is evidence that the plan of care is focused on the alleviation of psychiatric symptoms and precipitating psychosocial stressors that are interfering with the individual's ability to return to a less-intensive level of care.

(d) The current or revised plan of care can be reasonably expected to bring about significant improvement in the problems meeting the criteria in subdivision 3 c (3) (a) of this subsection, and this is documented in weekly progress notes written and signed by the provider.

(e) There is evidence of intensive family or support system involvement occurring at least once per week, unless there is an identified valid reason why it is not clinically appropriate or feasible.

(f) A discharge plan is formulated that is directly linked to the behaviors or symptoms that resulted in admission and begins to identify appropriate post-PRTF resources including the local school division and FAPT case manager as appropriate.

(g) All applicable elements in admission-intensity and quality of service criteria are applied as related to assessment and treatment if clinically relevant and appropriate.

(4) Discharge criteria. Discharge shall occur if any of the following applies: (i) the level of functioning has improved with respect to the goals outlined in the plan of care, and the individual can reasonably be expected to maintain these gains at a lower level of treatment; (ii) the individual no longer benefits from service as evidenced by absence of progress toward plan of care goals for a period of 30 days; or (iii) other less intensive services may achieve stabilization.

h. The following clinical activities shall be required for each PRTF resident:

(1) A face-to-face assessment shall be performed by an LMHP, LMHP-R, LMHP-RS, or LMHP-S within 30 calendar days prior to admission and weekly thereafter and shall document a DSM-5 or ICD-10 diagnosis.

(2) A certificate of need shall be completed by an independent certification team according to the requirements of 12VAC30-50-130 D 4. Recertification shall occur at least every 30 calendar days by a physician acting within his scope of practice.

(3) The initial plan of care (IPOC) shall be completed within 24 hours of admission by the treatment team. The IPOC shall include:

(a) Individual and family strengths and personal traits that would facilitate recovery and opportunities to develop motivational strategies and treatment alliance;

(b) Diagnoses, symptoms, complaints, and complications indicating the need for admission;

(c) A description of the functional level of the individual;

(d) Treatment objectives with short-term and long-term goals;

(e) Any orders for medications, psychiatric, medical, dental, and any special health care needs, whether or not provided in the facility; education or special education; treatments; interventions; and restorative and rehabilitative services, activities, therapies, social services, diet, and special procedures recommended for the health and safety of the individual;

(f) Plans for continuing care, including review and modification to the plan of care;

(g) Plans for discharge; and

(h) Signature and date by the individual, parent, or legally authorized representative, a physician, and treatment team members.

(4) The CIPOC shall be completed and signed no later than 14 calendar days after admission by the treatment team. The PRTF shall request authorizations from families to release confidential information to collect information from medical and behavioral health treatment providers, schools, FAPT, social services, court services, and other relevant parties. This information shall be used when considering changes and updating the CIPOC. The CIPOC shall meet all of the following criteria:

(a) Be based on a diagnostic evaluation that includes examination of the medical, psychological, social, behavioral, and developmental aspects of the individual's situation and must reflect the need for PRTF care;

(b) Be developed by an interdisciplinary team of physicians and other personnel specified in subdivision 3 d 4 of this subsection who are employed by or provide services to the individual in the facility in consultation with the individual, family member, or legally authorized representative, or appropriate others into whose care the individual will be released after discharge;

(c) Shall state treatment objectives that shall include measurable, evidence-based, and short-term and long-term goals and objectives; family engagement activities; and the design of community-based aftercare with target dates for achievement;

(d) Prescribe an integrated program of therapies, interventions, activities, and experiences designed to meet the treatment objectives related to the individual and family treatment needs; and

(e) Describe comprehensive transition plans and coordination of current care and post-discharge plans with related community services to ensure continuity of care upon discharge with the recipient's family, school, and community.

(5) The CIPOC shall be reviewed every 30 calendar days by the team specified in subdivision 3 d 4 of this subsection to determine that services being provided are or were required from a PRTF and to recommend changes in the plan as indicated by the individual's overall adjustment during the time away from home. The CIPOC shall include the signature and date from the individual, parent, or legally authorized representative, a physician, and treatment team members.

(6) Individual therapy shall be provided three times per week (or more frequently based upon the individual's needs) provided by an LMHP, LMHP-R, LMHP-RP, or LMHP-S and shall be documented in the plan of care and

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progress notes in accordance with the requirements in this subsection and 12VAC30-60-61.

(7) Group therapy shall be provided as clinically indicated by an LMHP, LMHP-R, LMHP-RP, or LMHP-S and shall be documented in the plan of care and progress notes in accordance with the requirements in this subsection.

(8) Family therapy shall be provided as clinically indicated by an LMHP, LMHP-R, LMHP-RP, or LMHP-S and shall be documented in the plan of care and progress notes in accordance with the individual and family or legally authorized representative's goals and the requirements in this subsection.

(9) Family engagement shall be provided in addition to family therapy or counseling. Family engagement shall be provided at least weekly as outlined in the plan of care and daily communication with the treatment team representative and the treatment team representative and the family or legally authorized representative shall be part of the family engagement strategies in the plan of care. For each service authorization period when family engagement is not possible, the PRTF shall identify and document the specific barriers to the individual's engagement with his family or legally authorized representatives. The PRTF shall document on a weekly basis the reasons that family engagement is not occurring as required. The PRTF shall document alternate family engagement strategies to be used as part of the interventions in the plan of care and request approval of the revised plan of care by DMAS. When family engagement is not possible, the PRTF shall collaborate with DMAS on a weekly basis to develop individualized family engagement strategies and document the revised strategies in the plan of care.

(10) Three interventions shall be provided per 24-hour period including nights and weekends. Family engagement activities are considered to be an intervention and shall occur based on the treatment and visitation goals and scheduling needs of the family or legally authorized representative. Interventions shall be documented on a progress note and shall be outlined in and aligned with the treatment goals and objectives in the plan of care. Any deviation from the plan of care shall be documented along with a clinical or medical justification for the deviation based on the needs of the individual.

(11) Therapeutic passes shall be provided as clinically indicated in the plan of care and as paired with community-based and facility-based interventions to promote discharge planning, community integration, and family engagement. Therapeutic passes include activities as listed in subdivision 2 d (13) of this section. Twenty-four therapeutic passes shall be permitted per individual, per admission, without authorization as approved by the treating physician and documented in the plan of care. Additional therapeutic passes shall require service

authorization from DMAS. Any unauthorized therapeutic passes not approved by the provider or DMAS shall result in retraction for those days of service.

(12) Discharge planning shall begin at admission and continue throughout the individual's placement at the PRTF. The parent or legally authorized representative, the community services board (CSB), the family assessment planning team (FAPT) case manager, if appropriate, and the DMAS contracted care manager shall be involved in treatment planning and shall identify the anticipated needs of the individual and family upon discharge and identify the available services in the community. Prior to discharge, the PRTF shall submit an active discharge plan to the DMAS contractor for review. Once the DMAS contractor approves the discharge plan, the provider shall begin collaborating with the parent or legally authorized representative and the treatment team to identify behavioral health and medical providers and schedule appointments for service-specific provider intakes as needed. The PRTF shall request written permission from the parent or legally authorized representative to share treatment information with these providers and shall share information pursuant to a valid release. The PRTF shall request information from post-discharge providers to establish that the planning of services and activities has begun, shall establish that the individual has been enrolled in school, and shall provide individualized education program recommendations to the school if necessary. The PRTF shall inform the DMAS contractor of all scheduled appointments within 30 calendar days of discharge and shall notify the DMAS contractor within one business day of the individual's discharge date from the PRTF.

(13) Failure to perform any of the items as described in subdivisions 3 h (1) through 3 h (12) of this subsection up until the discharge of the individual shall result in a retraction of the per diem and all other contracted and coordinated service payments for each day of noncompliance.

i. The team developing the CIPOC shall meet the following requirements:

(1) At least one member of the team must have expertise in pediatric behavioral health. Based on education and experience, preferably including competence in child or adolescent psychiatry, the team must be capable of all of the following: assessing the individual's immediate and long-range therapeutic needs, developmental priorities, and personal strengths and liabilities; assessing the potential resources of the individual's family or legally authorized representative; setting treatment objectives; and prescribing therapeutic modalities to achieve the CIPOC's objectives.

(2) The team shall include one of the following:

(a) A board-eligible or board-certified psychiatrist;



- (b) A licensed clinical psychologist and a physician licensed to practice medicine or osteopathy; or
  - (c) A physician licensed to practice medicine or osteopathy with specialized training and experience in the diagnosis and treatment of mental diseases and a licensed clinical psychologist.
  - (3) The team shall also include one of the following: an LMHP, LMHP-supervisee, LMHP-resident, or LMHP-RP.
4. Requirements for independent certification teams applicable to both therapeutic group homes and PRTFs:
- a. The independent certification team shall certify the need for PRTF or therapeutic group home services and issue a certificate of need document within the process and timeliness standards as approved by DMAS under contractual agreement with the DMAS contractor.
  - b. The independent certification team shall be approved by DMAS through a memorandum of understanding with a locality or be approved under contractual agreement with the DMAS contractor. The team shall initiate and coordinate referral to the family assessment and planning team (FAPT) as defined in §§ 2.2-5207 and 2.2-5208 of the Code of Virginia to facilitate care coordination and for consideration of educational coverage and other supports not covered by DMAS.
  - c. The independent certification team shall assess the individual's and family's strengths and needs in addition to diagnoses, behaviors, and symptoms that indicate the need for behavioral health treatment and also consider whether local resources and community-based care are sufficient to meet the individual's treatment needs, as presented within the previous 30 calendar days, within the least restrictive environment.
  - d. The LMHP, LMHP-supervisee, LMHP-resident, or LMHP-RP, as part of the independent certification team, shall meet with an individual and the individual's parent or legally authorized representative within two business days from a request to assess the individual's needs and begin the process to certify the need for an out-of-home placement.
  - e. The independent certification team shall meet with an individual and the individual's parent or legally authorized representative within 10 business days from a request to certify the need for an out-of-home placement.
  - f. The independent certification team shall assess the treatment needs of the individual to issue a certificate of need (CON) for the most appropriate medically necessary services. The certification shall include the dated signature and credentials for each of the team members who rendered the certification. Referring or treatment providers shall not actively participate during the certification process but may provide supporting clinical documentation to the certification team.
  - g. The CON shall be effective for 30 calendar days prior to admission.
  - h. The independent certification team shall provide the completed CON to the facility within one calendar day of completing the CON.
  - i. The individual and the individual's parent or legally authorized representative shall have the right to freedom of choice of service providers.
  - j. If the individual or the individual's parent or legally authorized representative disagrees with the independent certification team's recommendation, the parent or legally authorized representative may appeal the recommendation in accordance with 12VAC30-110.
  - k. If the LMHP, as part of the independent certification team, determines that the individual is in immediate need of treatment, the LMHP shall refer the individual to an appropriate Medicaid-enrolled crisis intervention provider, crisis stabilization provider, or inpatient psychiatric provider in accordance with 12VAC30-50-226 or shall refer the individual for emergency admission to a PRTF or therapeutic group home under subdivision 4 m of this subsection and shall also alert the individual's managed care organization.
  - l. For individuals who are already eligible for Medicaid at the time of admission, the independent certification team shall be a DMAS-authorized contractor with competence in the diagnosis and treatment of mental illness, preferably in child psychiatry, and have knowledge of the individual's situation and service availability in the individual's local service area. The team shall be composed of at least one physician and one LMHP, including LMHP-S, LMHP-R, and LMHP-RP. An individual's parent or legally authorized representative shall be included in the certification process.
  - m. For emergency admissions, an assessment must be made by the team responsible for the comprehensive individual plan of care (CIPOC). Reimbursement shall only occur when a certificate of need is issued by the team responsible for the CIPOC within 14 calendar days after admission. The certification shall cover any period of time after admission and before claims are made for reimbursement by Medicaid. After processing an emergency admission, the therapeutic group home, PRTF, or institution for mental diseases (IMD) shall notify the DMAS contractor within five calendar days of the individual's status as being under the care of the facility.
  - n. For all individuals who apply and become eligible for Medicaid while an inpatient in a facility or program, the certification team shall refer the case to the DMAS contractor for referral to the local FAPT to facilitate care coordination and consideration of educational coverage and other supports not covered by DMAS.

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o. For individuals who apply and become eligible for Medicaid while an inpatient in the facility or program, the certification shall be made by the team responsible for the CIPOC and shall cover any period of time before the application for Medicaid eligibility for which claims are made for reimbursement by Medicaid. Upon the individual's enrollment into the Medicaid program, the therapeutic group home, PRTF, or IMD shall notify the DMAS contractor of the individual's status as being under the care of the facility within five calendar days of the individual becoming eligible for Medicaid benefits.

5. Service authorization requirements applicable to both therapeutic group homes and PRTFs:

a. Authorization shall be required and shall be conducted by DMAS using medical necessity criteria specified in this subsection.

b. An individual shall have a valid psychiatric diagnosis and meet the medical necessity criteria as defined in this subsection to satisfy the criteria for admission. The diagnosis shall be current, as documented within the past 12 months. If a current diagnosis is not available, the individual will require a mental health evaluation prior to admission by an LMHP affiliated with the independent certification team to establish a diagnosis and recommend and coordinate referral to the available treatment options.

c. At authorization, an initial length of stay shall be agreed upon by the individual and parent or legally authorized representative with the treating provider, and the treating provider shall be responsible for evaluating and documenting evidence of treatment progress, assessing the need for ongoing out-of-home placement, and obtaining authorization for continued stay.

d. Information that is required to obtain authorization for these services shall include:

(1) A completed state-designated uniform assessment instrument approved by DMAS;

(2) A certificate of need completed by an independent certification team specifying all of the following:

(a) The ambulatory care and Medicaid or FAPT-funded services available in the community do not meet the specific treatment needs of the individual;

(b) Alternative community-based care was not successful;

(c) Proper treatment of the individual's psychiatric condition requires services in a 24-hour supervised setting under the direction of a physician; and

(d) The services can reasonably be expected to improve the individual's condition or prevent further regression so that a more intensive level of care will not be needed;

(3) Diagnosis as defined in the DSM-5 and based on (i) an evaluation by a psychiatrist or LMHP that has been completed within 30 calendar days of admission or (ii) a diagnosis confirmed in writing by an LMHP after review

of a previous evaluation completed within one year of admission;

(4) A description of the individual's behavior during the seven calendar days immediately prior to admission;

(5) A description of alternate placements and community mental health and rehabilitation services and traditional behavioral health services pursued and attempted and the outcomes of each service;

(6) The individual's level of functioning and clinical stability;

(7) The level of family involvement and supports available; and

(8) The initial plan of care (IPOC).

6. Continued stay criteria requirements applicable to both therapeutic group homes and PRTFs. For a continued stay authorization or a reauthorization to occur, the individual shall meet the medical necessity criteria as defined in this subsection to satisfy the criteria for continuing care. The length of the authorized stay shall be determined by DMAS. A current plan of care and a current (within 30 calendar days) summary of progress related to the goals and objectives of the plan of care shall be submitted to DMAS for continuation of the service. The service provider shall also submit:

a. A state uniform assessment instrument, completed no more than 30 business days prior to the date of submission;

b. Documentation that the required services have been provided as defined in the plan of care;

c. Current (within the last 14 calendar days) information on progress related to the achievement of all treatment and discharge-related goals; and

d. A description of the individual's continued impairment and treatment needs, problem behaviors, family engagement activities, community-based discharge planning and care coordination, and need for a residential level of care.

7. EPSDT services requirements applicable to therapeutic group homes and PRTFs. Service limits may be exceeded based on medical necessity for individuals eligible for EPSDT. EPSDT services may involve service modalities not available to other individuals, such as applied behavioral analysis and neuro-rehabilitative services. Individualized services to address specific clinical needs identified in an EPSDT screening shall require authorization by a DMAS contractor. In unique EPSDT cases, DMAS may authorize specialized services beyond the standard therapeutic group home or PRTF medical necessity criteria and program requirements, as medically and clinically indicated to ensure the most appropriate treatment is available to each individual. Treating service providers authorized to deliver medically necessary EPSDT services in therapeutic group homes and PRTFs on behalf of a Medicaid-enrolled

individual shall adhere to the individualized interventions and evidence-based progress measurement criteria described in the plan of care and approved for reimbursement by DMAS. All documentation, independent certification team, family engagement activity, therapeutic pass, and discharge planning requirements shall apply to cases approved as EPSDT PRTF or therapeutic group home service.

8. Inpatient psychiatric services shall be covered for individuals younger than 21 years of age for medically necessary stays in inpatient psychiatric facilities described in 42 CFR 440.160(b)(1) and (b)(2) for the purpose of diagnosis and treatment of mental health and behavioral disorders identified under EPSDT when such services meet the requirements set forth in subdivision 7 of this subsection.

a. Inpatient psychiatric services shall be provided under the direction of a physician.

b. Inpatient psychiatric services shall be provided by (i) a psychiatric hospital that undergoes a state survey to determine whether the hospital meets the requirements for participation in Medicare as a psychiatric hospital as specified in 42 CFR 482.60 or is accredited by a national organization whose psychiatric hospital accrediting program has been approved by the Centers for Medicare and Medicaid Services (CMS); or (ii) a hospital with an inpatient psychiatric program that undergoes a state survey to determine whether the hospital meets the requirements for participation in Medicare as a hospital, as specified in 42 CFR part 482 or is accredited by a national accrediting organization whose hospital accrediting program has been approved by CMS.

c. Inpatient psychiatric admissions at general acute care hospitals and freestanding psychiatric hospitals shall also be subject to the requirements of 12VAC30-50-100, 12VAC30-50-105, and 12VAC30-60-25.

d. PRTF services are reimbursable only when the treatment program is fully in compliance with (i) 42 CFR Part 441 Subpart D, specifically 42 CFR 441.151(a) and 42 CFR 441.151 (b) and 42 CFR 441.152 through 42 CFR 441.156 and (ii) the Conditions of Participation in 42 CFR Part 483 Subpart G. Each admission must be service authorized and the treatment must meet DMAS requirements for clinical necessity.

e. The inpatient psychiatric benefit for individuals younger than 21 years of age shall include services that are provided pursuant to a certification of medical necessity and plan of care developed by an interdisciplinary team of professionals and shall involve active treatment designed to achieve the individual's discharge from inpatient status at the earliest possible time. The inpatient psychiatric benefit shall include services provided under arrangement furnished by Medicaid enrolled providers other than the inpatient psychiatric facility, as long as the inpatient psychiatric facility (i) arranges for and oversees the provision of all services, (ii) maintains all medical records

of care furnished to the individual, and (iii) ensures that the services are furnished under the direction of a physician. Services provided under arrangement shall be documented by a written referral from the inpatient psychiatric facility. For purposes of pharmacy services, a prescription ordered by an employee or contractor of the inpatient psychiatric facility who is licensed to prescribe drugs shall be considered the referral.

f. State freestanding psychiatric hospitals shall arrange for, maintain records of, and ensure that physicians order pharmacy services and emergency services. Private freestanding psychiatric hospitals shall arrange for, maintain records of, and ensure that physicians order the following services: (i) medical and psychological services including those furnished by physicians, licensed mental health professionals, and other licensed or certified health professionals (i.e., nutritionists, podiatrists, respiratory therapists, and substance abuse treatment practitioners); (ii) outpatient hospital services; (iii) physical therapy, occupational therapy, and therapy for individuals with speech, hearing, or language disorders; (iv) laboratory and radiology services; (v) vision services; (vi) dental, oral surgery, and orthodontic services; (vii) nonemergency transportation services; and (viii) emergency services. (Emergency services means the same as is set forth in 12VAC30-50-310 B.)

E. Mental health family support partners.

1. Mental health family support partners are peer recovery support services and are nonclinical, peer-to-peer activities that engage, educate, and support the caregiver and an individual's self-help efforts to improve health recovery resiliency and wellness. Mental health family support partners ~~is a peer support service and~~ is a strength-based, individualized service provided to the caregiver of a Medicaid-eligible individual younger than 21 years of age with a mental health disorder that is the focus of support. The services provided to the caregiver and individual must be directed exclusively toward the benefit of the Medicaid-eligible individual. Services are expected to improve outcomes for individuals younger than 21 years of age with complex needs who are involved with multiple systems and increase the individual's and family's confidence and capacity to manage their own services and supports while promoting recovery and healthy relationships. These services are rendered by a PRS who is (i) a parent of a minor or adult child with a similar mental health disorder or (ii) an adult with personal experience with a family member with a similar mental health disorder with experience navigating behavioral health care services. The PRS shall perform the service within the scope of his knowledge, lived experience, and education.

2. Under the clinical oversight of the LMHP ~~making the recommendation for~~, LMHP-R, LMHP-RP, or LMHP-S

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completing the assessment recommending mental health family support partners, the peer recovery specialist in consultation with his direct supervisor shall develop a recovery, resiliency, and wellness plan based on the ~~LMHP's recommendation~~ assessment of the LMHP, LMHP-R, LMHP-RP, or LMHP-S for service, the individual's and the caregiver's perceived recovery needs, and any clinical assessments or service specific provider intakes as defined in this section within 30 calendar days of the initiation of service. Development of the recovery, resiliency, and wellness plan shall include collaboration with the individual and the individual's caregiver. Individualized goals and strategies shall be focused on the individual's identified needs for self-advocacy and recovery. The recovery, resiliency, and wellness plan shall also include documentation of how many days per week and how many hours per week are required to carry out the services in order to meet the goals of the plan. The recovery, resiliency, and wellness plan shall be completed, signed, and dated by (i) the LMHP, LMHP-R, LMHP-RP, or LMHP-S; (ii) the PRS; (iii) the direct supervisor; (iv) the individual; and (v) the individual's caregiver within 30 calendar days of the initiation of service. The PRS shall act as an advocate for the individual, encouraging the individual and the caregiver to take a proactive role in developing and updating goals and objectives in the individualized recovery planning.

3. Documentation of required activities shall be required as set forth in 12VAC30-130-5200 A, C; and E through J.

4. Limitations and exclusions to service delivery shall be the same as set forth in 12VAC30-130-5210.

5. Caregivers of individuals younger than 21 years of age who qualify to receive mental health family support partners shall (i) care for an individual with a mental health disorder who requires recovery assistance and (ii) meet two or more of the following:

a. Individual and his caregiver need peer-based recovery-oriented services for the maintenance of wellness and the acquisition of skills needed to support the individual.

b. Individual and his caregiver need assistance to develop self-advocacy skills to assist the individual in achieving self-management of the individual's health status.

c. Individual and his caregiver need assistance and support to prepare the individual for a successful work or school experience.

d. Individual and his caregiver need assistance to help the individual and caregiver assume responsibility for recovery.

6. Individuals 18, 19, and 20 years of age who meet the medical necessity criteria in 12VAC30-50-226 B 7 e, who would benefit from receiving peer supports directly and who choose to receive mental health peer support services directly instead of through their caregiver, shall be

permitted to receive mental health peer support services by an appropriate PRS.

7. To qualify for continued mental health family support partners, medical necessity criteria shall continue to be met, and progress notes shall document the status of progress relative to the goals identified in the recovery, resiliency, and wellness plan.

8. Discharge criteria from mental health family support partners shall be the same as set forth in 12VAC30-130-5180 E.

9. Mental health family support partners services shall be rendered on an individual basis or in a group.

10. Prior to service initiation, ~~a documented recommendation for mental health family support partners services shall be made~~ an assessment shall be conducted and documented by a licensed mental health professional (LMHP) an LMHP, LMHP-R, LMHP-RP, or LMHP-S who is acting within his scope of practice under state law. The ~~recommendation~~ assessment shall verify that the individual meets the medical necessity criteria set forth in subdivision 5 of this subsection. ~~The recommendation shall be valid for no longer than~~ The assessment shall be included as part of the recovery, resiliency, and wellness plan and medical record. Services shall be initiated within 30 calendar days from when the assessment was complete.

11. Effective July 1, 2017, a peer recovery specialist shall have the qualifications, education, experience, and certification required by DBHDS ~~in order to be eligible to register with the Virginia Board of Counseling on or after July 1, 2018. Upon the promulgation of regulations in accordance with 12VAC35-250. Peer recovery specialists shall be registered by the Board of Counseling; registration of peer recovery specialists by the Board of Counseling shall be required.~~ The PRS shall perform mental health family support partners services under the oversight of the LMHP ~~making, LMHP-R, LMHP-RP, or LMHP-S who assessed the individual and made~~ the recommendation for services and providing the clinical oversight of the recovery, resiliency, and wellness plan.

12. The PRS shall be employed by or have a contractual relationship with the enrolled provider licensed for one of the following:

a. Acute care general and emergency department hospital services licensed by the Department of Health.

b. Freestanding psychiatric hospital and inpatient psychiatric unit licensed by the Department of Behavioral Health and Developmental Services.

c. Psychiatric residential treatment facility licensed by the Department of Behavioral Health and Developmental Services.

d. Therapeutic group home licensed by the Department of Behavioral Health and Developmental Services.

e. Outpatient mental health clinic services licensed by the Department of Behavioral Health and Developmental Services.

f. Outpatient psychiatric services provider.

g. A community mental health and rehabilitative services provider licensed by the Department of Behavioral Health and Developmental Services as a provider of one of the following community mental health and rehabilitative services as defined in this section, 12VAC30-50-226, 12VAC30-50-420, or 12VAC30-50-430 for which the individual younger than 21 years meets medical necessity criteria: (i) intensive in home; (ii) therapeutic day treatment; (iii) day treatment or partial hospitalization; (iv) crisis intervention; (v) crisis stabilization; (vi) mental health skill building; or (vii) mental health case management.

13. Only the licensed and enrolled provider as referenced in subdivision (12) of this subsection shall be eligible to bill and receive reimbursement from DMAS or its contractor for mental health family support partner services. Payments shall not be permitted to providers that fail to enter into an enrollment agreement with DMAS or its contractor. Reimbursement shall be subject to retraction for any billed service that is determined not to be in compliance with DMAS requirements.

14. Supervision of the PRS shall meet the requirements set forth in 12VAC30-50-226 B 7 l and m.

F. Hearing aids shall be reimbursed for individuals younger than 21 years of age according to medical necessity when provided by practitioners licensed to engage in the practice of fitting or dealing in hearing aids under the Code of Virginia.

G. Addiction and recovery treatment services shall be covered under EPSDT consistent with 12VAC30-130-5000 et seq.

H. Services facilitators shall be required for all consumer-directed personal care services consistent with the requirements set out in 12VAC30-120-935.

I. Behavioral therapy services shall be covered for individuals younger than 21 years of age.

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

"Behavioral therapy" means systematic interventions provided by licensed practitioners acting within the scope of practice defined under a Virginia Department of Health Professions regulatory board and covered as remedial care under 42 CFR 440.130(d) to individuals younger than 21 years of age. Behavioral therapy includes applied behavioral analysis. Family training related to the implementation of the behavioral therapy shall be included as part of the behavioral therapy service.

Behavioral therapy services shall be subject to clinical reviews and determined as medically necessary. Behavioral therapy may be provided in the individual's home and community settings as deemed by DMAS or its contractor as medically necessary treatment.

"Counseling" means a professional mental health service that can only be provided by a person holding a license issued by a health regulatory board at the Department of Health Professions, which includes conducting assessments, making diagnoses of mental disorders and conditions, establishing treatment plans, and determining treatment interventions.

"Individual" means the child or adolescent younger than 21 years of age who is receiving behavioral therapy services.

"Primary care provider" means a licensed medical practitioner who provides preventive and primary health care and is responsible for providing routine EPSDT screening and referral and coordination of other medical services needed by the individual.

2. Behavioral therapy services shall be designed to enhance communication skills and decrease maladaptive patterns of behavior, which if left untreated, could lead to more complex problems and the need for a greater or a more intensive level of care. The service goal shall be to ensure the individual's family or caregiver is trained to effectively manage the individual's behavior in the home using modification strategies. All services shall be provided in accordance with the ISP and clinical assessment summary.

3. Behavioral therapy services shall be covered when recommended by the individual's primary care provider or other licensed physician, licensed physician assistant, or licensed nurse practitioner and determined by DMAS or its contractor to be medically necessary to correct or ameliorate significant impairments in major life activities that have resulted from either developmental, behavioral, or mental disabilities. Criteria for medical necessity are set out in 12VAC30-60-61 ~~H~~ E. Service-specific provider intakes shall be required at the onset of these services in order to receive authorization for reimbursement. Individual service plans (ISPs) shall be required throughout the entire duration of services. The services shall be provided in accordance with the individual service plan and clinical assessment summary. These services shall be provided in settings that are natural or normal for a child or adolescent without a disability, such as the individual's home, unless there is justification in the ISP, which has been authorized for reimbursement, to include service settings that promote a generalization of behaviors across different settings to maintain the targeted functioning outside of the treatment setting in the individual's home and the larger community within which

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the individual resides. Covered behavioral therapy services shall include:

- a. Initial and periodic service-specific provider intake as defined in 12VAC30-60-61 ~~H~~ F;
- b. Development of initial and updated ISPs as established in 12VAC30-60-61 ~~H~~ F;
- c. Clinical supervision activities. Requirements for clinical supervision are set out in 12VAC30-60-61 ~~H~~ F;
- d. Behavioral training to increase the individual's adaptive functioning and communication skills;
- e. Training a family member in behavioral modification methods as established in 12VAC30-60-61 ~~H~~ F;
- f. Documentation and analysis of quantifiable behavioral data related to the treatment objectives; and
- g. Care coordination.

## J. School health services.

1. School health assistant services are repealed effective July 1, 2006.

2. School divisions may provide routine well-child screening services under the State Plan. Diagnostic and treatment services that are otherwise covered under early and periodic screening, diagnosis and treatment services, shall not be covered for school divisions. School divisions to receive reimbursement for the screenings shall be enrolled with DMAS as clinic providers.

a. Children enrolled in managed care organizations shall receive screenings from those organizations. School divisions shall not receive reimbursement for screenings from DMAS for these children.

b. School-based services are listed in a recipient's individualized education program (IEP) and covered under one or more of the service categories described in § 1905(a) of the Social Security Act. These services are necessary to correct or ameliorate defects of physical or mental illnesses or conditions.

3. Providers shall be licensed under the applicable state practice act or comparable licensing criteria by the Virginia Department of Education, and shall meet applicable qualifications under 42 CFR Part 440. Identification of defects, illnesses or conditions and services necessary to correct or ameliorate them shall be performed by practitioners qualified to make those determinations within their licensed scope of practice, either as a member of the IEP team or by a qualified practitioner outside the IEP team.

a. Providers shall be employed by the school division or under contract to the school division.

b. Supervision of services by providers recognized in subdivision 4 of this subsection shall occur as allowed under federal regulations and consistent with Virginia law, regulations, and DMAS provider manuals.

c. The services described in subdivision 4 of this subsection shall be delivered by school providers, but may also be available in the community from other providers.

d. Services in this subsection are subject to utilization control as provided under 42 CFR Parts 455 and 456.

e. The IEP shall determine whether or not the services described in subdivision 4 of this subsection are medically necessary and that the treatment prescribed is in accordance with standards of medical practice. Medical necessity is defined as services ordered by IEP providers. The IEP providers are qualified Medicaid providers to make the medical necessity determination in accordance with their scope of practice. The services must be described as to the amount, duration and scope.

## 4. Covered services include:

a. Physical therapy and occupational therapy and services for individuals with speech, hearing, and language disorders, performed by, or under the direction of, providers who meet the qualifications set forth at 42 CFR 440.110. This coverage includes audiology services.

b. Skilled nursing services are covered under 42 CFR 440.60. These services are to be rendered in accordance to the licensing standards and criteria of the Virginia Board of Nursing. Nursing services are to be provided by licensed registered nurses or licensed practical nurses but may be delegated by licensed registered nurses in accordance with the regulations of the Virginia Board of Nursing, especially the section on delegation of nursing tasks and procedures. The licensed practical nurse is under the supervision of a registered nurse.

(1) The coverage of skilled nursing services shall be of a level of complexity and sophistication (based on assessment, planning, implementation, and evaluation) that is consistent with skilled nursing services when performed by a licensed registered nurse or a licensed practical nurse. These skilled nursing services shall include dressing changes, maintaining patent airways, medication administration or monitoring, and urinary catheterizations.

(2) Skilled nursing services shall be directly and specifically related to an active, written plan of care developed by a registered nurse that is based on a written order from a physician, physician assistant, or nurse practitioner for skilled nursing services. This order shall be recertified on an annual basis.

c. Psychiatric and psychological services performed by licensed practitioners within the scope of practice are defined under state law or regulations and covered as physicians' services under 42 CFR 440.50 or medical or other remedial care under 42 CFR 440.60. These outpatient services include individual medical psychotherapy, group medical psychotherapy coverage, and family medical psychotherapy. Psychological and

neuropsychological testing are allowed when done for purposes other than educational diagnosis, school admission, evaluation of an individual with intellectual or developmental disability prior to admission to a nursing facility, or any placement issue. These services are covered in the nonschool settings also. School providers who may render these services when licensed by the state include psychiatrists, licensed clinical psychologists, school psychologists, licensed clinical social workers, professional counselors, psychiatric clinical nurse specialists, marriage and family therapists, and school social workers.

d. Personal care services are covered under 42 CFR 440.167 and performed by persons qualified under this subsection. The personal care assistant is supervised by a DMAS recognized school-based health professional who is acting within the scope of licensure. This professional develops a written plan for meeting the needs of the individual, which is implemented by the assistant. The assistant must have qualifications comparable to those for other personal care aides recognized by the Virginia Department of Medical Assistance Services. The assistant performs services such as assisting with toileting, ambulation, and eating. The assistant may serve as an aide on a specially adapted school vehicle that enables transportation to or from the school or school contracted provider on days when the student is receiving a Medicaid-covered service under the IEP. Individuals requiring an aide during transportation on a specially adapted vehicle shall have this stated in the IEP.

e. Medical evaluation services are covered as physicians' services under 42 CFR 440.50 or as medical or other remedial care under 42 CFR 440.60. Persons performing these services shall be licensed physicians, physician assistants, or nurse practitioners. These practitioners shall identify the nature or extent of an individual's medical or other health related condition.

f. Transportation is covered as allowed under 42 CFR 431.53 and described at State Plan Attachment 3.1-D (12VAC30-50-530). Transportation shall be rendered only by school division personnel or contractors. Transportation is covered for a child who requires transportation on a specially adapted school vehicle that enables transportation to or from the school or school contracted provider on days when the individual is receiving a Medicaid-covered service under the IEP. Transportation shall be listed in the individual's IEP. Individuals requiring an aide during transportation on a specially adapted vehicle shall have this stated in the IEP.

g. Assessments are covered as necessary to assess or reassess the need for medical services in an individual's IEP and shall be performed by any of the above licensed practitioners within the scope of practice. Assessments

and reassessments not tied to medical needs of the individual shall not be covered.

5. DMAS will ensure through quality management review that duplication of services will be monitored. School divisions have a responsibility to ensure that if an individual is receiving additional therapy outside of the school, that there will be coordination of services to avoid duplication of service.

K. Family planning services and supplies for individuals of child-bearing age.

1. Service must be ordered or prescribed and directed or performed within the scope of the license of a practitioner of the healing arts.

2. Family planning services shall be defined as those services that delay or prevent pregnancy. Coverage of such services shall not include services to treat infertility or services to promote fertility. Family planning services shall not cover payment for abortion services and no funds shall be used to perform, assist, encourage, or make direct referrals for abortions.

3. Family planning services as established by § 1905(a)(4)(C) of the Social Security Act include annual family planning exams; cervical cancer screening for women; sexually transmitted infection (STI) testing; lab services for family planning and STI testing; family planning education, counseling, and preconception health; sterilization procedures; nonemergency transportation to a family planning service; and U.S. Food and Drug Administration approved prescription and over-the-counter contraceptives, subject to limits in 12VAC30-50-210.

## **12VAC30-50-226. Community mental health services.**

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

"Activities of daily living" or "ADLs" means personal care tasks such as bathing, dressing, toileting, transferring, and eating or feeding. An individual's degree of independence in performing these activities is a part of determining appropriate level of care and service needs.

"Affiliated" means any entity or property in which a provider or facility has a direct or indirect ownership interest of 5.0% or more, or any management, partnership, or control of an entity.

"Behavioral health service" means the same as defined in 12VAC30-130-5160.

~~"Behavioral health services administrator" or "BHSA" means an entity that manages or directs a behavioral health benefits program under contract with DMAS. DMAS' designated BHSA shall be authorized to constitute, oversee, enroll, and train a provider network; perform service authorization; adjudicate claims; process claims; gather and maintain data;~~

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~~reimburse providers; perform quality assessment and improvement; conduct member outreach and education; resolve member and provider issues; and perform utilization management including care coordination for the provision of Medicaid-covered behavioral health services. Such authority shall include entering into or terminating contracts with providers in accordance with DMAS authority pursuant to 42 CFR Part 1002 and § 32.1-325 D and E of the Code of Virginia. DMAS shall retain authority for and oversight of the BHSA entity or entities.~~

"Certified prescriber" means an employee of either the local community services board or behavioral health authority or its designee who is skilled in the assessment and treatment of mental illness and who has completed a certification program approved by DBHDS.

"Clinical experience" means, for the purpose of rendering (i) mental health day treatment/partial hospitalization, (ii) intensive community treatment, (iii) psychosocial rehabilitation, (iv) mental health skill building, (v) crisis stabilization, or (vi) crisis intervention services, practical experience in providing direct services to individuals with diagnoses of mental illness or intellectual disability or the provision of direct geriatric services or special education services. Experience shall include supervised internships, supervised practicums, or supervised field experience. Experience shall not include unsupervised internships, unsupervised practicums, and unsupervised field experience. The equivalency of part-time hours to full-time hours for the purpose of this requirement shall be established by DBHDS in the document titled Human Services and Related Fields Approved Degrees/Experience, issued March 12, 2013, revised May 3, 2013.

"Code" means the Code of Virginia.

"DBHDS" means the Department of Behavioral Health and Developmental Services consistent with Chapter 3 (§ 37.2-300 et seq.) of Title 37.2 of the Code of Virginia.

"Direct supervisor" means the person who provides direct supervision to the peer recovery specialist. The direct supervisor (i) shall have two consecutive years of documented practical experience rendering peer support services or family support services, have certification ~~training~~ as a PRS under a certifying body approved by DBHDS, and have documented completion of the DBHDS PRS supervisor training; (ii) shall be a qualified mental health professional (QMHP-A, QMHP-C, or QMHP-E) as defined in 12VAC35-105-20 with at least two consecutive years of documented experience as a QMHP, and who has documented completion of the DBHDS PRS supervisor training; or (iii) shall be an LMHP, LMHP-R, LMHP-RP, or LMHP-S who has documented completion of the DBHDS PRS supervisor training who is acting within his scope of practice under state law. An LMHP, LMHP-R, LMHP-RP, or LMHP-S providing services before April 1,

2018, shall have until April 1, 2018, to complete the DBHDS PRS supervisor training.

"DMAS" means the Department of Medical Assistance Services and its contractor consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

"DSM-5" means the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, copyright 2013, American Psychiatric Association.

"Human services field" means the same as the term is defined by ~~the Department of Health Professions~~ DBHDS in the guidance document entitled ~~Approved Degrees in Human Services and Related Fields for QMHP Registration, adopted November 3, 2017, revised February 9, 2018~~ Human Services and Related Fields Approved Degrees/Experience, issued March 12, 2013, revised May 3, 2013.

"Individual" means the patient, client, or recipient of services described in this section.

"Individual service plan" or "ISP" means a comprehensive and regularly updated treatment plan specific to the individual's unique treatment needs as identified in the service-specific provider intake. The ISP contains, but is not limited to, the individual's treatment or training needs, the individual's goals and measurable objectives to meet the identified needs, services to be provided with the recommended frequency to accomplish the measurable goals and objectives, the estimated timetable for achieving the goals and objectives, and an individualized discharge plan that describes transition to other appropriate services. The individual shall be included in the development of the ISP and the ISP shall be signed by the individual. If the individual is a minor child, the ISP shall also be signed by the individual's parent or legal guardian. Documentation shall be provided if the individual, who is a minor child or an adult who lacks legal capacity, is unable or unwilling to sign the ISP.

"Individualized training" means instruction and practice in functional skills and appropriate behavior related to the individual's health and safety, instrumental activities of daily living skills, and use of community resources; assistance with medical management; and monitoring health, nutrition, and physical condition. The training shall be rehabilitative and based on a variety of incremental (or cumulative) approaches or tools to organize and guide the individual's life planning and shall reflect what is important to the individual in addition to all other factors that affect the individual's functioning, including effects of the disability and issues of health and safety.

"Licensed mental health professional" or "LMHP" means the same as defined in 12VAC35-105-20.

"LMHP-resident" or "LMHP-R" means the same as "resident" as defined in (i) 18VAC115-20-10 for licensed professional counselors; (ii) 18VAC115-50-10 for licensed



marriage and family therapists; or (iii) 18VAC115-60-10 for licensed substance abuse treatment practitioners. An LMHP-resident shall be in continuous compliance with the regulatory requirements of the applicable counseling profession for supervised practice and shall not perform the functions of the LMHP-R or be considered a "resident" until the supervision for specific clinical duties at a specific site has been preapproved in writing by the Virginia Board of Counseling. For purposes of Medicaid reimbursement to their supervisors for services provided by such residents, they shall use the title "Resident" in connection with the applicable profession after their signatures to indicate such status.

"LMHP-resident in psychology" or "LMHP-RP" means the same as an individual in a residency, as that term is defined in 18VAC125-20-10, program for clinical psychologists. An LMHP-resident in psychology shall be in continuous compliance with the regulatory requirements for supervised experience as found in 18VAC125-20-65 and shall not perform the functions of the LMHP-RP or be considered a "resident" until the supervision for specific clinical duties at a specific site has been preapproved in writing by the Virginia Board of Psychology. For purposes of Medicaid reimbursement by supervisors for services provided by such residents, they shall use the title "Resident in Psychology" after their signatures to indicate such status.

"LMHP-supervisee in social work," "LMHP-supervisee," or "LMHP-S" means the same as "supervisee" is defined in 18VAC140-20-10 for licensed clinical social workers. An LMHP-supervisee in social work shall be in continuous compliance with the regulatory requirements for supervised practice as found in 18VAC140-20-50 and shall not perform the functions of the LMHP-S or be considered a "supervisee" until the supervision for specific clinical duties at a specific site is preapproved in writing by the Virginia Board of Social Work. For purposes of Medicaid reimbursement to their supervisors for services provided by supervisees, these persons shall use the title "Supervisee in Social Work" after their signatures to indicate such status.

"Peer recovery specialist" or "PRS" means the same as defined in ~~12VAC30-130-5160~~ 12VAC35-250-10.

"Peer recovery support services" means the same as defined in 12VAC35-250-10.

"Person centered" means the same as defined in 12VAC30-130-5160.

"Qualified mental health professional-adult" or "QMHP-A" means the same as defined in 12VAC35-105-20.

"Qualified mental health professional-child" or "QMHP-C" means the same as defined in 12VAC35-105-20.

"Qualified mental health professional-eligible" or "QMHP-E" means the same as ~~the term is~~ defined in 12VAC35-105-20;

~~including a "QMHP trainee" as defined by the Department of Health Professions.~~

"Qualified paraprofessional in mental health" or "QPPMH" means the same as defined in 12VAC35-105-20.

"Recovery-oriented services" means the same as defined in 12VAC30-130-5160.

"Recovery, resiliency, and wellness plan" means the same as defined in 12VAC30-130-5160.

"Register" or "registration" means notifying DMAS or its contractor that an individual will be receiving services that do not require service authorization.

"Resiliency" means the same as defined in 12VAC30-130-5160.

"Review of ISP" means that the provider evaluates and updates the individual's progress toward meeting the individualized service plan objectives and documents the outcome of this review. For DMAS to determine that these reviews are satisfactory and complete, the reviews shall (i) update the goals, objectives, and strategies of the ISP to reflect any change in the individual's progress and treatment needs as well as any newly identified problems; (ii) be conducted in a manner that enables the individual to participate in the process; and (iii) be documented in the individual's medical record no later than 15 calendar days from the date of the review.

"Self-advocacy" means the same as defined in 12VAC30-130-5160.

"Service authorization" means the process to approve specific services for an enrolled Medicaid, FAMIS Plus, or FAMIS individual by a DMAS service authorization contractor prior to service delivery and reimbursement in order to validate that the service requested is medically necessary and meets DMAS and DMAS contractor criteria for reimbursement. Service authorization does not guarantee payment for the service.

"Service-specific provider intake" means the same as defined in 12VAC30-50-130 and also includes individuals who are older than 21 years of age.

"Strength-based" means the same as defined in 12VAC30-130-5160.

"Supervision" means the same as defined in 12VAC30-130-5160.

B. Mental health services. The following services, with their definitions, shall be covered: day treatment/partial hospitalization, psychosocial rehabilitation, crisis services, intensive community treatment (ICT), and mental health skill building. Staff travel time shall not be included in billable time for reimbursement. These services, in order to be covered, shall meet medical necessity criteria based upon diagnoses made by LMHPs, LMHP-Rs, LMHP-RPs, or LMHP-S who are practicing within the scope of their licenses and are reflected

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in provider records and on providers' claims for services by recognized diagnosis codes that support and are consistent with the requested professional services. These services are intended to be delivered in a person-centered manner. The individuals who are receiving these services shall be included in all service planning activities. All services which do not require service authorization require registration. This registration shall transmit service-specific information to DMAS or its contractor in accordance with service authorization requirements.

1. Day treatment/partial hospitalization services shall be provided in sessions of two or more consecutive hours per day, which may be scheduled multiple times per week, to groups of individuals in a nonresidential setting. These services, ~~limited annually to 780 units~~, include the major diagnostic, medical, psychiatric, psychosocial, and psychoeducational treatment modalities designed for individuals who require coordinated, intensive, comprehensive, and multidisciplinary treatment but who do not require inpatient treatment. One unit of service shall be defined as a minimum of two but less than four hours on a given day. Two units of service shall be defined as at least four but less than seven hours in a given day. Three units of service shall be defined as seven or more hours in a given day. Authorization is required for Medicaid reimbursement.

a. Day treatment/partial hospitalization services shall be time limited interventions that are more intensive than outpatient services and are required to stabilize an individual's psychiatric condition. The services are delivered when the individual is at risk of psychiatric hospitalization or is transitioning from a psychiatric hospitalization to the community. The service-specific provider intake, as defined at 12VAC30-50-130, shall document the individual's behavior and describe how the individual is at risk of psychiatric hospitalization or is transitioning from a psychiatric hospitalization to the community.

b. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from mental, behavioral, or emotional illness that results in significant functional impairments in major life activities. Individuals must meet at least two of the following criteria on a continuing or intermittent basis:

- (1) Experience difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of hospitalization or homelessness or isolation from social supports;
- (2) Experience difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition, or managing finances to such a degree that health or safety is jeopardized;
- (3) Exhibit such inappropriate behavior that the individual requires repeated interventions or monitoring by the

mental health, social services, or judicial system that have been documented; or

(4) Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or recognize significantly inappropriate social behavior.

c. Individuals shall be discharged from this service when they are no longer in an acute psychiatric state and other less intensive services may achieve psychiatric stabilization.

d. Admission and services for time periods longer than 90 calendar days must be authorized based upon a face-to-face evaluation by a physician, psychiatrist, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, or psychiatric clinical nurse specialist.

e. These services may only be rendered by an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, QMHP-A, QMHP-C, QMHP-E, or a QPPMH.

2. Psychosocial rehabilitation shall be provided at least two or more hours per day to groups of individuals in a nonresidential setting. These services, ~~limited annually to 936 units~~, include assessment, education to teach the patient about the diagnosed mental illness and appropriate medications to avoid complication and relapse, and opportunities to learn and use independent living skills and to enhance social and interpersonal skills within a supportive and normalizing program structure and environment. One unit of service is defined as a minimum of two but less than four hours on a given day. Two units are defined as at least four but less than seven hours in a given day. Three units of service shall be defined as seven or more hours in a given day. Authorization is required for Medicaid reimbursement. The service-specific provider intake, as defined at 12VAC30-50-130, shall document the individual's behavior and describe how the individual meets criteria for this service.

a. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from mental, behavioral, or emotional illness that results in significant functional impairments in major life activities. Services are provided to individuals (i) who without these services would be unable to remain in the community or (ii) who meet at least two of the following criteria on a continuing or intermittent basis:

- (1) Experience difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of psychiatric hospitalization, homelessness, or isolation from social supports;
- (2) Experience difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition, or managing finances to such a degree that health or safety is jeopardized;

- (3) Exhibit such inappropriate behavior that repeated interventions documented by the mental health, social services, or judicial system are or have been necessary; or
- (4) Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or significantly inappropriate social behavior.

b. These services may only be rendered by an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, QMHP-A, QMHP-C, QMHP-E, or a QPPMH.

3. Crisis intervention shall provide immediate mental health care, available 24 hours a day, seven days per week, to assist individuals who are experiencing acute psychiatric dysfunction requiring immediate clinical attention. This service's objectives shall be to prevent exacerbation of a condition, to prevent injury to the client or others, and to provide treatment in the context of the least restrictive setting. Crisis intervention activities shall include assessing the crisis situation, providing short-term counseling designed to stabilize the individual, providing access to further immediate assessment and follow-up, and linking the individual and family with ongoing care to prevent future crises. Crisis intervention services may include office visits, home visits, preadmission screenings, telephone contacts, and other client-related activities for the prevention of institutionalization. The service-specific provider intake, as defined at 12VAC30-50-130, shall document the individual's behavior and describe how the individual meets criteria for this service. The provision of this service to an individual shall be registered with either DMAS, ~~DMAS contractors, or the BHSA~~ or its contactor within one business day or the completion of the service-specific provider intake to avoid duplication of services and to ensure informed care coordination.

a. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from an acute crisis of a psychiatric nature that puts the individual at risk of psychiatric hospitalization. Individuals must meet at least two of the following criteria at the time of admission to the service:

- (1) Experience difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of psychiatric hospitalization, homelessness, or isolation from social supports;
- (2) Experience difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition, or managing finances to such a degree that health or safety is jeopardized;
- (3) Exhibit such inappropriate behavior that immediate interventions documented by mental health, social services, or the judicial system are or have been necessary; or

(4) Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or significantly inappropriate social behavior.

b. ~~The annual limit for crisis intervention is 720 units per year.~~ A unit shall equal 15 minutes.

c. These services may only be rendered by an LMHP, an LMHP-supervisee, LMHP-resident, LMHP-RP, or a certified prescriber.

4. Intensive community treatment (ICT), ~~initially covered for a maximum of 26 weeks based on an initial service-specific provider intake and may be reauthorized for up to an additional 26 weeks annually~~ shall be provided based on written intake and certification of need by a licensed mental health provider (LMHP), ~~shall be defined by 12VAC35-105-20 or~~ LMHP-S, LMHP-R, and LMHP-RP and shall include medical psychotherapy, psychiatric assessment, medication management, and care coordination activities offered to outpatients outside the clinic, hospital, or office setting for individuals who are best served in the community. Authorization is required for Medicaid reimbursement.

a. To qualify for ICT, the individual must meet at least one of the following criteria:

(1) The individual must be at high risk for psychiatric hospitalization or becoming or remaining homeless due to mental illness or require intervention by the mental health or criminal justice system due to inappropriate social behavior.

(2) The individual has a history (three months or more) of a need for intensive mental health treatment or treatment for co-occurring serious mental illness and substance use disorder and demonstrates a resistance to seek out and utilize appropriate treatment options.

b. A written, service-specific provider intake, as defined at 12VAC30-50-130, that documents the individual's eligibility and the need for this service must be completed prior to the initiation of services. This intake must be maintained in the individual's records.

c. An individual service plan shall be initiated at the time of admission and must be fully developed, as defined in this section, within 30 days of the initiation of services.

d. ~~The annual unit limit shall be 130 units with a unit equaling one hour.~~ A unit shall equal one hour.

e. These services may only be rendered by a team that meets the requirements of 12VAC35-105-1370.

5. Crisis stabilization services for nonhospitalized individuals shall provide direct mental health care to individuals experiencing an acute psychiatric crisis which may jeopardize their current community living situation. Services ~~may~~ shall be provided for up to a 15-day period per crisis episode following a face-to-face service-specific provider intake by an LMHP, LMHP-supervisee, LMHP-resident, or LMHP-RP. Only one unit of service shall be

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reimbursed for this intake. The provision of this service to an individual shall be registered with either ~~DMAS, DMAS contractors, or the BHS~~ BHSA or its contractor within one business day of the completion of the service-specific provider intake to avoid duplication of services and to ensure informed care coordination.

a. The goals of crisis stabilization programs shall be to avert hospitalization or rehospitalization, provide normative environments with a high assurance of safety and security for crisis intervention, stabilize individuals in psychiatric crisis, and mobilize the resources of the community support system and family members and others for on-going maintenance and rehabilitation. The services must be documented in the individual's records as having been provided consistent with the ISP in order to receive Medicaid reimbursement.

b. The crisis stabilization program shall provide to individuals, as appropriate, psychiatric assessment including medication evaluation, treatment planning, symptom and behavior management, and individual and group counseling.

c. This service may be provided in any of the following settings, but shall not be limited to: (i) the home of an individual who lives with family or other primary caregiver; (ii) the home of an individual who lives independently; or (iii) community-based programs licensed by DBHDS to provide residential services but which are not institutions for mental disease (IMDs).

d. This service shall not be reimbursed for (i) individuals with medical conditions that require hospital care; (ii) individuals with a primary diagnosis of substance abuse; or (iii) individuals with psychiatric conditions that cannot be managed in the community (i.e., individuals who are of imminent danger to themselves or others).

~~e. The maximum limit on this service is 60 days annually.~~

~~f. e.~~ Services must be documented through daily progress notes and a daily log of times spent in the delivery of services. The service-specific provider intake, as defined at 12VAC30-50-130, shall document the individual's behavior and describe how the individual meets criteria for this service. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from an acute crisis of a psychiatric nature that puts the individual at risk of psychiatric hospitalization. Individuals must meet at least two of the following criteria at the time of admission to the service:

(1) Experience difficulty in establishing and maintaining normal interpersonal relationships to such a degree that the individual is at risk of psychiatric hospitalization, homelessness, or isolation from social supports;

(2) Experience difficulty in activities of daily living such as maintaining personal hygiene, preparing food and

maintaining adequate nutrition, or managing finances to such a degree that health or safety is jeopardized;

(3) Exhibit such inappropriate behavior that immediate interventions documented by the mental health, social services, or judicial system are or have been necessary; or

(4) Exhibit difficulty in cognitive ability such that the individual is unable to recognize personal danger or significantly inappropriate social behavior.

g. These services may only be rendered by an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, QMHP-A, QMHP-C, QMHP-E or a certified prescriber.

6. Mental health skill-building services (MHSS) shall be defined as goal-directed training to enable individuals to achieve and maintain community stability and independence in the most appropriate, least restrictive environment. Authorization is required for Medicaid reimbursement. Services that are rendered before the date of service authorization shall not be reimbursed. These services may be authorized up to six consecutive months as long as the individual meets the coverage criteria for this service. The service-specific provider intake, as defined at 12VAC30-50-130, shall document the individual's behavior and describe how the individual meets criteria for this service. These services shall provide goal-directed training in the following areas in order to be reimbursed by Medicaid or the DMAS contractor: (i) functional skills and appropriate behavior related to the individual's health and safety, instrumental activities of daily living, and use of community resources; (ii) assistance with medication management; and (iii) monitoring of health, nutrition, and physical condition with goals towards self-monitoring and self-regulation of all of these activities. Providers shall be reimbursed only for training activities defined in the ISP and only where services meet the service definition, eligibility, and service provision criteria and this section. A review of MHSS services by an LMHP, LMHP-R, LMHP-RP, or LMHP-S shall be repeated for all individuals who have received at least six months of MHSS to determine the continued need for this service.

a. Individuals qualifying for this service shall demonstrate a clinical necessity for the service arising from a condition due to mental, behavioral, or emotional illness that results in significant functional impairments in major life activities. Services are provided to individuals who require individualized goal-directed training in order to achieve or maintain stability and independence in the community.

b. Individuals 21 years of age and older shall meet all of the following criteria in order to be eligible to receive mental health skill-building services:

(1) The individual shall have one of the following as a primary mental health diagnosis:

(a) Schizophrenia or other psychotic disorder as set out in the DSM-5;

- (b) Major depressive disorder;
  - (c) Recurrent Bipolar I or Bipolar II; or
  - (d) Any other serious mental health disorder that a physician has documented specific to the identified individual within the past year and that includes all of the following: (i) is a serious mental illness; (ii) results in severe and recurrent disability; (iii) produces functional limitations in the individual's major life activities that are documented in the individual's medical record; and (iv) requires individualized training for the individual in order to achieve or maintain independent living in the community.
- (2) The individual shall require individualized goal-directed training in order to acquire or maintain self-regulation of basic living skills, such as symptom management; adherence to psychiatric and physical health medication treatment plans; appropriate use of social skills and personal support systems; skills to manage personal hygiene, food preparation, and the maintenance of personal adequate nutrition; money management; and use of community resources.
- (3) The individual shall have a prior history of any of the following: (i) psychiatric hospitalization; (ii) either residential or nonresidential crisis stabilization; (iii) intensive community treatment (ICT) or program of assertive community treatment (PACT) services; (iv) placement in a psychiatric residential treatment facility (PRTF) as a result of decompensation related to the individual's serious mental illness; or (v) a temporary detention order (TDO) evaluation, pursuant to § 37.2-809 B of the Code of Virginia. This criterion shall be met in order to be initially admitted to services and not for subsequent authorizations of service. Discharge summaries from prior providers that clearly indicate (i) the type of treatment provided, (ii) the dates of the treatment previously provided, and (iii) the name of the treatment provider shall be sufficient to meet this requirement. Family member statements shall not suffice to meet this requirement.
- (4) The individual shall have had a prescription for antipsychotic, mood stabilizing, or antidepressant medications within the 12 months prior to the service-specific provider intake date. If a physician or other practitioner who is authorized by his license to prescribe medications indicates that antipsychotic, mood stabilizing, or antidepressant medications are medically contraindicated for the individual, the provider shall obtain medical records signed by the physician or other licensed prescriber detailing the contraindication. This documentation shall be maintained in the individual's mental health skill-building services record, and the provider shall document and describe how the individual will be able to actively participate in and benefit from services without the assistance of medication. This

criterion shall be met upon admission to services and shall not be required for subsequent authorizations of service. Discharge summaries from prior providers that clearly indicate (i) the type of treatment provided, (ii) the dates of the treatment previously provided, and (iii) the name of the treatment provider shall be sufficient to meet this requirement. Family member statements shall not suffice to meet this requirement.

c. Individuals 18 to 21 years of age shall meet all of the following criteria in order to be eligible to receive mental health skill-building services:

(1) The individual shall not be living in a supervised setting as described in § 63.2-905.1 of the Code of Virginia. If the individual is transitioning into an independent living situation, MHSS shall only be authorized for up to six months prior to the date of transition.

(2) The individual shall have at least one of the following as a primary mental health diagnosis:

(a) Schizophrenia or other psychotic disorder as set out in the DSM-5;

(b) Major depressive disorder;

(c) Recurrent Bipolar I or Bipolar II; or

(d) Any other serious mental health disorder that a physician has documented specific to the identified individual within the past year and that includes all of the following: (i) is a serious mental illness or serious emotional disturbance; (ii) results in severe and recurrent disability; (iii) produces functional limitations in the individual's major life activities that are documented in the individual's medical record; and (iv) requires individualized training for the individual in order to achieve or maintain independent living in the community.

(3) The individual shall require individualized goal-directed training in order to acquire or maintain self-regulation of basic living skills such as symptom management; adherence to psychiatric and physical health medication treatment plans; appropriate use of social skills and personal support systems; skills to manage personal hygiene, food preparation, and the maintenance of personal adequate nutrition; money management; and use of community resources.

(4) The individual shall have a prior history of any of the following: (i) psychiatric hospitalization; (ii) either residential or nonresidential crisis stabilization; (iii) intensive community treatment (ICT) or program of assertive community treatment (PACT) services; (iv) placement in a psychiatric residential treatment facility as a result of decompensation related to the individual's serious mental illness; or (v) temporary detention order (TDO) evaluation pursuant to § 37.2-809 B of the Code of Virginia. This criterion shall be met in order to be initially admitted to services and not for subsequent authorizations

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of service. Discharge summaries from prior providers that clearly indicate (i) the type of treatment provided, (ii) the dates of the treatment previously provided, and (iii) the name of the treatment provider shall be sufficient to meet this requirement. Family member statements shall not suffice to meet this requirement.

(5) The individual shall have had a prescription for antipsychotic, mood stabilizing, or antidepressant medications, within the 12 months prior to the assessment date. If a physician or other practitioner who is authorized by his license to prescribe medications indicates that antipsychotic, mood stabilizing, or antidepressant medications are medically contraindicated for the individual, the provider shall obtain medical records signed by the physician or other licensed prescriber detailing the contraindication. This documentation of medication management shall be maintained in the individual's mental health skill-building services record. For individuals not prescribed antipsychotic, mood stabilizing, or antidepressant medications, the provider shall have documentation from the medication management physician describing how the individual will be able to actively participate in and benefit from services without the assistance of medication. This criterion shall be met in order to be initially admitted to services and not for subsequent authorizations of service. Discharge summaries from prior providers that clearly indicate (i) the type of treatment provided, (ii) the dates of the treatment previously provided, and (iii) the name of the treatment provider shall be sufficient to meet this requirement. Family member statements shall not suffice to meet this requirement.

(6) An independent clinical assessment, established in 12VAC30-130-3020, shall be completed for the individual.

d. Service-specific provider intakes shall be required at the onset of services and individual service plans (ISPs) shall be required during the entire duration of services. Services based upon incomplete, missing, or outdated service-specific provider intakes or ISPs shall be denied reimbursement. Requirements for service-specific provider intakes and ISPs are set out in 12VAC30-50-130.

e. ~~The yearly limit for mental health skill-building services is 520 units.~~ Only direct face-to-face contacts and services to the individual shall be reimbursable. One unit is 1 to 2.99 hours per day, and two units is 3 to 4.99 hours per day.

f. These services may only be rendered by an LMHP, LMHP-R, LMHP-RP, LMHP-S, QMHP-A, QMHP-C, QMHP-E, or QPPMH.

g. The provider shall clearly document details of the services provided during the entire amount of time billed.

h. The ISP shall not include activities that contradict or duplicate those in the treatment plan established by the

therapeutic group home or assisted living facility. The provider shall coordinate mental health skill-building services with the treatment plan established by the group home or assisted living facility and shall document all coordination activities in the medical record.

i. Limits and exclusions.

(1) Therapeutic group home and assisted living facility providers shall not serve as the mental health skill-building services provider for individuals residing in the provider's respective facility. Individuals residing in facilities may, however, receive MHSS from another MHSS agency not affiliated with the owner of the facility in which they reside.

(2) Mental health skill-building services shall not be reimbursed for individuals who are receiving in-home residential services or congregate residential services through the Intellectual Disability Waiver or Individual and Family Developmental Disabilities Support Waiver.

(3) Mental health skill-building services shall not be reimbursed for individuals who are also receiving services under the Department of Social Services independent living program (22VAC40-151), independent living services (22VAC40-131 and 22VAC40-151), or independent living arrangement (22VAC40-131) or any Comprehensive Services Act-funded independent living skills programs.

(4) Mental health skill-building services shall not be available to individuals who are receiving treatment foster care (12VAC30-130-900 et seq.).

(5) Mental health skill-building services shall not be available to individuals who reside in intermediate care facilities for individuals with intellectual disabilities or hospitals.

(6) Mental health skill-building services shall not be available to individuals who reside in nursing facilities, except for up to 60 days prior to discharge. If the individual has not been discharged from the nursing facility during the 60-day period of services, mental health skill-building services shall be terminated and no further service authorizations shall be available to the individual unless a provider can demonstrate and document that mental health skill-building services are necessary. Such documentation shall include facts demonstrating a change in the individual's circumstances and a new plan for discharge requiring up to 60 days of mental health skill-building services.

(7) Mental health skill-building services shall not be available for residents of psychiatric residential treatment centers except for the intake code H0032 (modifier U8) in the seven days immediately prior to discharge.

(8) Mental health skill-building services shall not be reimbursed if personal care services or attendant care services are being received simultaneously, unless

justification is provided why this is necessary in the individual's mental health skill-building services record. Medical record documentation shall fully substantiate the need for services when personal care or attendant care services are being provided. This applies to individuals who are receiving additional services through the Intellectual Disability Waiver (12VAC30-120-1000 et seq.), Individual and Family Developmental Disabilities Support Waiver (12VAC30-120-700 et seq.), the Elderly or Disabled with Consumer Direction Waiver (12VAC30-120-900 et seq.), and EPSDT services (12VAC30-50-130).

(9) Mental health skill-building services shall not be duplicative of other services. Providers shall be required to ensure that if an individual is receiving additional therapeutic services that there will be coordination of services by either the LMHP, LMHP-R, LMHP-RP, LMHP-S, QMHP-A, QMHP-C, QMHP-E, or QPPMH to avoid duplication of services.

(10) Individuals who have organic disorders, such as delirium, dementia, or other cognitive disorders not elsewhere classified, will be prohibited from receiving mental health skill-building services unless their physicians issue signed and dated statements indicating that the individuals can benefit from this service.

(11) Individuals who are not diagnosed with a serious mental health disorder but who have personality disorders or other mental health disorders, or both, that may lead to chronic disability shall not be excluded from the mental health skill-building services eligibility criteria provided that the individual has a primary mental health diagnosis from the list included in subdivision B 6 b (1) or B 6 c (2) of this section and that the provider can document and describe how the individual is expected to actively participate in and benefit from mental health skill-building services.

#### 7. Mental health peer support services.

a. Mental health peer support services are peer recovery support services and are nonclinical, peer-to-peer activities that engage, educate, and support an individual's self-help efforts to improve health recovery, resiliency, and wellness. Mental health peer support services for adults is a person centered, strength-based, and recovery-oriented rehabilitative service for individuals 21 years of age or older provided by a peer recovery specialist successful in the recovery process with lived experience with a mental health disorder, who is trained to offer support and assistance in helping others in the recovery to reduce the disabling effects of a mental health disorder that is the focus of support. Services assist the individual with developing and maintaining a path to recovery, resiliency, and wellness. Specific peer support service activities shall emphasize the acquisition, development, and enhancement of recovery, resiliency, and wellness.

Services are designed to promote empowerment, self-determination, understanding, and coping skills through mentoring and service coordination supports, as well as to assist individuals in achieving positive coping mechanisms for the stressors and barriers encountered when recovering from their illnesses or disorders.

b. Under the clinical oversight of the LMHP, LMHP-R, LMHP-RP, or LMHP-S assessing the individual and making the recommendation for mental health support services, the peer recovery specialist in consultation with his direct supervisor shall develop a recovery, resiliency, and wellness plan based on the LMHP's recommendation of the LMHP, LMHP-R, LMHP-RP, or LMHP-S for service, the individual's perceived recovery needs, and any clinical assessments or service specific provider intakes as defined in this section within 30 calendar days of the initiation of service. Development of the recovery, resiliency, and wellness plan shall include collaboration with the individual. Individualized goals and strategies shall be focused on the individual's identified needs for self-advocacy and recovery. The recovery, resiliency, and wellness plan shall also include documentation of how many days per week and how many hours per week are required to carry out the services in order to meet the goals of the plan. The recovery, resiliency, and wellness plan shall be completed, signed, and dated by (i) the LMHP, LMHP-R, LMHP-RP, or LMHP-S; (ii) the PRS; (iii) the direct supervisor; and (iv) the individual within 30 calendar days of the initiation of service. The PRS shall act as an advocate for the individual, encouraging the individual to take a proactive role in developing and updating goals and objectives in the individualized recovery planning.

c. Documentation of required activities shall be required as set forth in 12VAC30-130-5200 A, C, and E through J.

d. Limitations and exclusions to service delivery shall be the same as set forth in 12VAC30-130-5210.

e. Individuals 21 years of age or older qualifying for mental health peer support services shall meet the following requirements:

(1) Require recovery-oriented assistance and support services for the acquisition of skills needed to engage in and maintain recovery; for the development of self-advocacy skills to achieve a decreasing dependency on formalized treatment systems; and to increase responsibilities, wellness potential, and shared accountability for the individual's own recovery.

(2) Have a documented mental health disorder diagnosis.

(3) Demonstrate moderate to severe functional impairment because of a diagnosis that interferes with or limits performance in at least one of the following domains: educational (e.g., obtaining a high school or college degree); social (e.g., developing a social support system); vocational (e.g., obtaining part-time or full-time

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employment); self-maintenance (e.g., managing symptoms, understanding his illness, living more independently).

f. To qualify for continued mental health peer support services, medical necessity criteria shall continue to be met, and progress notes shall document the status of progress relative to the goals identified in the recovery, resiliency, and wellness plan.

g. Discharge criteria from mental health peer support services is the same as set forth in 12VAC30-130-5180 E.

h. Mental health peer support services shall be rendered on an individual basis or in a group.

i. Prior to service initiation, ~~a documented recommendation for mental health peer support services shall be made~~ an assessment shall be conducted and documented by a licensed mental health professional acting as an LMHP, LMHP-R, LMHP-RP, or LMHP-S within the scope of practice under state law. The recommendation assessment shall verify that the individual meets the medical necessity criteria set forth in subdivision 7 e of this subsection. The recommendation shall be valid for no longer than The assessment shall be included as part of the recovery, resiliency, and wellness plan and medical record. Services shall be initiated within 30 calendar days from when the assessment was complete.

j. Effective July 1, 2017, a peer recovery specialist shall have the qualifications, education, experience, and certification established by DBHDS ~~in order to be eligible to register with the Board of Counseling on or after July 1, 2018. Upon the promulgation of regulations by in accordance with 12VAC35-250. Effective December 18, 2017, Peer Recovery Specialists shall also be registered with the Board of Counseling, registration of peer recovery specialists by the Board of Counseling shall be required.~~ The PRS shall perform mental health peer support services under the oversight of the LMHP ~~making who assessed the individual and made the recommendation for services and providing the clinical oversight of the recovery, resiliency, and wellness plan.~~ The PRS shall be employed by or have a contractual relationship with an enrolled provider licensed for one of the following:

- (1) Acute care general hospital licensed by the Department of Health.
- (2) Freestanding psychiatric hospital and inpatient psychiatric unit licensed by the Department of Behavioral Health and Developmental Services.
- (3) Outpatient mental health clinic services licensed by the Department of Behavioral Health and Developmental Services.
- (4) Outpatient psychiatric services provider.
- (5) Rural health clinics and federally qualified health centers.

(6) Hospital emergency department services licensed by the Department of Health.

(7) Community mental health and rehabilitative services provider licensed by the Department of Behavioral Health and Developmental Services as a provider of one of the following community mental health and rehabilitative services defined in this section or 12VAC30-50-420 for which the individual meets medical necessity criteria:

- (a) Day treatment or partial hospitalization;
- (b) Psychosocial rehabilitation;
- (c) Crisis intervention;
- (d) Intensive community treatment;
- (e) Crisis stabilization;
- (f) Mental health skill building; or
- (g) Mental health case management.

k. Only the licensed and enrolled provider referenced in subdivision 7 j of this subsection shall be eligible to bill mental health peer support services. Payments shall not be permitted to providers that fail to enter into an enrollment agreement with DMAS or its contractor. Reimbursement shall be subject to retraction for any billed service that is determined to not to be in compliance with DMAS requirements.

l. Supervision of the PRS shall be required as set forth in the definition of "supervision" in 12VAC30-130-5160. Supervision of the PRS shall also meet the following requirements: the direct supervisor shall perform direct supervision of the PRS as needed based on the level of urgency and intensity of service being provided. The direct supervisor shall have an employment or contract relationship with the same provider entity that employs or contracts with the PRS. Direct supervisors shall maintain documentation of all supervisory sessions. In no instance shall supervisory sessions be performed less than as provided in subdivisions 7 l (1) and 7 l (2) of this subsection:

(1) If the PRS has less than 12 months of experience delivering peer support services or family support partners, the PRS shall receive face-to-face, one-to-one supervisory meetings of sufficient length to address identified challenges for a minimum of a 30-minute session, two times a month. The direct supervisor must be available at least by telephone while the PRS is on duty.

(2) If the PRS has been delivering peer support services or family support partners for over 12 months and fewer than 24 months, the PRS must receive monthly face-to-face, one-to-one supervision of sufficient length to address identified challenges for a minimum of 30 minutes. The direct supervisor must be available by telephone for consult within 24 hours of service delivery if needed.

m. The supervisor shall be under the clinical oversight of the LMHP ~~making~~, LMHP-R, LMHP-RP, or LMHP-S



who assessed the individual and made the recommendation for services, and the peer recovery specialist in consultation with his direct supervisor shall conduct and document a review of the recovery, resiliency, and wellness plan every 90 calendar days with the individual and the caregiver, as applicable. The review shall be signed by the PRS and the individual and, as applicable, the identified family member or caregiver. Review of the recovery, resiliency, and wellness plan means the PRS evaluates and updates the individual's progress every 90 calendar days toward meeting the plan's goals and documents the outcome of this review in the individual's medical record. For DMAS to determine that these reviews are complete, the reviews shall (i) update the goals and objectives as needed to reflect any change in the individual's recovery as well as any newly identified needs, (ii) be conducted in a manner that enables the individual to actively participate in the process, and (iii) be documented by the PRS in the individual's medical record no later than 15 calendar days from the date of the review.

**12VAC30-60-143. Mental health services utilization criteria; definitions.**

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

"Child or adolescent" means the same as "adolescent or child" defined in 12VAC30-50-130.

"Licensed mental health professional" or "LMHP" means the same as defined in 12VAC30-50-130.

"LMHP-resident" or "LMHP-R" means the same as defined in 12VAC30-50-130.

"LMHP-resident in psychology" or "LMHP-RP" means the same as defined in 12VAC30-50-130.

"LMHP-supervisee in social work," "LMHP-supervisee," or "LMHP-S" means the same as defined in 12VAC30-50-130.

"Qualified mental health professional-adult" or "QMHP-A" means the same as defined in 12VAC30-50-130.

"Qualified mental health professional-child" or "QMHP-C" means the same as defined in 12VAC30-50-130.

"Qualified mental health professional-eligible" or "QMHP-E" means the same as defined in 12VAC35-105-20.

B. Utilization reviews shall include determinations that providers meet the following requirements:

1. The provider shall meet the federal and state requirements for administrative and financial management capacity. The provider shall obtain, prior to the delivery of services, and shall maintain and update periodically as the Department of Medical Assistance Services (DMAS) or its contractor

requires, a current provider enrollment agreement for each Medicaid service that the provider offers. DMAS shall not reimburse providers who do not enter into a provider enrollment agreement for a service prior to offering that service.

2. The provider shall document and maintain individual case records in accordance with state and federal requirements.

3. The provider shall ensure eligible individuals have free choice of providers of mental health services and other medical care under the Individual Service Plan.

4. Providers shall comply with DMAS marketing requirements as set out in 12VAC30-130-2000. Providers that DMAS determines have violated these marketing requirements shall be terminated as a Medicaid provider pursuant to 12VAC30-130-2000 E. Providers whose contracts are terminated shall be afforded the right of appeal pursuant to the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

5. If an individual receiving community mental health rehabilitative services is also receiving case management services pursuant to 12VAC30-50-420 or 12VAC30-50-430, the provider shall collaborate with the case manager by notifying the case manager of the provision of community mental health rehabilitative services and sending monthly updates on the individual's treatment status. A discharge summary shall be sent to the care coordinator/case manager within 30 calendar days of the discontinuation of services. Service providers and case managers who are using the same electronic health record for the individual shall meet requirements for delivery of the notification, monthly updates, and discharge summary upon entry of this documentation into the electronic health record.

6. The provider shall determine who the primary care provider is and inform him of the individual's receipt of community mental health rehabilitative services. The documentation shall include who was contacted, when the contact occurred, and what information was transmitted.

7. The provider shall include the individual and the family/caregiver, as may be appropriate, in the development of the ISP. To the extent that the individual's condition requires assistance for participation, assistance shall be provided. The ISP shall be updated annually or as the needs and progress of the individual changes. An ISP that is not updated either annually or as the treatment interventions based on the needs and progress of the individual change shall be considered outdated. An ISP that does not include all required elements specified in 12VAC30-50-226 shall be considered incomplete. All ISPs shall be completed, signed, and contemporaneously dated by the LMHP, LMHP-R, LMHP-RP, LMHP-S, QMHP-A, QMHP-C, or QMHP-E preparing the ISP within a maximum of 30 days of the date of the completed intake unless otherwise specified. The

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child's or adolescent's ISP shall also be signed by the parent/legal guardian and the adult individual shall sign his own. If the individual, whether a child, adolescent, or an adult, is unwilling to sign the ISP, then the service provider shall document the clinical or other reasons why the individual was not able or willing to sign the ISP. Signatures shall be obtained unless there is a clinical reason that renders the individual unable to sign the ISP.

(a) Every three months, the LMHP, LMHP-R, LMHP-RP, LMHP-S, QMHP-A, QMHP-C, or QMHP-E shall review the ISP, modify the ISP as appropriate, and update the ISP, and all of these activities shall occur with the individual in a manner in which the individual may participate in the process. The ISP shall be rewritten at least annually.

(b) The goals, objectives, and strategies of the ISP shall be updated to reflect any change or changes in the individual's progress and treatment needs as well as any newly-identified problems.

(c) Documentation of ISP review shall be added to the individual's medical record no later than 15 days from the calendar date of the review as evidenced by the dated signatures of the LMHP, LMHP-R, LMHP-RP, LMHP-S, QMHP-A, QMHP-C, or QMHP-E, and the individual.

C. Day treatment/partial hospitalization services shall be provided following a service-specific provider intake and be authorized by the LMHP, LMHP-R, LMHP-RP, or LMHP-S. An ISP, as defined in 12VAC30-50-226, shall be fully completed, signed, and dated by either the LMHP, LMHP-R, LMHP-RP, LMHP-S, the QMHP-A, QMHP-E, or QMHP-C and reviewed/approved by the LMHP, LMHP-R, LMHP-RP, or LMHP-S within 30 days of service initiation.

1. The enrolled provider of day treatment/partial hospitalization shall be licensed by DBHDS as providers of day treatment services.

2. Services shall only be provided by an LMHP, LMHP-R, LMHP-RP, LMHP-S, QMHP-A, QMHP-C, QMHP-E, or a qualified paraprofessional under the supervision of a QMHP-A, QMHP-C, QMHP-E, or an LMHP, LMHP-R, LMHP-RP, or LMHP-S as defined at 12VAC35-105-20, except for LMHP-R, LMHP-RP, and LMHP-S, which are defined in 12VAC30-50-226.

3. The program shall operate a minimum of two continuous hours in a 24-hour period.

4. Individuals shall be discharged from this service when other less intensive services may achieve or maintain psychiatric stabilization.

D. Psychosocial rehabilitation services shall be provided to those individuals who have experienced long-term or repeated psychiatric hospitalization, or who experience difficulty in activities of daily living and interpersonal skills, or whose support system is limited or nonexistent, or who are unable to

function in the community without intensive intervention or when long-term services are needed to maintain the individual in the community.

1. Psychosocial rehabilitation services shall be provided following a service-specific provider intake that clearly documents the need for services. This intake shall be completed by either an LMHP, LMHP-R, LMHP-RP, or LMHP-S. An ISP shall be completed by either the LMHP, LMHP-R, LMHP-RP, LMHP-S, or the QMHP-A, QMHP-E, or QMHP-C and be reviewed/approved by either an LMHP, LMHP-R, LMHP-RP, or LMHP-S within 30 calendar days of service initiation. At least every three months, the LMHP, LMHP-R, LMHP-RP, LMHP-S, the QMHP-A, QMHP-C, or QMHP-E must review, modify as appropriate, and update the ISP.

2. Psychosocial rehabilitation services of any individual that continue more than six months shall be reviewed by an LMHP, LMHP-R, LMHP-RP, or LMHP-S who shall document the continued need for the service. The ISP shall be rewritten at least annually.

3. The enrolled provider of psychosocial rehabilitation services shall be licensed by DBHDS as a provider of psychosocial rehabilitation services.

4. Psychosocial rehabilitation services may be provided by an LMHP, LMHP-R, LMHP-RP, LMHP-S, QMHP-A, QMHP-C, QMHP-E, or a qualified paraprofessional under the supervision of a QMHP-A, a QMHP-C, a QMHP-E, or an LMHP, LMHP-R, LMHP-RP, or LMHP-S.

5. The program shall operate a minimum of two continuous hours in a 24-hour period.

6. Time allocated for field trips may be used to calculate time and units if the goal is to provide training in an integrated setting, and to increase the individual's understanding or ability to access community resources.

E. Initiation of crisis intervention services shall be indicated following a service-specific provider intake that documents a marked reduction in the individual's psychiatric, adaptive or behavioral functioning or an extreme increase in personal distress. In order to receive reimbursement, providers shall register this service with DMAS, ~~DMAS contractors, or the BHS~~ BHSA or its contractor within one business day of the completion of the service-specific provider intake to avoid duplication of services and to ensure informed care coordination.

1. The crisis intervention services provider shall be licensed as a provider of emergency services by DBHDS.

2. Client-related activities provided in association with a face-to-face contact are reimbursable.

3. An individual service plan (ISP) shall not be required for newly admitted individuals to receive this service. Inclusion

of crisis intervention as a service on the ISP shall not be required for the service to be provided on an emergency basis.

4. For individuals receiving scheduled, short-term counseling as part of the crisis intervention service, an ISP shall be developed or revised to reflect the short-term counseling goals by the fourth face-to-face contact.

5. Reimbursement shall be provided for short-term crisis counseling contacts occurring within a 30-day period from the time of the first face-to-face crisis contact. ~~Other than the annual service limits, there~~ There are no restrictions (regarding number of contacts or a given time period to be covered) for reimbursement for unscheduled crisis contacts.

6. Crisis intervention services may be provided to eligible individuals outside of the clinic and reimbursed, provided the provision of out-of-clinic services is clinically/programmatically appropriate. Travel by staff to provide out-of-clinic services shall not be reimbursable. Crisis intervention may involve contacts with the family or significant others. If other clinic services are billed at the same time as crisis intervention, documentation must clearly support the separation of the services with distinct treatment goals.

7. An LMHP, LMHP-R, LMHP-RP, LMHP-S, or a certified prescriber shall conduct a face-to-face service-specific provider intake. The intake shall document the need for and the anticipated duration of the crisis service.

8. Crisis intervention shall be provided by either an LMHP, LMHP-R, LMHP-RP, LMHP-S, or a certified prescriber.

9. For an admission to a freestanding inpatient psychiatric facility for individuals younger than age 21, federal regulations (42 CFR 441.152) require certification of the admission by an independent team. The independent team must include mental health professionals, including a physician. These preadmission screenings cannot be billed unless the requirement for an independent team certification, with a physician's signature, is met.

10. Services shall be documented through daily notes and a daily log of time spent in the delivery of services.

F. Case management services pursuant to 12VAC30-50-420 (seriously mentally ill adults and emotionally disturbed children) or 12VAC30-50-430 (youth at risk of serious emotional disturbance).

1. Reimbursement shall be provided only for "active" case management clients, as defined. An active client for case management shall mean an individual for whom there is an ISP in effect that requires regular direct or client-related contacts or activity or communication with the individuals or families, significant others, service providers, and others including a minimum of one face-to-face individual contact within a 90-day period. Billing can be submitted only for

months in which direct or client-related contacts, activity or communications occur.

2. The Medicaid eligible individual shall meet the DBHDS criteria of serious mental illness, serious emotional disturbance in children and adolescents, or youth at risk of serious emotional disturbance.

3. There shall be no maximum service limits for case management services. Case management shall not be billed for persons in institutions for mental disease.

4. The ISP shall document the need for case management and be fully completed within 30 calendar days of initiation of the service. The case manager shall review the ISP at least every three months. The review will be due by the last day of the third month following the month in which the last review was completed. A grace period will be granted up to the last day of the fourth month following the month of the last review. When the review was completed in a grace period, the next subsequent review shall be scheduled three months from the month the review was due and not the date of actual review.

5. The ISP shall also be updated at least annually.

6. The provider of case management services shall be licensed by DBHDS as a provider of case management services.

G. Intensive community treatment (ICT).

1. A service-specific provider intake that documents eligibility and the need for this service shall be completed by either the LMHP, LMHP-R, LMHP-RP, or LMHP-S prior to the initiation of services. This intake documentation shall be maintained in the individual's records.

2. An individual service plan, based on the needs as determined by the service-specific provider intake, must be initiated at the time of admission and must be fully developed by either the LMHP, LMHP-R, LMHP-RP, LMHP-S, QMHP-A, QMHP-C, or QMHP-E and approved by the LMHP, LMHP-R, LMHP-RP, or LMHP-S within 30 days of the initiation of services.

3. ICT may be billed if the individual is brought to the facility by ICT staff to see the psychiatrist. Documentation must be present in the individual's record to support this intervention.

4. The enrolled ICT provider shall be licensed by the DBHDS as a provider of intensive community services or as a program of assertive community treatment, and must provide and make available emergency services 24-hours per day, seven days per week, 365 days per year, either directly or on call.

5. ICT services must be documented through a daily log of time spent in the delivery of services and a description of the activities/services provided. There must also be at least a

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weekly note documenting progress or lack of progress toward goals and objectives as outlined on the ISP.

## H. Crisis stabilization services.

1. This service shall be initiated following a face-to-face service-specific provider intake by either an LMHP, LMHP-R, LMHP-RP, LMHP-S, or a certified prescriber, as defined in 12VAC30-50-226.

2. In order to receive reimbursement, providers shall register this service with DMAS, ~~DMAS contractors, or the BHSA or its contractor~~ within one business day of the completion of the service-specific provider intake to avoid duplication of services and to ensure informed care coordination.

3. The service-specific provider intake must document the need for crisis stabilization services.

4. The Individual Service Plan (ISP) must be developed or revised within three calendar days of admission to this service. The LMHP, LMHP-R, LMHP-RP, LMHP-S, certified prescriber, QMHP-A, QMHP-C, or QMHP-E shall develop the ISP.

5. Room and board, custodial care, and general supervision are not components of this service.

6. Clinic option services are not billable at the same time crisis stabilization services are provided with the exception of clinic visits for medication management. Medication management visits may be billed at the same time that crisis stabilization services are provided but documentation must clearly support the separation of the services with distinct treatment goals.

7. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from a condition due to an acute crisis of a psychiatric nature which puts the individual at risk of psychiatric hospitalization.

8. Providers of residential crisis stabilization shall be licensed by DBHDS as providers of residential or nonresidential crisis stabilization services. Providers of community-based crisis stabilization shall be licensed by DBHDS as providers of mental health nonresidential crisis stabilization.

## I. Mental health skill-building services as defined in 12VAC30-50-226 B 6.

1. At admission, an appropriate face-to-face service-specific provider intake must be conducted, documented, signed, and dated by the LMHP, LMHP-R, or LMHP-RP. Providers shall be reimbursed one unit for each intake utilizing the appropriate billing code. Service-specific provider intakes shall be repeated upon any lapse in services of more than 30 calendar days. Services of any individual that continue more than six months shall be reviewed by the LMHP, LMHP-R, LMHP-RP, or LMHP-S who shall document the continued need for the service in the individual's medical record.

2. The primary psychiatric diagnosis shall be documented as part of the intake. The LMHP, LMHP-R, LMHP-RP, or LMHP-S performing the intake shall document the primary mental health diagnosis on the intake form.

3. The LMHP, LMHP-R, LMHP-RP, LMHP-S, QMHP-A, QMHP-C, or QMHP-E shall complete, sign, and date the ISP within 30 days of the admission to this service. The ISP shall include documentation of how many days per week and how many hours per week are required to carry out the goals in the ISP. The total time billed for the week shall not exceed the frequency established in the individual's ISP. The ISP shall indicate the dated signature of the LMHP, LMHP-R, LMHP-RP, LMHP-S, QMHP-A, QMHP-C, or QMHP-E and the individual. The ISP shall indicate the specific training and services to be provided, the goals and objectives to be accomplished, and criteria for discharge as part of a discharge plan that includes the projected length of service. If the individual refuses to sign the ISP, this shall be noted in the individual's medical record documentation.

4. Every three months, the LMHP, LMHP-R, LMHP-RP, LMHP-S, QMHP-A, QMHP-C, or QMHP-E shall review with the individual in a manner in which he may participate with the process, modify as appropriate, and update the ISP. The ISP must be rewritten at least annually.

a. The goals, objectives, and strategies of the ISP shall be updated to reflect any change or changes in the individual's progress and treatment needs as well as any newly identified problem.

b. Documentation of this review shall be added to the individual's medical record no later than 15 calendar days from the date of the review, as evidenced by the dated signatures of the LMHP, LMHP-R, LMHP-RP, LMHP-S, QMHP-A, QMHP-C, or QMHP-E and the individual.

5. The ISP shall include discharge goals that will enable the individual to achieve and maintain community stability and independence. The ISP shall fully support the need for interventions over the length of the period of service requested from the service authorization contractor.

6. Reauthorizations for service shall only be granted if the provider demonstrates to either DMAS or the service authorization contractor that the individual is benefitting from the service as evidenced by updates and modifications to the ISP that demonstrate progress toward ISP goals and objectives.

7. If the provider knows or has reason to know of the individual's nonadherence to a regimen of prescribed medication, medication adherence shall be a goal in the individual's ISP. If the care is delivered by the qualified paraprofessional, the supervising LMHP, LMHP-R, LMHP-RP, LMHP-S, QMHP-A, or QMHP-C shall be informed of any nonadherence to the prescribed medication regimen. The LMHP, LMHP-R, LMHP-RP, LMHP-S, QMHP-A, or

QMHP-C shall coordinate care with the prescribing physician regarding any concerns about medication nonadherence (provided that the individual has consented to such sharing of information). The provider shall document the following minimum elements of the contact between the LMHP, LMHP-R, LMHP-RP, LMHP-S, QMHP-A, or QMHP-C and the prescribing physician:

- a. Name and title of caller;
- b. Name and title of professional who was called;
- c. Name of organization that the prescribing professional works for;
- d. Date and time of call;
- e. Reason for the care coordination call;
- f. Description of medication regimen issue or issues to be discussed; and
- g. Whether or not there was a resolution of medication regimen issue or issues.

8. Discharge summaries shall be prepared by providers for all of the individuals in their care. Documentation of prior psychiatric services history shall be maintained in the individual's mental health skill-building services medical record.

9. Documentation of prior psychiatric services history shall be maintained in the individual's mental health skill-building services medical record. The provider shall document evidence of the individual's prior psychiatric services history, as required by 12VAC30-50-226 B 6 b (3) and 12VAC30-50-226 B 6 c (4), by contacting the prior provider or providers of such health care services after obtaining written consent from the individual. Documentation of telephone contacts with the prior provider shall include the following minimum elements:

- a. Name and title of caller;
- b. Name and title of professional who was called;
- c. Name of organization that the professional works for;
- d. Date and time of call;
- e. Specific placement provided;
- f. Type of treatment previously provided;
- g. Name of treatment provider; and
- h. Dates of previous treatment.

Discharge summaries from prior providers that clearly indicate (i) the type of treatment provided, (ii) the dates of the treatment previously provided, and (iii) the name of the treatment provider shall be sufficient to meet this requirement. Family member statements shall not suffice to meet this requirement.

10. The provider shall document evidence of the psychiatric medication history, as required by 12VAC30-50-226 B 6 b (4) and 12VAC30-50-226 B 6 c (5), by maintaining a photocopy of prescription information from a prescription

bottle or by contacting the current or previous prescribing provider of health care services or pharmacy after obtaining written consent from the individual. Prescription lists or medical records, including discharge summaries, obtained from the pharmacy or current or previous prescribing provider of health care services that contain (i) the name of the prescribing physician, (ii) the name of the medication with dosage and frequency, and (iii) the date of the prescription shall be sufficient to meet these criteria. Family member statements shall not suffice to meet this requirement.

11. In the absence of such documentation, the current provider shall document all contacts (i.e., telephone, faxes, electronic communication) with the pharmacy or provider of health care services with the following minimum elements: (i) name and title of caller, (ii) name and title of prior professional who was called, (iii) name of organization that the professional works for, (iv) date and time of call, (v) specific prescription confirmed, (vi) name of prescribing physician, (vii) name of medication, and (viii) date of prescription.

12. Only direct face-to-face contacts and services to an individual shall be reimbursable.

13. Any services provided to the individual that are strictly academic in nature shall not be billable. These include, but are not limited to, such basic educational programs as instruction or tutoring in reading, science, mathematics, or GED.

14. Any services provided to individuals that are strictly vocational in nature shall not be billable. However, support activities and activities directly related to assisting an individual to cope with a mental illness to the degree necessary to develop appropriate behaviors for operating in an overall work environment shall be billable.

15. Room and board, custodial care, and general supervision are not components of this service.

16. Provider qualifications. The enrolled provider of mental health skill-building services must be licensed by DBHDS as a provider of mental health community support (defined in 12VAC35-105-20). Individuals employed or contracted by the provider to provide mental health skill-building services must have training in the characteristics of mental illness and appropriate interventions, training strategies, and support methods for persons with mental illness and functional limitations. Mental health skill-building services shall be provided by either an LMHP, LMHP-R, LMHP-RP, LMHP-S, QMHP-A, QMHP-C, QMHP-E, or QPPMH. The LMHP, LMHP-R, LMHP-RP, LMHP-S, QMHP-A, or QMHP-C will supervise the care weekly if delivered by the QMHP-E or QPPMH. Documentation of supervision shall be maintained in the mental health skill-building services record.

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17. Mental health skill-building services shall be documented through a daily log of time involved in the delivery of services and a minimum of a weekly summary note of services provided. The provider shall clearly document services provided to detail what occurred during the entire amount of the time billed.

18. If mental health skill-building services are provided in a therapeutic group home (~~Level A or B~~) or assisted living facility, effective July 1, 2014, there shall be a yearly limit of up to 416 units per fiscal year and a weekly limit of up to 8 units per week, with at least half of each week's services provided outside of the group home or assisted living facility. There shall be a daily limit of a maximum of 2 units. Prior to July 1, 2014, the previous limits shall apply. The ISP shall not include activities that contradict or duplicate those in the treatment plan established by the group home or assisted living facility. The provider shall attempt to coordinate mental health skill-building services with the treatment plan established by the group home or assisted living facility and shall document all coordination activities in the medical record.

19. Limits and exclusions.

a. ~~Group Therapeutic group~~ home (~~Level A or B~~) and assisted living facility providers shall not serve as the mental health skill-building services provider for individuals residing in the provider's respective facility. Individuals residing in facilities may, however, receive MHSS from another MHSS agency not affiliated with the owner of the facility in which they reside.

b. Mental health skill-building services shall not be reimbursed for individuals who are receiving in-home residential services or congregate residential services through the Intellectual Disability Waiver or Individual and Family Developmental Disabilities Support Waiver.

c. Mental health skill-building services shall not be reimbursed for individuals who are also receiving independent living skills services, the Department of Social Services independent living program (22VAC40-151), independent living services (22VAC40-131 and 22VAC40-151), or independent living arrangement (22VAC40-131) or any Comprehensive Services Act-funded independent living skills programs.

d. Mental health skill-building services shall not be available to individuals who are receiving treatment foster care (12VAC30-130-900 et seq.).

e. Mental health skill-building services shall not be available to individuals who reside in intermediate care facilities for individuals with intellectual disabilities or hospitals.

f. Mental health skill-building services shall not be available to individuals who reside in nursing facilities, except for up to 60 days prior to discharge. If the individual has not been discharged from the nursing

facility during the 60-day period of services, mental health skill-building services shall be terminated and no further service authorizations shall be available to the individual unless a provider can demonstrate and document that mental health skill-building services are necessary. Such documentation shall include facts demonstrating a change in the individual's circumstances and a new plan for discharge requiring up to 60 days of mental health skill-building services.

g. Mental health skill-building services shall not be available for residents of psychiatric residential treatment centers (~~Level C facilities~~) except for the intake code H0032 (modifier U8) in the seven days immediately prior to discharge.

h. Mental health skill-building services shall not be reimbursed if personal care services or attendant care services are being received simultaneously, unless justification is provided why this is necessary in the individual's mental health skill-building services record. Medical record documentation shall fully substantiate the need for services when personal care or attendant care services are being provided. This applies to individuals who are receiving additional services through the Intellectual Disability Waiver (12VAC30-120-1000 et seq.), Individual and Family Developmental Disabilities Support Waiver (12VAC30-120-700 et seq.), the Elderly or Disabled with Consumer Direction Waiver (12VAC30-120-900 et seq.), and EPSDT services (12VAC30-50-130).

i. Mental health skill-building services shall not be duplicative of other services. Providers have a responsibility to ensure that if an individual is receiving additional therapeutic services that there will be coordination of services by either the LMHP, LMHP-R, LMHP-RP, LMHP-S, QMHP-A, QMHP-C, or QMHP-E to avoid duplication of services.

j. Individuals who have organic disorders, such as delirium, dementia, or other cognitive disorders not elsewhere classified, will be prohibited from receiving mental health skill-building services unless their physicians issue a signed and dated statement indicating that the individuals can benefit from this service.

k. Individuals who are not diagnosed with a serious mental health disorder but who have personality disorders or other mental health disorders, or both, that may lead to chronic disability, will not be excluded from the mental health skill-building services eligibility criteria provided that the individual has a primary mental health diagnosis from the list included in 12VAC30-50-226 B 6 b (1) or 12VAC30-50-226 B 6 c (2) and that the provider can document and describe how the individual is expected to actively participate in and benefit from mental health support services.

~~J. Except as noted in subdivision I 18 of this section and in 12VAC30-50-226 B 6 e, the limits described in this regulation and all others identified in 12VAC30-50-226 shall apply to all service authorization requests submitted to either DMAS or the BHSA as of July 27, 2016. As of July 27, 2016, all annual limits, weekly limits, daily limits, and reimbursement for services shall apply to all services described in 12VAC30-50-226 regardless of the date upon which service authorization was obtained.~~

**12VAC30-130-5160. Peer support services and family support partners: definitions.**

The following words and terms when used in this part shall have the following meanings:

"Behavioral health service" means treatments and services for mental or substance use disorders.

"Caregiver" means the family members, friends, or neighbors who provide unpaid assistance to a Medicaid member with a mental health or substance use disorder or co-occurring mental health and substance use disorder. "Caregiver" does not include individuals who are employed to care for the member.

"Direct supervisor" means the person who provides direct supervision to the peer recovery specialist. The direct supervisor (i) shall have two consecutive years of documented practical experience rendering peer support services or family support services, have certification ~~training~~ as a PRS under a certifying body approved by DBHDS, and have documented completion of the DBHDS PRS supervisor training; (ii) shall be a practitioner who has documented completion of the DBHDS PRS supervisor training, meets ~~clauses (i) through (xii)~~ of the definition of "credentialed addiction treatment professional" found in 12VAC30-130-5020, and is acting within his scope of practice under state law; or (iii) shall be a certified substance abuse counselor (CSAC) as defined in § 54.1-3507.1 of the Code of Virginia who has documented completion of the DBHDS PRS supervisor training if he is acting under the supervision or direction of a licensed substance use treatment practitioner or licensed mental health professional. If a practitioner referenced in clause (ii) of this definition or a CSAC referenced in clause (iii) of this definition provides services before April 1, 2018, he shall have until April 1, 2018, to complete the DBHDS PRS supervisor training.

~~"Peer recovery specialist" or "PRS" means a person who has the qualifications, education, and experience established by the Department of Behavioral Health and Developmental Services and who has received certification in good standing by a certifying body recognized by DBHDS. A PRS is professionally qualified and trained (i) to provide collaborative services to assist individuals in achieving sustained recovery from the effects of mental health disorders, substance use disorders, or both; (ii) to provide peer support as a self-identified individual successful in the recovery process with lived experience with mental health disorders or substance use~~

~~disorders, or co-occurring mental health and substance use disorders; and (iii) to offer support and assistance in helping others in the recovery and community integration process. A PRS may be a parent of a minor or adult child with a similar mental health or substance use disorder or co-occurring mental health and substance use disorder, or an adult with personal experience with a family member with a similar mental health or substance use disorder or co-occurring mental health and substance use disorder with experience navigating substance use or behavioral health care services. in 12VAC35-250-10.~~

"Peer recovery support services" means the same as defined in 12VAC35-250-10.

"Person centered" means a collaborative process where the individual participates in the development of his treatment goals and makes decisions about the services provided.

"Recovery-oriented services" means providing support and assistance to an individual with mental health or substance use disorders or both so that the individual (i) improves his health, recovery, resiliency, and wellness; (ii) lives a self-directed life; and (iii) strives to reach his full potential.

"Recovery, resiliency, and wellness plan" means a written set of goals, strategies, and actions to guide the individual and the health care team to move the individual toward the maximum achievable independence and autonomy in the community. The documented comprehensive wellness plan shall be developed ~~by~~ with the LMHP, LMHP-R, LMHP-RP, or LMHP-S who conducted the assessment and made the recommendation, along with the individual or caregiver, as applicable, the PRS, and the direct supervisor within 30 days of the initiation of services and shall describe how the plan for peer support services and activities will meet the individual's needs. This document shall be updated as the needs and progress of the individual change and shall document the individual's or caregiver's, as applicable, request for any changes in peer support services. The recovery, resiliency, and wellness plan is a component of the individual's overall plan of care and shall be maintained by the enrolled provider in the individual's medical record.

"Resiliency" means the ability to respond to stress, anxiety, trauma, crisis, or disaster.

"Self-advocacy" means an empowerment skill that allows the individual to effectively communicate preferences and choice.

"Strength-based" means to emphasize individual strengths, assets, and resiliencies.

"Supervision" means the ongoing process performed by a direct supervisor who monitors the performance of the PRS and provides regular documented consultation and instruction with respect to the skills and competencies of the PRS.

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## **12VAC30-130-5170. Peer support services and family support partners: service definitions.**

A. ARTS peer support services and ARTS family support partners are peer recovery support services and are nonclinical, peer-to-peer activities that engage, educate, and support an individual's, and as applicable the caregiver's, self-help efforts to improve health recovery, resiliency, and wellness. These services shall be available to either:

1. Individuals 21 years of age or older with mental health or substance use disorders or co-occurring mental health and substance use disorders that are the focus of the support; or
2. The caregiver of individuals younger than 21 years of age with mental health or substance use disorders or co-occurring mental health and substance use disorders that are the focus of the support.
3. Individuals 18 through 20 years of age who meet the medical necessity criteria set forth in 12VAC30-130-5180 A who would benefit from receiving peer supports directly, and who choose to receive ARTS peer support services directly instead of through their family shall be permitted to receive peer support services by an appropriate PRS.

B. ARTS peer support services for adults is a person centered, strength-based, and recovery-oriented rehabilitative service for individuals 21 years of age or older provided by a peer recovery specialist successful in the recovery process with lived experience with substance use disorders or co-occurring mental health and substance use disorders who is trained to offer support and assistance in helping others in recovery to reduce the disabling effects of a mental health or substance use disorder or co-occurring mental health and substance use disorder that is the focus of support. Services assist the individual with developing and maintaining a path to recovery, resiliency, and wellness. Specific peer support service activities shall emphasize the acquisition, development, and enhancement of recovery, resiliency, and wellness. Services are designed to promote empowerment, self-determination, understanding, and coping skills through mentoring and service coordination supports, as well as to assist individuals in achieving positive coping mechanisms for the stressors and barriers encountered when recovering from their illness or disorder.

C. Family support partners is a peer recovery support service and a strength-based, individualized service provided to the caregiver of a Medicaid-eligible individual younger than 21 years of age with a mental health or substance use disorder or co-occurring mental health and substance use disorder that is the focus of support. The services provided to the caregiver and the individual must be directed exclusively toward the benefit of the Medicaid-eligible individual. Services are expected to improve outcomes for an individual younger than 21 years of age with complex needs who is involved with multiple systems and increase the individual's and family's confidence and

capacity to manage their own services and supports while promoting recovery and healthy relationships. These services are rendered by a PRS who is (i) a parent of a minor or adult child with a similar substance use disorder or co-occurring mental health and substance use disorder or (ii) an adult with personal experience with a family member with a similar mental health or substance use disorder or co-occurring mental health and substance use disorder with experience navigating substance use or behavioral health care services. The PRS shall perform the service within the scope of his knowledge, lived experience, and education.

D. ARTS peer recovery support services shall be rendered on an individual basis or in a group.

## **12VAC30-130-5190. Peer support services and family support partners: provider and setting requirements.**

A. Effective July 1, 2017, a peer recovery specialist shall have the qualifications, education, ~~and experience established, and~~ certification required by DBHDS ~~and show certification in good standing by the U.S. Department of Veterans Affairs, NAADAC—the Association of Addiction Professionals, a member board of the International Certification and Reciprocity Consortium, or any other certifying body or state certification with standards comparable to or higher than those specified by DBHDS to be eligible to register with the Board of Counseling on or after July 1, 2018. Upon the promulgation of regulations by the Board of Counseling, registration of peer recovery specialists by the Board of Counseling shall be required.~~ in accordance with 12VAC35-250. Effective December 18, 2017, peer recovery specialists shall also be registered with the Board of Counseling.

B. Prior to service initiation, a documented ~~recommendation for service~~ assessment by a practitioner who meets ~~clauses (i) through (xii)~~ of the definition of "credentialed addiction treatment professional" found in 12VAC30-130-5020 and who is acting within his scope of practice under state law shall be required. A certified substance abuse counselor, as defined in § 54.1-3507.1 of the Code of Virginia, may also provide a documented ~~recommendation for service~~ assessment if he is acting under the supervision or direction of a licensed substance use treatment practitioner or licensed mental health professional. The PRS shall perform ARTS peer services under the oversight of the practitioner described in this subsection ~~making the recommendation for services~~ conducting the assessment and providing the clinical oversight of the recovery, resiliency, and wellness plan. The ~~recommendation~~ assessment shall verify that the individual meets the medical necessity criteria set forth in 12VAC30-130-5180 A or B, as applicable.

C. The PRS shall be employed by or have a contractual relationship with the enrolled provider licensed for one of the following:



1. Acute care general hospital (ASAM Level 4.0) licensed by the Department of Health as defined in 12VAC30-130-5150.
2. Freestanding psychiatric hospital or inpatient psychiatric unit (ASAM Levels 3.5 and 3.7) licensed by the Department of Behavioral Health and Developmental Services as defined in 12VAC30-130-5130 and 12VAC30-130-5140.
3. Residential placements (ASAM Levels 3.1, 3.3, 3.5, and 3.7) licensed by the Department of Behavioral Health and Developmental Services as defined in 12VAC30-130-5110 through 12VAC30-130-5140.
4. ASAM Levels 2.1 and 2.5, licensed by the Department of Behavioral Health and Developmental Services as defined in 12VAC30-130-5090 and 12VAC30-130-5100.
5. ASAM Level 1.0 as defined in 12VAC30-30-5080.
6. Opioid treatment services as defined in 12VAC30-130-5050.
7. Office-based opioid treatment as defined in 12VAC30-130-5060.
8. Hospital emergency department services licensed by the Department of Health.
9. Pharmacy services licensed by the Department of Health.

D. Only a licensed and enrolled provider referenced in subsection C of this section shall be eligible to bill and receive reimbursement from DMAS or its contractor for ARTS peer support services. Payments shall not be permitted to providers that fail to enter into an enrollment agreement with DMAS or its contractor. Reimbursement shall be subject to retraction for any billed service that is determined to not to be in compliance with DMAS requirements.

E. The direct supervisor, as defined in 12VAC30-130-5160, shall perform direct supervision of the PRS as needed based on the level of urgency and intensity of service being provided. The direct supervisor shall have an employment or contract relationship with the same provider entity that employs or contracts with the PRS. Direct supervisors shall maintain documentation of all supervisory sessions. In no instance shall supervisory sessions be performed less than as provided below:

1. If the PRS has less than 12 months of experience delivering ARTS peer support services or ARTS family support partners, he shall receive face-to-face, one-to-one supervisory meetings of sufficient length to address identified challenges for a minimum of 30 minutes, two times a month. The direct supervisor must be available at least by telephone while the PRS is on duty.
2. If the PRS has been delivering ARTS peer recovery services over 12 months and fewer than 24 months, he must receive monthly face-to-face, one-to-one supervision of sufficient length to address identified challenges for a

minimum of 30 minutes. The direct supervisor must be available by telephone for consult within 24 hours of service delivery if needed for challenging situations.

F. The caseload assignment of a full-time PRS shall not exceed 15 individuals at any one time allowing for new case assignments as those on the existing caseload begin to self-manage with less support. The caseload assignment of a part-time PRS shall not exceed nine individuals at any one time. There are no minimum limits for full-time or part-time PRS caseloads.

VA.R. Doc. No. R21-5828; Filed February 1, 2021, 9:49 a.m.



## TITLE 13. HOUSING

### BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

#### Final Regulation

**REGISTRAR'S NOTICE:** The Board of Housing and Community Development is claiming an exemption from Article 2 of the Administrative Process Act pursuant to § 2.2-4006 A 12 of the Code of Virginia, which excludes regulations adopted by the Board of Housing and Community Development pursuant to the 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. The Board of Housing and Community Development will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** 13VAC5-31. Virginia Amusement Device Regulations (amending 13VAC5-31-20, 13VAC5-31-30, 13VAC5-31-40, 13VAC5-31-75; adding 13VAC5-31-300).

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

**Effective Date:** July 1, 2021.

**Agency Contact:** Kyle Flanders, Senior Policy Analyst, Department of Housing and Community Development, Main Street Centre 600, East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 786-6761, FAX (804) 371-7090, TDD (804) 371-7089, or email [kyle.flanders@dhcd.virginia.gov](mailto:kyle.flanders@dhcd.virginia.gov).

**Background:** The Virginia Amusement Device Regulations (VADR) govern the construction and operation of amusement

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# Regulations

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devices, which by statutory definition are devices or structures open to the public by which persons are conveyed or moved in an unusual manner for diversion or are passenger tramways. The regulations are closely related to the Uniform Statewide Building Code (USBC), and under state law the USBC applies to amusement devices to the extent that the VADR does not set out differing requirements. Both regulations incorporate nationally recognized model building codes and standards 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 as well as accepting proposals for changes to the regulation from affected stakeholder groups and the public.

## Summary:

*The amendments include the following:*

*In 13VAC5-31-20, two definitions are added to allow for the regulation of trampoline parks via the VADR;*

*In 13VAC5-31-40 the referenced standards for the American Society for Testing and Materials are updated;*

*In 13VAC5-31-75, requirements are clarified that the submission of location, operator, event duration, device details, and proof of insurance must happen three days in advance of operation; fee schedule for permits are updated; local building departments are allowed to increase fees 50% when a reinspection is required;*

*In 13VAC5-31-300, a new section regarding trampoline courts is added that specifies that trampoline courts shall be regulated in accordance with ASTM F2970; and*

*Documents incorporated by reference are updated to include new standard numbers and addresses for the authoring entities.*

## **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, but excluding snow tubing parks and rides, ski terrain parks, ski slopes, and ski trails, and (ii) passenger tramways. For the purpose of this definition, the phrase "open to the public" means that the public has full access to a device or structure at an event, irrespective of whether a fee is charged. The use of devices or structures at private events is not considered to be open to the public.

"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.

"Certificate of inspection" means the certificate or sticker for amusement devices distributed by DHCD.

"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.

"Institutional trampoline" means a trampoline intended for use in a commercial or institutional facility.

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

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

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

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

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

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

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

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

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

"Small mechanical ride" means an amusement device, other than an inflatable amusement device, where (i) the assembly time for the device is two hours or less, (ii) the revolutions per minute of any rotation of the components of the device is not greater than seven, (iii) the device has a footprint of less than 500 square feet, and (iv) the device does not invert a patron or lift a patron more than three feet in the air, measured from the ground to the bottom of the patron's feet when the device is operating.

"Trampoline court" means a defined area comprising one or more institutional trampolines or a series of institutional trampolines.

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

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

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

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

**13VAC5-31-30. Devices covered and exempt.**

A. The following devices, identified by name or description, when open to the public shall be considered amusement devices subject to this chapter. The list is intended only to clarify questionable devices, while the definition of an "amusement device" in 13VAC5-31-20 is generally used to determine the applicability of this chapter.

1. Inflatable amusement devices; ~~and~~
2. Zip lines; and
3. Trampoline courts.

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

1. Nonmechanized playground or recreational equipment such as swing sets, sliding boards, climbing bars, jungle gyms, skateboard ramps and similar equipment where no admission fee is charged for its use or for admittance to areas where the equipment is located;
2. Coin-operated rides designed to accommodate three or less passengers;
3. Water slides or similar equipment used in community association, community club or community organization swimming pools;
4. Mechanical bulls or similar devices;

5. Devices known as mall trains, shopping mall trains, or electric trackless trains for malls; and

6. Devices known as water walking balls, euro bubbles, or similar devices.

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

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

1. American National Standards Institute (ANSI) Standard ~~No. B77.1-2011~~ B77.1-2017 for the regulation of passenger tramways; and
2. American Society for Testing and Materials (ASTM) Standard Nos. F747-15, ~~F770-15~~ F770-18, ~~F1159-15b~~ F1159-16, ~~F1193-16~~ F1193-18, F1957-99 (~~2011~~) (2017), ~~F2007-12~~ F2007-18, ~~F2137-16~~ F2137-18, ~~F2291-15~~ [~~F2291-18~~ F2291-19 ], ~~F2374-10~~ [~~F2374-17~~ F2374-19 ], ~~F2375-09~~ (2017), ~~F2376-13~~ F2376-17a, F2460-11, ~~F2461-18~~, ~~F2959-16~~ F2959-18, [~~F2960-16~~, ] F2970-17, [~~and~~ ] ~~F2974-15~~ F2974-19 [ , and F3054-18 ] for the regulation of amusement devices.

The standards referenced above may be procured from:

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

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

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

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

D. Where an amusement device was manufactured under previous editions of the standards incorporated by reference in

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this chapter, the previous editions shall apply to the extent that they are different from the current standards.

## 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 by the owner or operator of the device, the fees shall be reduced by 75%:

1. [ ~~\$35~~ \$55 ] for each small mechanical ride or inflatable amusement device covered by the permit;
2. [ ~~\$55~~ \$75 ] for each circular ride, institutional trampoline, or flat-ride less than 20 feet in height covered by the permit [ ~~;~~ , except concession go-karts.

Concession go-kart fees shall not exceed \$300 per track, for tracks with up to 20 karts. An additional fee of up to \$10 may be charged for each additional kart in excess of 20; ]

3. [ ~~\$75~~ \$100 ] 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 [ ~~;~~ , except zip lines. Zip line fees shall not exceed \$150 for each zip line. For the purposes of this section, each portion from launch point to landing point shall be considered a separate zip line and each zip line between a launch point and landing point shall also be considered a separate zip line; ]

4. \$200 for each coaster covered by the permit that exceeds 30 feet in height; [ ~~and~~ ]

5. [ ~~\$400 for each coaster covered by the permit that exceeds 60 feet in height; and~~

6. ] The local building department may charge an additional fee for permits and inspections of generators and associated wiring for amusement device events. Generators subject to these fees are those used exclusively with amusement devices and that are inspected by the local building department. The fee per event shall not exceed \$165 and shall not exceed the actual cost to perform the inspection or inspections.

Exception: Small portable generators serving only cord and plug connected equipment loads are not subject to the fee.

Notwithstanding the fee limitations established in this section, the local building department shall be permitted to increase the fees up to 50% when requested to perform weekend or after-hour inspections. [ The local building department shall also be permitted to increase fees up to 50% when a reinspection is required. ]

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, a general description of the device including any serial or identification numbers available, the location of the property on which the device will be operated, and the length of time of operation. The permit application shall indicate whether a private inspector will be used. If a private inspector is not used, 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 \$1 million 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 small mechanical ride or an inflatable amusement device that has a certificate of inspection issued by any local building department in this Commonwealth either [ ~~for (i)~~ ] a six-month period for [ a ] small mechanical [ ~~rides~~ ride ] or [ ~~(ii)~~ ] within a one-year period for inflatable amusement devices prior to the dates the small mechanical ride or inflatable amusement device is to be used, regardless of whether the [ ~~devices~~ device ] has been disassembled and moved to a new site. In such cases, the local building department shall be notified at least three days prior to the operation of the small mechanical ride or the inflatable amusement device and the ~~and~~ provided with the information required on a permit application as listed in subsection C of this section shall be provided to the local building department at least three days prior to operation. In addition, and notwithstanding the provisions of subsection A of this section, the local building department shall be permitted to charge a \$50 inspection fee per event to the person notifying the local building department of an event where an inflatable amusement device is operating if the local building department chooses to inspect any or all of the inflatable amusement devices operating at that event. An inspection report shall be

provided to the person notifying the local building department of the event if such an inspection is conducted.

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. Local building department personnel shall post or affix such certificates or permit the certificates to be posted or affixed by the private inspector. 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, except that permits for small mechanical rides shall not be valid for longer than six months.

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 small mechanical 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 10.1 through 10.6 of ASTM F1193 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 F770 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.

I. In accordance with subdivision 7 of § 36-137 of the Code of Virginia, the local building department shall collect a 2.0% levy of fees charged for permits under this chapter and transmit it quarterly to DHCD to support training programs of the Virginia Building Code Academy. Localities that maintain individual or regional training academies accredited by DHCD shall retain such levy.

J. In accordance with § 36-98.3 of the Code of Virginia and 13VAC5-31-10 B, the procedures for violations of this chapter shall be as prescribed in the USBC.

K. In accordance with § 36-98.1 of the Code of Virginia, the Virginia Department of General Services (DGS) shall function as the local building department for the application of this chapter to amusement devices located on state-owned property. In accordance with §§ 36-98.2 and 36-114 of the Code of Virginia, appeals of the application of this chapter by the DGS shall be made directly to the State Building Code Technical Review Board. Further, as a condition of this chapter, such appeals shall be filed within 14 calendar days after receipt of the decision of DGS.

Part XI  
Trampoline Courts

**13VAC5-31-300. Trampoline courts.**

In addition to other applicable requirements of this chapter, trampoline courts shall be operated, maintained, and inspected in accordance with ASTM F2970.

DOCUMENTS INCORPORATED BY REFERENCE  
(13VAC5-31)

~~ANSI B77.1-2011~~ B77.1-2017, Passenger Ropeways – Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors – Safety Requirements Standard, American National Standards Institute (ANSI), 25 West 43rd Street, 4th Floor, New York, NY 10036 (<http://www.ansi.org/>)

American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959; (<http://www.astm.org/>):

ASTM F747-15, Standard Terminology Relating to Amusement Rides and Devices

~~ASTM F770-15~~ F770-18, Standard Practice for Ownership, Operation, Maintenance, and Inspection of Amusement Rides and Devices

~~ASTM F1159-15b~~ F1159-16, Standard Practice for Design of Amusement Rides and Devices that are Outside the Purview of Other F24 Design Standards

~~ASTM F1193-16~~ F1193-18, Standard Practice for Quality, Manufacture, and Construction of Amusement Rides and Devices

~~ASTM F1957-99 (2011)~~ (2017), Standard Test Method for Composite Foam Hardness-Durometer Hardness



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ASTM ~~F2007-12~~ F2007-18, Standard Practice for Classification, Design, Manufacture, and Operation of Concession Go-Karts and Facilities

ASTM ~~F2137-16~~ F2137-18, Standard Practice for Measuring the Dynamic Characteristics of Amusement Rides and Devices

ASTM ~~F2291-15~~ [ ~~F2291-18~~ F2291-19 ], Standard Practice for Design of Amusement Rides and Devices

ASTM ~~F2374-10~~ F2374-17, Standard Practice for Design, Manufacture, Operation, and Maintenance of Inflatable Amusement Devices

ASTM F2375-09 (2017), Standard Practice for Design, Manufacture, Installation and Testing of Climbing Nets and Netting/Mesh used in Amusement Rides, Devices, Play Areas and Attractions

ASTM ~~F2376-13~~ F2376-17a, Standard Practice for Classification, Design, Manufacture, Construction, and Operation of Water Slide Systems

ASTM F2460-11, Standard Practice for Special Requirements for Bumper Boats

ASTM F2461-18, Standard Practice for Manufacture, Construction, Operation and Maintenance of Aquatic Play Equipment

ASTM ~~F2959-16~~ F2959-18, Standard Practice for Aerial Adventure Courses

[ ASTM F2960-16, Standard Practice for Permanent Amusement Railway Ride Tracks and Related Devices ]

ASTM ~~F2974-15~~ F2974-19, Standard Guide for Auditing Amusement Rides and Devices

ASTM F2970-17, Standard Practice for Design, Manufacture, Installation, Operation, Maintenance, Inspection and Major Modification of Trampoline Courts

[ ASTM F3054-18, Standard Practice for Operations of Amusement Railway Rides, Devices, and Facilities ]

VA.R. Doc. No. R19-5883; Filed February 2, 2021, 5:18 p.m.

## Final Regulation

**REGISTRAR'S NOTICE:** The Board of Housing and Community Development is claiming an exemption from Article 2 of the Administrative Process Act pursuant to § 2.2-4006 A 12 of the Code of Virginia, which excludes regulations adopted by the Board of Housing and Community Development pursuant to the 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. The Board of Housing and Community Development will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** **13VAC5-51. Virginia Statewide Fire Prevention Code (amending 13VAC5-51-11, 13VAC5-51-21, 13VAC5-51-31, 13VAC5-51-61, 13VAC5-51-81, 13VAC5-51-91, 13VAC5-51-101, 13VAC5-51-111, 13VAC5-51-121, 13VAC5-51-130 through 13VAC5-51-135.5, 13VAC5-51-138.4 through 13VAC5-51-141, 13VAC5-51-142, 13VAC5-51-142.5, 13VAC5-51-143.5, 13VAC5-51-144 through 13VAC5-51-144.6, 13VAC5-51-144.8 through 13VAC5-51-155; adding 13VAC5-51-138.1, 13VAC5-51-144.91, 13VAC5-51-144.92).**

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

**Effective Date:** July 1, 2021.

**Agency Contact:** Kyle Flanders, Senior Policy Analyst, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 786-6761, FAX (804) 371-7090, TDD (804) 371-7089, or email [kyle.flanders@dhcd.virginia.gov](mailto:kyle.flanders@dhcd.virginia.gov).

**Background:** The Statewide Fire Prevention Code (SFPC) is a regulation governing the maintenance of the fire protection aspects of existing structures and operational functions relating to fire safety wherever located, including the regulation of the use of explosives and blasting and fireworks displays. The SFPC uses a nationally recognized model code produced by the International Code Council as the basis for the technical provisions of the regulation. 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 newest edition of the model code into the regulation as well as accepting proposals for changes to the regulation from affected stakeholder groups and the public.

### Summary:

*Amendments include in:*

*13VAC51-11, updating references from "applicable building code" to the specific chapter of the International Fire Code, National Fire Protection Association (NFPA) standard, or other standard.*

*13VAC51-51, adding provisions stating that existing construction elements or systems and maintenance of those elements or systems are regulated by the applicable building code.*

*13VAC5-51-81, adding commercial cooking, plant extraction systems, and state-regulated care facilities to the operational permits chart.*

*13VAC5-51-111, adding a provision to notify the owner of a property where a notice of violation has been issued even when the owner is not the responsible party.*

13VAC5-51-121, adding that the State Review Board has the power and duty to hear all appeals arising from the USBC and that all hearings before the State Review Board shall be open meetings; the board shall have the power to uphold, reverse, or modify decisions; and that the proceedings are governed by the Administrative Process Act.

13VAC5-51-130, updating the definition of the term "corrosive" to include specific pH values and add definitions for the terms "permissible fireworks" and "emergency supplemental hardware," adding definitions for cooking tent, mobile food preparation vehicles, and outdoor fireplace, and changing the definition of building.

13VAC5-51-131, adding a restriction on combustible storage under bridges and along roadways; adding an exception to the space underneath seats that stipulates the space does not have to be kept free from combustible and flammable if the space is enclosed by fire-resistance-rated construction; adding an exception to dumpster or container setbacks from buildings where the exterior area is protected by an approved automatic sprinkler system; adding a provision that open-flame devices shall not be operated in or upon wildfire risk areas; adding a requirement for unoccupied tenant spaces to have their fire rated separations maintained; adding a requirement for wheel chocks on mobile food preparation vehicles; adding a permit requirement for mobile food preparation vehicles; and establishing the enforcing agent for the permit is the local government where the food truck is identified for personal property tax payment.

13VAC5-51-132, adding provisions and parameters to allow the use of emergency supplemental hardware; adding provisions for emergency evacuation drills in Group R occupancies except hospice; and adding a requirement that all safety data sheets for hazardous materials shall be made readily available.

13VAC5-51-133.5, adding a requirement that appliances shall be installed, operated, and maintained in accordance with the manufacturer's installation instructions and applicable regulations; adding specifications for quantity limits of fuel oil storage tanks containing Class II or III combustible materials; and adding several requirements for chimneys, refrigeration systems, treatment systems, flaring systems, and commercial cooking operations.

13VAC5-51-133.8, adding an exception to the maintenance requirement of fire and smoke protection features that allows the required visual inspection to be extended beyond annually and deleting requirements for signage, hold open devices and closers, door operation provisions, and fire blocking and draft stopping provisions.

13VAC5-51-134, adding a requirement for building official approval for new interior finishes, textile ceiling coverings, and expanded wall coverings; adding a requirement for furnishing manufacturer's product information and testing

reports to the fire official; and adding an exception for recycling containers to not be stored in waste and linen collection rooms.

13VAC5-51-135, adding requirements for maintaining fire department connections and limited area sprinkler systems; adding a maintenance requirement that water supply control valves for automatic sprinkler systems remain in service in the normal position; adding a requirement for Type I hoods for mobile food preparation vehicles; adding a requirement for installation of a fire extinguishing system where required in mobile food preparation vehicles; and adding requirements for valve supervision, manual fire alarm boxes, occupant notification systems, audible alarms, emergency voice/alarm communication systems, power sources in equipment rooms, activation of pressurization systems, and gas detection systems.

13VAC5-135.5, removing language subjecting security devices to approval by the fire official and instead requiring a permit under the Uniform Statewide Building Code; adding a provision for temporary occupant load determination; adding maintenance requirements for limitation of horizontal projections and post-mounted objects; and adding maintenance requirements in accordance with the applicable building code for elevation changes, elevators, escalators, moving walks, doors, occupant load paths, exits, and other means of egress features.

13VAC5-51-138.4, updating the section for foam protection for rooftop heliports.

13VAC5-138.8, updating references to specific chapters and NFPA standards instead of using the blanket terminology "applicable building code", adding a section for Type II systems in dry cleaning operations and firefighting access for such operations, and expanding provisions for maintaining automatic sprinkler systems for dry cleaning plants.

13VAC5-51-140, adding provisions for disconnect switches and fuel shut off parameters, including provisions for special containers and enclosures, a section for repair garages for lighter than air fuels (CNG, LNG, hydrogen) provisions; updating the sections for spray booths, spray applications, and the ventilation requirements for such; updating dip-tank operations sections and the volumetric limitations and provisions pertaining to each level of liquid capacity; requiring adherence to the State Water Control Board regulations for certain underground tanks and aboveground tanks; and adding operational and maintenance procedures for tanks storing liquid motor fuels.

13VAC5-51-141, updating the requirements for ethylene generator rooms and the air circulation requirements.

13VAC5-51-142, adding provisions for the maintenance of semiconductor fabrication facilities.

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13VAC5-51-142.5, updating the requirements for dust control, explosion venting, and the storage and removal of waste from lumber yards and other woodworking facilities.

13VAC5-51-143.5, adding restrictions for nitrocellulose in mills.

13VAC5-51-144, restoring a section regarding manual fuel shutoff valves.

13VAC5-51-144.2, adding a requirement for independent inspections of temporary stage canopies and adding "temporary special event structures" to the scope section, adding size and square footage restrictions for tents and other membrane structures, and adding a list of documents required to be submitted with an operational permit for membrane structures.

13VAC5-51-144.4, adding requirements for a "high-piled storage operational plan."

13VAC5-51-144.5, adding fire safety requirements for Type IV construction.

13VAC5-51-144.6, restoring a section requiring buffing operations be located in a separate part of the building in which tire rebuilding occurs.

13VAC5-51-144.8, requiring adherence to State Water Control Board regulations for marine motor-fuel dispensing facilities.

13VAC5-51-144.91, adding multiple maintenance provisions and expands requirements for higher education laboratories.

13VAC5-51-144.92, adding maintenance requirements for processing and extraction facilities, including permitting requirements, gas detection requirements, and system design requirements.

13VAC5-51-145, adding the new term "permissible fireworks" to Table 5003.1.1(1) and changing the quantities allowable for such; deleting the table referencing maximum allowable quantities of hazardous materials; adding requirement for the maintenance of secondary containment for underground tanks; adding an exception for aboveground tanks installed in vaults; adding maintenance requirements for hazardous materials displayed in Group M occupancies; adding maintenance requirements for spill control and containment for hazardous materials; adding a maintenance requirement for monitoring hazardous materials; and adding ventilation maintenance requirements for hazardous materials.

13VAC5-51-145.5, adding a requirement for maintaining automatic sprinkler systems in aerosol warehouses; adding maintenance requirements for combustible commodities and fire doors and gates opening into segregated storage areas.

13VAC5-51-146.5, adding sections for compressed gas storage and protections against related dangers and adding

maintenance requirements for vaults and gas detection systems

13VAC5-51-147, adding maintenance requirements for quantities exceeding the maximum allowable quantity per control area, ventilation, liquid-tight construction, and secondary containment.

13VAC5-51-147.5, adding maintenance requirements for the storage of cryogenic fluids.

13VAC5-51-150, adding maintenance requirements for separation of explosives manufacturing buildings, and storage of magazines.

13VAC5-51-151, adding clarifying provisions to the applicability of the regulation; adding maintenance provisions allowing the fire official to reduce or eliminate classified areas and determine the extent of Class 1 electrical equipment; adding requirements for protection from vehicles, external corrosion, and galvanic action; requiring adherence to State Water Control Board regulations for applicable containers and tanks storing flammable and combustible liquids; adding maintenance requirements for liquid and vapor detection, overflow prevention, determination of available tank capacity, leak detection, and temporarily out of service tanks; requiring adherence to State Water Control Board Regulations for temporary out of service underground tanks; and adding maintenance requirements for occupancy quantity limits, basement storage, and the maintenance of piles.

13VAC5-51-151.5, adding maintenance requirements for explosion control and limitations of the storage of flammable cryogenic fluids and adding maintenance requirements for pressure control and gas detection systems.

13VAC5-51-152.5, adding maintenance requirements for the storage of flammable solids; adding maintenance requirements for melting pots, heat-treating ovens, dust collection, ducts, and independent dust separators; and adding a maintenance requirement for electrical grounding requirements.

13VAC5-51-153, adding maintenance requirements for liquid tight flooring and separation where highly toxic and toxic materials are stored and adding maintenance requirements for automatic fire detection systems for highly toxic compressed gases.

13VAC5-51-154, adding a maintenance requirement for storage in buildings used for gas manufacturing, storage, air mixing, and vaporization.

13VAC5-51-154.2, adding maintenance requirements for storage of organic peroxides in Group A, E, I, and U occupancies and adding provisions for quantities exceeding the maximum allowable quantity per control area.

13VAC5-51-154.4, adding requirements for special limitations for indoor storage and use by occupancy; adding a requirement that hazmat storage cabinets shall not



*contain other storage; adding maintenance requirements for Class 3 liquid and solid oxidizers and oxidizing gases; and adding maintenance requirements for storage configuration for liquid and solid oxidizers.*

*13VAC5-51-154.6, adding several maintenance requirements for storage of pyrophoric materials.*

*13VAC5-51-154.7, adding a maintenance requirement for the storage of incoming material and the storage of additional material.*

*13VAC5-51-154.8, adding limitation requirements for the indoor storage and detached storage of reactive materials.*

*13VAC5-51-154.9, adding storage requirements for water-reactive solids and liquids.*

**[ 13VAC5-51-11. Chapter 1 Administration; Section 101 Scope.**

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

B. 101.2 Scope. The SFPC prescribes regulations affecting or relating to maintenance of structures, processes and premises and safeguards to be complied with for the protection of life and property from the hazards of fire or explosion and for the handling, storage and use of fireworks, explosives or blasting agents, and provides for the administration and enforcement of such regulations. The SFPC also establishes regulations for obtaining permits for the manufacturing, storage, handling, use, or sales of explosives. Inspections under the SFPC are a governmental responsibility.

101.2.1 Provisions of this code shall not require modifications or installation of construction elements or systems required or regulated by the applicable building code. This shall be understood to not require installation if no system, appliance, device, etc. was previously installed under the applicable building code.

101.2.2 Where this code requires maintenance or a system, structure, appliance, etc. to be maintained it shall not be construed to be a requirement for installation through this code.

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

D. 101.4 Validity. To the extent that any provisions of the SFPC or the referenced codes or standards are not within the scope of this chapter, those provisions are considered to be

invalid. When any provision of the SFPC is found to be in conflict with the USBC, OSHA, or statute, that provision of the SFPC shall become invalid.

E. 101.5 Local regulations. Any local governing body may adopt fire prevention regulations that are more restrictive or more extensive in scope than the SFPC provided such regulations do not affect the manner of construction or materials to be used in the erection, alteration, repair, or use of a building or structure, as provided in the USBC, including the voluntary installation of smoke alarms and regulation and inspections thereof in commercial buildings where such smoke alarms are not required under the provisions of the SFPC.

F. 101.6 Nonresidential farm structures. Farm structures not used for residential purposes are exempt from the SFPC except when the inspection and enforcement provisions of the code are exercised by a warrant issued under the authority of §§ 27-98.2 through 27-98.5 of the Code of Virginia. ]

**13VAC5-51-21. Section 102 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. The SFPC shall supersede any fire prevention regulations previously adopted by a local government or other political subdivision.

B. 102.1.1 Change of occupancy. No change of occupancy shall be made in any building or structure unless such building or structure is made to comply with the requirements of the USBC as determined by the building official.

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 80 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

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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 II, Construction Existing Buildings, Section ~~103.7~~ 1101, comply with the provisions located therein.

## **13VAC5-51-31. Section 103 Incorporation by reference.**

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

The International Fire Code -- ~~2015~~ 2018 Edition, hereinafter referred to as "IFC," published by the International Code Council, Inc., 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001-2070, 1-888 422-7233.

B. 103.1.1 Deletion. Delete IFC Chapter 1.

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

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

D. 103.2 Amendments. All requirements of the referenced codes and standards that relate to fees, non-operational permits not specifically required by Section 107.2, unsafe notices, disputes, condemnation, inspections, scope of enforcement and

all other procedural, and administrative matters are deleted and replaced by the provisions of Chapter 1 of the SFPC.

Exception: The scope of referenced codes and standards referenced by the SFPC that relate to the maintenance, testing and inspection requirements or limitations shall be enforceable.

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

Note 1: The IFC and its referenced standards contain some areas of regulation outside of the scope of the SFPC, as established by the BHCD and under state law. Where conflicts have been readily noted, changes have been made to the IFC and its referenced standards to bring it within the scope of authority; however, in some areas, judgment will have to be made as to whether the provisions of the IFC and its referenced standards are fully applicable.

~~Note 2: Section numbers preceded by "(N)" indicate sections of the IFC that have been changed to remove construction-related provisions that are outside of the scope of the SFPC.~~

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

## **13VAC5-51-61. Section 106 Duties and powers of the fire official.**

A. 106.1 General. The fire official shall enforce the provisions of the SFPC as provided herein and as interpreted by the State Review Board in accordance with § 36-118 of the Code of Virginia.

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

C. 106.3 Inspections. The fire official is authorized to conduct such inspections as are deemed necessary to determine the extent of compliance with the provisions of this code and to approve reports of inspection by approved agencies or individuals in accordance with the fire official's written policy. All reports of such inspections by approved agencies or individuals shall be prepared and submitted in writing for review and approval. Inspection reports shall be certified by a responsible officer of such approved agency or by the responsible individual. The fire official is authorized to engage such expert opinion as deemed necessary to report upon unusual, detailed or complex technical issues in accordance with local policies.

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

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

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

Note: The current editions of many nationally recognized model codes and standards are referenced by the SFPC. Future amendments to such codes and standards do not automatically become part of the SFPC; however, the fire official should consider such amendments in deciding whether a modification request should be granted.

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

H. 106.5.2 Decision. The application for modification and the final decision of the fire official shall be in writing and shall be recorded in the permanent records of the local enforcing agency.

I. 106.6 Notices and orders. The fire official shall issue all necessary notices or orders to ensure compliance with the SFPC.

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

**[ 13VAC5-51-81. Section 107 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. Operational 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. In accordance with Section 5601.2.3.1, an application for a permit to manufacture, store, handle, use, or sell explosives shall only be made by a designated individual.

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<br>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. |                             |            |                |

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| Carnivals and fairs. An operational permit is required to conduct a carnival or fair.  |                            |                            |                            |     |   |     |              |            |                             |       |                              |     |            |            |       |            |  |  |  |
|--|----------------------------|----------------------------|----------------------------|-----|---|-----|--------------|------------|-----------------------------|-------|------------------------------|-----|------------|------------|-------|------------|--|--|--|
| 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 <sup>3</sup> ).<br>Exception: An operational permit is not required for agricultural storage.  |                            |                            |                            |     |   |     |              |            |                             |       |                              |     |            |            |       |            |  |  |  |
| <u>Commercial cooking. An operational permit is required for the operation of commercial cooking appliances in occupancies other than assembly occupancies or dwellings.</u>   |                            |                            |                            |     |   |     |              |            |                             |       |                              |     |            |            |       |            |  |  |  |
| <p>Compressed gas. An operational permit is required for the storage, use or handling at normal temperature and pressure (NTP) of compressed gases in excess of the amounts listed below.</p> <p>Exception: Vehicles equipped for and using compressed gas as a fuel for propelling the vehicle.</p> <p style="text-align: center;">Permit Amounts for Compressed Gases</p> <table border="0" style="width: 100%;"> <thead> <tr> <th style="text-align: left;">Type of Gas</th> <th style="text-align: left;">Amount (cubic feet at NTP)</th> </tr> </thead> <tbody> <tr> <td>Corrosive</td> <td>200</td> </tr> <tr> <td>Flammable (except cryogenic fluids and liquefied petroleum gases)</td> <td>200</td> </tr> <tr> <td>Highly toxic</td> <td>Any Amount</td> </tr> <tr> <td>Inert and simple asphyxiant</td> <td>6,000</td> </tr> <tr> <td>Oxidizing (including oxygen)</td> <td>504</td> </tr> <tr> <td>Pyrophoric</td> <td>Any Amount</td> </tr> <tr> <td>Toxic</td> <td>Any Amount</td> </tr> </tbody> </table> <p>For SI: 1 cubic foot = 0.02832 m<sup>3</sup>.</p> | Type of Gas                | Amount (cubic feet at NTP) | Corrosive                  | 200 | Flammable (except cryogenic fluids and liquefied petroleum gases) | 200 | Highly toxic | Any Amount | Inert and simple asphyxiant | 6,000 | Oxidizing (including oxygen) | 504 | Pyrophoric | Any Amount | Toxic | Any Amount |  |  |  |
| 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                        |                            |                            |     |   |     |              |            |                             |       |                              |     |            |            |       |            |  |  |  |
| Pyrophoric   | Any Amount                 |                            |                            |     |   |     |              |            |                             |       |                              |     |            |            |       |            |  |  |  |
| Toxic  | Any Amount                 |                            |                            |     |   |     |              |            |                             |       |                              |     |            |            |       |            |  |  |  |
| <p>Covered and open mall buildings. An operational permit is required for:</p> <ol style="list-style-type: none"> <li>1. The placement of retail fixtures and displays, concession equipment, displays of highly combustible goods and similar items in the mall.</li> <li>2. The display of liquid-fired or gas-fired equipment in the mall.</li> <li>3. The use of open-flame or flame-producing equipment in the mall.</li> </ol>   |                            |                            |                            |     |   |     |              |            |                             |       |                              |     |            |            |       |            |  |  |  |
| <p>Cryogenic fluids. An operational permit is required to produce, store, transport on site, use, handle or dispense cryogenic fluids in excess of the amounts listed below.</p> <p>Exception: Operational permits are not required for vehicles equipped for and using cryogenic fluids as a fuel for propelling the vehicle or for refrigerating the lading.</p> <p style="text-align: center;">Permit Amounts for Cryogenic Fluids</p> <table border="0" style="width: 100%;"> <thead> <tr> <th style="text-align: left;">Type of Cryogenic Fluid</th> <th style="text-align: left;">Inside Building (gallons)</th> <th style="text-align: left;">Outside Building (gallons)</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>  | Type of Cryogenic Fluid    | Inside Building (gallons)  | Outside Building (gallons) |     |   |     |              |            |                             |       |                              |     |            |            |       |            |  |  |  |
| Type of Cryogenic Fluid  | Inside Building (gallons)  | Outside Building (gallons) |                            |     |   |     |              |            |                             |       |                              |     |            |            |       |            |  |  |  |
|  |                            |                            |                            |     |   |     |              |            |                             |       |                              |     |            |            |       |            |  |  |  |

|   |                |            |  |  |  |
|---|----------------|------------|--|--|--|
| Flammable   | More than<br>1 | 60         |  |  |  |
| Inert   | 60             | 500        |  |  |  |
| Oxidizing (includes oxygen)   | 10             | 50         |  |  |  |
| Physical or health hazard not indicated above   | Any<br>Amount  | Any Amount |  |  |  |
| For SI: 1 gallon = 3.785 L.   |                |            |  |  |  |
| Cutting and welding. An operational permit is required to conduct cutting or welding operations within the jurisdiction.  |                |            |  |  |  |
| Dry cleaning plants. An operational permit is required to engage in the business of dry cleaning or to change to a more hazardous cleaning solvent used in existing dry cleaning equipment.   |                |            |  |  |  |
| Exhibits and trade shows. An operational permit is required to operate exhibits and trade shows.  |                |            |  |  |  |
| Explosives, fireworks, and pyrotechnics. An operational permit is required for the storage, handling, sale or use of any quantity of explosive, explosive materials, fireworks, pyrotechnic special effects, or pyrotechnic special effects material within the scope of Chapter 56.<br><br>Exception: Storage in Group R-3 or R-5 occupancies of smokeless propellant, black powder and small arms primers for personal use, not for resale, and in accordance with the quantity limitations and conditions set forth in Section 5601.1, exception numbers four and 12.  |                |            |  |  |  |
| Explosives, restricted manufacture. An operational permit is required for the restricted manufacture of explosives within the scope of Chapter 56.  |                |            |  |  |  |
| Explosives, unrestricted manufacture. An operational permit is required for the unrestricted manufacture of explosives within the scope of Chapter 56.  |                |            |  |  |  |
| 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.<br><br>Exception: An operational permit is not required for authorized employees of the water company that supplies the system or the fire department to use or operate fire hydrants or valves.   |                |            |  |  |  |
| Flammable and combustible liquids. An operational permit is required:<br><br>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 U.S. Department of Transportation (DOTn) nor does it apply to piping systems.<br><br>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:<br><br>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. |                |            |  |  |  |

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| <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>8. To manufacture, process, blend or refine flammable or combustible liquids.</p> |                                       |        |                     |                                       |                     |  |       |                      |         |            |        |             |                     |                |                     |  |       |                      |         |                                       |        |            |  |  |  |
|---|---------------------------------------|--------|---------------------|---------------------------------------|---------------------|--|-------|----------------------|---------|------------|--------|-------------|---------------------|----------------|---------------------|--|-------|----------------------|---------|---------------------------------------|--------|------------|--|--|--|
| <p>Floor finishing. An operational permit is required for floor finishing or surfacing operations exceeding 350 square feet (33 m<sup>2</sup>) using Class I or Class II liquids.</p>   |                                       |        |                     |                                       |                     |  |       |                      |         |            |        |             |                     |                |                     |  |       |                      |         |                                       |        |            |  |  |  |
| <p>Fruit and crop ripening. An operational permit is required to operate a fruit- ripening or crop-ripening facility or conduct a fruit-ripening process using ethylene gas.</p>  |                                       |        |                     |                                       |                     |  |       |                      |         |            |        |             |                     |                |                     |  |       |                      |         |                                       |        |            |  |  |  |
| <p>Fumigation, thermal, and insecticidal fogging. An operational permit is required to operate a business of fumigation, thermal, or insecticidal fogging and to maintain a room, vault or chamber in which a toxic or flammable fumigant is used.</p>  |                                       |        |                     |                                       |                     |  |       |                      |         |            |        |             |                     |                |                     |  |       |                      |         |                                       |        |            |  |  |  |
| <p>Hazardous materials. An operational permit is required to store, transport on site, dispense, use or handle hazardous materials in excess of the amounts listed below.</p> <p style="text-align: center;">Permit Amounts for Hazardous Materials</p> <table border="0" style="width: 100%;"> <thead> <tr> <th style="text-align: left;">Type of Material</th> <th style="text-align: left;">Amount</th> </tr> </thead> <tbody> <tr> <td>Combustible liquids</td> <td>See flammable and combustible liquids</td> </tr> <tr> <td>Corrosive materials</td> <td></td> </tr> <tr> <td>    Gases</td> <td>See compressed gases</td> </tr> <tr> <td>    Liquids</td> <td>55 gallons</td> </tr> <tr> <td>    Solids</td> <td>1000 pounds</td> </tr> <tr> <td>Explosive materials</td> <td>See explosives</td> </tr> <tr> <td>Flammable materials</td> <td></td> </tr> <tr> <td>    Gases</td> <td>See compressed gases</td> </tr> <tr> <td>    Liquids</td> <td>See flammable and combustible liquids</td> </tr> <tr> <td>    Solids</td> <td>100 pounds</td> </tr> </tbody> </table>  | Type of Material                      | Amount | Combustible liquids | See flammable and combustible liquids | Corrosive materials |  | Gases | See compressed gases | Liquids | 55 gallons | Solids | 1000 pounds | Explosive materials | See explosives | Flammable materials |  | Gases | See compressed gases | Liquids | See flammable and combustible liquids | Solids | 100 pounds |  |  |  |
| 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 <sup>a</sup>  |  |  |  |
| Class 2                | 10 gallons             |  |  |  |
| Class 1                | 55 gallons             |  |  |  |
| Solids                 |                        |  |  |  |
| Class 4                | Any amount             |  |  |  |
| Class 3                | 10 pounds <sup>b</sup> |  |  |  |
| 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             |  |  |  |

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| <p>Toxic materials</p> <p>Gases See compressed gases</p> <p>Liquids 10 gallons</p> <p>Solids 100 pounds</p> <p>Unstable (reactive) materials</p> <p>Liquids</p> <p>Class 4 Any amount</p> <p>Class 3 Any amount</p> <p>Class 2 5 gallons</p> <p>Class 1 10 gallons</p> <p>Solids</p> <p>Class 4 Any amount</p> <p>Class 3 Any amount</p> <p>Class 2 50 pounds</p> <p>Class 1 100 pounds</p> <p>Water reactive materials</p> <p>Liquids</p> <p>Class 3 Any amount</p> <p>Class 2 5 gallons</p> <p>Class 1 55 gallons</p> <p>Solids</p> <p>Class 3 Any amount</p> <p>Class 2 50 pounds</p> <p>Class 1 500 pounds</p> <p>For SI: 1 gallon = 3.785 L, 1 pound = 0.454 kg.</p> <p>a. Twenty gallons when Table 5003.1.1(1) Note k applies and hazard identification signs in accordance with Section 5003.5 are provided for quantities of 20 gallons or less.</p> <p>b. Two hundred pounds when Table 5003.1.1(1) Note k applies and hazard identification signs in accordance with Section 5003.5 are provided for quantities of 200 pounds or less.</p> |  |  |  |
| <p>HPM facilities. An operational permit is required to store, handle or use hazardous production materials.</p>  |  |  |  |
| <p>High piled storage. An operational permit is required to use a building or portion thereof as a high-piled storage area exceeding 500 square feet (46 m<sup>2</sup>).</p>  |  |  |  |
| <p>Hot work operations. An operational permit is required for hot work including, but not limited to:</p> <p>1. Public exhibitions and demonstrations where hot work is conducted.</p>  |  |  |  |



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| <p>2. Use of portable hot work equipment inside a structure.<br/>Exception: Work that is conducted under a construction permit.</p> <p>3. Fixed-site hot work equipment such as welding booths.</p> <p>4. Hot work conducted within a hazardous fire area.</p> <p>5. Application of roof coverings with the use of an open-flame device.</p> <p>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> |  |  |  |
| <p>Industrial ovens. An operational permit is required for operation of industrial ovens regulated by Chapter 30.</p>  |  |  |  |
| <p>Lumber yards and woodworking plants. An operational permit is required for the storage or processing of lumber exceeding 100,000 board feet (8,333 ft<sup>3</sup>) (236 m<sup>3</sup>).</p>   |  |  |  |
| <p>Liquid-fueled or gas-fueled vehicles or equipment in assembly buildings. An operational permit is required to display, operate or demonstrate liquid-fueled or gas-fueled vehicles or equipment in assembly buildings.</p>  |  |  |  |
| <p>LP-gas. An operational permit is required for:</p> <p>1. Storage and use of LP-gas.<br/>Exception: An operational permit is not required for individual containers with a 500-gallon (1893 L) water capacity or less or multiple container systems having an aggregate quantity not exceeding 500 gallons (1893 L), serving occupancies in Group R-3.</p> <p>2. Operation of cargo tankers that transport LP-gas.</p>   |  |  |  |
| <p>Magnesium. An operational permit is required to melt, cast, heat treat or grind more than 10 pounds (4.54 kg) of magnesium.</p>   |  |  |  |
| <p>Miscellaneous combustible storage. An operational permit is required to store in any building or upon any premises in excess of 2,500 cubic feet (71 m<sup>3</sup>) gross volume of combustible empty packing cases, boxes, barrels or similar containers, rubber tires, rubber, cork or similar combustible material.</p>  |  |  |  |
| <p>Mobile food preparation vehicles. A permit is required for mobile food preparation vehicles equipped with appliances that produce smoke or grease laden vapors.<br/>Exception: Recreational vehicles used for private recreation.</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.<br/>Exception: Recreational fires.</p>   |  |  |  |
| <p>Open flames and candles. An operational permit is required to use open flames or candles in connection with assembly areas, dining areas of restaurants or drinking establishments.</p>   |  |  |  |
| <p>Open flames and torches. An operational permit is required to remove paint with a torch, or to use a torch or open-flame device in a wildfire risk area.</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>  |  |  |  |

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| Places of assembly. An operational permit is required to operate a place of assembly.  |  |  |  |
| Plant extraction systems. An operational permit is required to use <u>plant extraction systems.</u>  |  |  |  |
| Private fire hydrants. An operational permit is required for the removal from service, use or operation of private fire hydrants.<br>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.  |  |  |  |
| Pyrotechnic special effects material. An operational permit is required for use and handling of pyrotechnic special effects material.  |  |  |  |
| Pyroxylin plastics. An operational permit is required for storage or handling of more than 25 pounds (11 kg) of cellulose nitrate (pyroxylin) plastics and for the assembly or manufacture of articles involving pyroxylin plastics.   |  |  |  |
| Refrigeration equipment. An operational permit is required to operate a mechanical refrigeration unit or system regulated by Chapter 6.  |  |  |  |
| Repair garages and service stations. An operational permit is required for operation of repair garages and automotive, marine and fleet service stations.  |  |  |  |
| Rooftop heliports. An operational permit is required for the operation of a rooftop heliport.  |  |  |  |
| <u>State-regulated care facilities. An operational permit is required for the operation of a state-regulated care facility where inspection by the fire official is required by state licensing regulations.</u>   |  |  |  |
| 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 24.  |  |  |  |
| Storage of scrap tires and tire byproducts. An operational permit is required to establish, conduct or maintain storage of scrap tires and tire byproducts that exceeds 2,500 cubic feet (71 m <sup>3</sup> ) of total volume of scrap tires and for indoor storage of tires and tire byproducts.  |  |  |  |
| Temporary membrane structures and tents. An operational permit is required to operate an air-supported temporary membrane structure or a tent.<br>Exceptions:<br>1. Tents used exclusively for recreational camping purposes.<br>2. Tents and air-supported structures that cover an area of 900 square feet (84 m <sup>2</sup> ) or less, including all connecting areas or spaces with a common means of egress or entrance and with an occupant load of 50 or less persons. |  |  |  |
| Tire-rebuilding plants. An operational permit is required for the operation and maintenance of a tire-rebuilding plant.  |  |  |  |
| Waste handling. An operational permit is required for the operation of wrecking yards, junk yards and waste material-handling facilities.  |  |  |  |
| Wood products. An operational permit is required to store chips, hogged material, lumber or plywood in excess of 200 cubic feet (6 m <sup>3</sup> ).   |  |  |  |

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

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

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

G. 107.6 Annual. The enforcing agency may issue annual permits for the manufacturing, storage, handling, use, or sales of explosives to any state regulated public utility.

H. 107.7 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.

I. 107.8 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.

J. 107.9 Suspension of permit. A permit shall become invalid if the authorized activity is not commenced within six months after issuance of the permit or if the authorized activity is suspended or abandoned for a period of six months after the time of commencement.

K. 107.10 Local fees. In accordance with § 27-98 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. However, for the city of Chesapeake no fee charged for the inspection of any place of religious worship designated as Assembly Group A-3 shall exceed \$50. For purposes of this section, "defray the cost" may include the fair and reasonable costs incurred for such enforcement during normal business hours but shall not include overtime costs, unless conducted outside of the normal working hours established by the locality. A schedule of such costs shall be adopted by the local governing body in a local ordinance. A locality shall not charge an overtime rate for inspections conducted during the normal business hours established by the locality. Nothing herein shall be construed to prohibit a private entity from conducting such inspections, provided the private entity has been approved to perform such inspections in accordance with the written policy of the fire official for the locality.

L. 107.11 State Fire Marshal's office permit fees for explosives, blasting agents, theatrical flame effects, and fireworks. Complete permit applications shall be submitted to and received by the State Fire Marshal's Office not less than 15 days prior to the planned use or event. A \$500 expedited

handling fee will be assessed on all permit applications submitted less than 15 days prior to the planned use or event. Inspection fees will be assessed at a rate of \$60 per staff member per hour during normal business hours (Monday through Friday, 8:30 a.m. to 4:30 p.m.) and at a rate of \$90 per hour at all other times (nights, weekends, holidays). State Fire Marshal's Office permit fees shall be as follows:

1. Storage of explosives and blasting agents, 12-month permit \$250 first magazine, plus \$150 per each additional magazine on the same site.
2. Use of explosives and blasting agents, nonfixed site, 6-month permit \$250 per site, plus inspection fees.
3. Use of explosives and blasting agents, fixed site, 12-month permit \$250 per site.
4. Sale of explosives and blasting agents, 12-month permit \$250 per site.
5. Manufacture explosives (unrestricted), blasting agents, and fireworks, 12-month permit \$250 per site.
6. Manufacture explosives (restricted), 12-month permit \$20 per site.
7. Fireworks display in or on state-owned property \$300 plus inspection fees.
8. Pyrotechnics or proximate audience displays in or on state-owned property \$300 plus inspection fees.
9. Flame effects in or on state-owned property \$300 plus inspection fees.
10. Flame effects incidental to a permitted pyrotechnics display \$150 (flame effects must be individual or group effects that are attended and manually controlled).

Exception: Permit fees shall not be required for the storage of explosives or blasting agents by state and local law enforcement and fire agencies.

M. 107.12 State annual compliance inspection fees. Fees for compliance inspections performed by the State Fire Marshal's office 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.

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- 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.
  5. Facilities licensed by the Virginia Department of Social Services based on licensed capacity as follows:
    - 5.1. \$50 for 1 to 8.
    - 5.2. \$75 for 9 to 20.
    - 5.3. \$100 for 21 to 50.
    - 5.4. \$200 for 51 to 100.
    - 5.5. \$300 for 101 to 150.
    - 5.6. \$400 for 151 to 200.
    - 5.7. \$500 for 201 or more.

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

6. Registered complaints.
  - 6.1. No charge for first visit (initial complaint), and if violations are found.
  - 6.2. \$51 per hour for each State Fire Marshal's office staff for all subsequent visits.
7. Bonfires (small and large) on state-owned property.

7.1. For a small bonfire pile with a total fuel area more than 3 feet in diameter and more than 2 feet in height, but not more than 9 feet in diameter and not more than 6 feet in height, the permit fee is \$50. If an application for a bonfire permit is received by the State Fire Marshal's office less than 15 days prior to the planned event, the permit fee shall be \$100. If an application for a bonfire permit is received by the State Fire Marshal's office less than seven days prior to the planned event, the permit fee shall be \$150.

7.2. For a large bonfire pile with a total fuel area more than 9 feet in diameter and more than 6 feet in height, the permit fee is \$150. If an application for a bonfire permit is received by the State Fire Marshal's office less than 15 days prior to the planned event, the permit fee shall be \$300. If an application for a bonfire permit is received by the State Fire Marshal's office less than seven days prior to the planned event, the permit fee shall be \$450.

N. 107.13 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.

O. 107.14 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.

P. 107.14.1 State Fire Marshal's office certification and permit fees not refundable. No refund of any part of the amount paid as a permit or certification fee will be made where the applicant, permit or certification holder, for any reason, discontinued an activity, changed conditions, or changed circumstances for which the permit or certification was issued. However, the permit or certification fee submitted with an application will be refunded if the permit or certification is canceled, revoked, or suspended subsequent to having been issued through administrative error, or if a permit being applied for is to be obtained from a locally appointed fire official. ]

## **13VAC5-51-91. Section 109 Inspection.**

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

Exception: Single family dwellings and dwelling units in two family and multiple family dwellings and farm structures shall be exempt from routine inspections. This exemption shall not preclude the fire official from conducting routine inspections in Group R-3 or Group R-5 occupancies operating as a commercial bed and breakfast as outlined in Section ~~310.3~~ 310.2 of the USBC or inspecting under § 27-98.2 of the Code of Virginia for hazardous conditions relating to explosives,

flammable and combustible conditions, and hazardous materials.

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

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

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

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

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

E. 109.3 Other inspections. In accordance with § 9.1-207 of the Code of Virginia, the State Fire Marshal, upon presenting proper credentials, shall make annual inspections for hazards incident to fire in all (i) residential care facilities operated by any state agency, (ii) assisted living facilities licensed or subject to licensure pursuant to Chapter 18 (§ 63.2-1800 et seq.) of Title 63.2 of the Code of Virginia which are not inspected by a local fire marshal, (iii) student-residence facilities owned or operated by the public institutions of higher education in the Commonwealth, and (iv) public schools in the Commonwealth which are not inspected by a local fire marshal. In the event that any such facility or residence is found to be nonconforming to the SFPC, the State Fire Marshal or local fire marshal may petition any court of competent jurisdiction for the issuance of an injunction.

**[ 13VAC5-51-101. Section 110 Unsafe conditions.**

A. 110.1 General. The fire official shall order the following dangerous or hazardous conditions or materials found to be noncompliant with provisions found within the subsequent sections of this code to be removed or remedied in accordance with the SFPC:

1. Dangerous conditions which are liable to cause or contribute to the spread of fire in or on said premises, building or structure, or to endanger the occupants thereof.
2. Conditions which would interfere with the efficiency and use of any fire protection equipment.
3. Obstructions to or on fire escapes, stairs, passageways, doors or windows, which are liable to interfere with the

egress of occupants or the operation of the fire department in case of fire.

4. Accumulations of dust or waste material in air conditioning or ventilating systems or grease in kitchen or other exhaust ducts.

5. Accumulations of grease on kitchen cooking equipment, or oil, grease or dirt upon, under or around any mechanical equipment.

6. Accumulations of rubbish, waste, paper, boxes, shavings, or other combustible materials, or excessive storage of any combustible material.

7. Hazardous conditions arising from defective or improperly used or installed electrical wiring, equipment or appliances.

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

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

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

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

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

D. 110.4 Unsafe structures. All structures that are or shall hereafter become unsafe or deficient in adequate exit facilities or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or by reason of illegal or improper use, occupancy or maintenance or which have sustained structural damage by reason of fire, explosion, or natural disaster shall be deemed unsafe structures. A vacant structure, or portion of a structure, unguarded or open at door or window shall be deemed a fire hazard and unsafe within the meaning of this code. Unsafe structures in violation of the applicable building code shall be reported to the building official or building maintenance official who shall take appropriate action under the provisions of the USBC to secure abatement. Subsequently, the fire official may request the legal counsel of the local governing body to institute the appropriate proceedings for an injunction against the continued use and occupancy of the structure until such time as conditions have been remedied.

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

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

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

## **13VAC5-51-111. Section 111 Violations.**

A. 111.1 Notice. When the fire official discovers an alleged violation of a provision of the SFPC or other codes or ordinances under the fire official's jurisdiction, the fire official shall prepare a written notice citing the section allegedly violated, describing the condition deemed unsafe and specifying time limitations for the required abatements to be made to render the structure or premises safe and secure.

B. 111.1.1 Right of appeal. Notices of violation issued under Section 111.1 shall indicate the right of appeal by referencing the appeals section of this code.

Exceptions:

1. Summons issued in lieu of a notice of violation in accordance with Section 111.5 of this code.
2. Documents reflecting uncorrected violations in subsequent inspections to verify compliance.

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

D. 111.3 Failure to correct violations. If the notice of violation is not complied with within the time specified, the fire official shall request the legal counsel of the local governing body to

institute the appropriate legal proceedings to restrain, correct, or abate such alleged violation.

E. 111.4 Penalty. Penalties upon conviction of violating the SFPC shall be as set out in § 27-100 of the Code of Virginia.

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

## **13VAC5-51-121. Section 112 Appeals.**

A. 112.1 Local Board of Fire Prevention Code Appeals (LBFPCA). Each local governing body which enforces the SFPC shall have a LBFPCA to hear appeals as authorized herein or it shall enter into an agreement with the governing body of another county or municipality, with some other agency, or with a state agency approved by the DHCD to act on appeals. An appeal case decided by some other approved agency shall constitute an appeal in accordance with this section and shall be final unless appealed to the State Review Board.

B. 112.2 Membership. The LBFPCA shall consist of at least five members appointed by the local governing body and having terms of office established by written policy. Alternate members may be appointed to serve in the absence of any regular members and, as such, shall have the full power and authority of the regular members. Regular and alternate members may be reappointed. Written records of current membership, including a record of the current chairman and secretary shall be maintained in the office of the local governing body. In order to provide continuity, the terms of the members may be of different length so that less than half will expire in any one-year period. The LBFPCA shall meet as necessary 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. 112.2.1 Chairman. The LBFPCA shall annually select one of its regular members to serve as chairman. In case of the absence of the chairman at a hearing, the members present shall select an acting chairman.

D. 112.2.2 Secretary. The local governing body shall appoint a secretary to the LBFPCA to maintain a detailed record of all proceedings.

E. 112.3 Qualifications of members LBFPCA. members shall be selected by the local governing body on the basis of their ability to render fair and competent decisions regarding application of the SFPC and shall, to the extent possible, represent different occupational or professional fields relating

to building construction or fire prevention. At least one member should be an experienced builder and one member a licensed professional engineer or architect. Employees or officials of the local governing body shall not serve as members of the LBFPCA.

F. 112.4 Disqualification of member. A member shall not hear an appeal in which that member has conflict of interest in accordance with the State and Local Government Conflict of Interests Act, Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2 of the Code of Virginia.

G. 112.5 Application for appeal. The owner of a structure, the owner's agent or any other person involved in the maintenance of the structure, or activity, may appeal a decision of the fire official concerning the application of the SFPC or the fire official's refusal to grant modification under Section 106.5 to the provisions of the SFPC. The appeal shall first lie to the LBFPCA and then to the State Review Board except that appeals concerning the application of the SFPC or refusal to grant modifications by the State Fire Marshal shall be made directly to the State Review Board. The appeal shall be submitted to the LBFPCA within 14 calendar days of the application of the SFPC. The application shall contain the name and address of the owner of the structure and the person appealing if not the owner. A copy of the written decision of the fire official shall be submitted along with the application for appeal and maintained as part of the record. The application shall be stamped or otherwise marked by the LBFPCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of the fire official's decision.

Note: In accordance with § 27-98 of the Code of Virginia, any local fire code may provide for an appeal to a local board of appeals. If no local board of appeals exists, the State Review Board shall hear appeals of any local fire code violation.

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

I. 112.7 Hearing procedures. All hearings before the LBFPCA shall be open to the public. The appellant, the appellant's representative, the local governing body's representative and any person whose interests are affected shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings.

J. 112.7.1 Postponement. When a quorum of the LBFPCA is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a

postponement of the hearing. The LBFPCA shall reschedule the appeal within 30 calendar days of the postponement.

K. 112.8 Decision. The LBFPCA shall have the power to uphold, reverse or modify the decision of the fire official by a concurring vote of a majority of those present. Decisions of the LBFPCA shall be final if no appeal is made therefrom and the appellant and the fire official shall act accordingly.

L. 112.8.1 Resolution. The LBFPCA's decision shall be explained in writing, signed by the chairman, and retained as part of the record by the LBFPCA. Copies of the written decision shall be furnished to all parties. The following wording shall be part of the written decision: "Any person who was a party to the appeal may appeal to the State Building Code Technical Review Board (State Review Board) by submitting an application to the State Review Board within 21 calendar days upon receipt by certified mail of the written decision. Application forms are available from the Office of the State Review Board, 600 East Main Street, Richmond, Virginia 23219, (804) 371-7150." ~~Copies of the written decision shall be furnished to all parties.~~

M. 112.9 Appeal to the State Review Board. After final determination by the LBFPCA, any person who was a party to the local appeal may appeal to the State Review Board. In accordance with § 36-114 of the Code of Virginia, the State Review Board shall have the power and duty to hear all appeals from decisions arising under the application of the SFPC and to render its decision on any such appeal, which decision shall be final if no appeal is made therefrom. Application shall be made to the State Review Board within 21 calendar days of receipt of the decision to be appealed. Application for appeal to the State Review Board arising from the SFMO's enforcement of the code or from any local fire code violation if no local board of appeals exists shall be made to the State Review Board within 14 calendar days of receipt of the decision to be appealed and shall be accompanied by copies of the ~~inspection reports and other relevant information~~ fire official's decision and the written decision of the LBFPCA shall be submitted with the application for appeal. Upon request by the office of the State Review Board, the LBFPCA shall submit a copy of all inspection reports and all pertinent information from the record of the LBFPCA. Failure to submit an application for appeal within the time limit established by this section shall constitute an acceptance of the LBFPCA's resolution or fire official's decision. 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.

~~N. 112.9.1 Information to be submitted. Copies of the fire official's decision and the written decision of the LBFPCA shall be submitted with the application for appeal. Upon request by the office of the State Review Board, the LBFPCA shall submit a copy of all inspection reports and all pertinent information from the record of the LBFPCA.~~

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~~O. 112.9.2 Decision of 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 appeal is made therefrom and the appellant and the code official shall act accordingly.~~

N. 112.10 Hearing and decision. All hearings before the State Review Board shall be open meetings, and the chair shall have the power and duty to direct the hearing, rule upon the acceptance of evidence, and oversee the record of all proceedings. The State Review Board shall have the power to uphold, reverse, or modify the decision of the LBFPCA by a concurring vote of a majority of those present. Proceedings of the Review Board shall be governed by the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that an informal conference pursuant to § 2.2-4019 of the Code of Virginia shall not be required. Decisions of the State Review Board shall be final if no further appeal is made. The decision of the State Review Board shall be explained in writing, signed by the chair, and retained as part of the record of the appeal. Copies of the written decision shall be sent to all parties by certified mail. In addition, the written decision shall contain the following wording: "As provided by Rule 2A:2 of the Supreme Court of Virginia, you have thirty (30) days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with the Secretary of the Review Board. In the event that this decision is served on you by mail, three (3) days are added to that period." ]

## 13VAC5-51-130. IFC Section 202 Definitions.

[ A. ] Add the following definitions to read:

Applicable building code. The local or statewide building code and referenced standards in effect at the time the building or portion thereof was constructed, altered, renovated, or underwent a change of occupancy. See Section 103 for the application of the code.

Background clearance card or BCC. An identification card issued to an individual who is not a certified blaster or pyrotechnician and is responsible management or an employee 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; or conduct a fireworks display. A person to whom a BCC has been issued can fulfill the role of a designated individual on an application for a permit to manufacture, use, handle, store, or sell explosive materials; or on an application for a permit to design, setup, and conduct a fireworks display.

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. A certified restricted blaster can fulfill the role of a designated individual on an application for permit to manufacture, use, handle, store, or sell explosive materials.

Blaster, unrestricted. Any person engaging in the use of explosives or blasting agents without the limit to the amount of explosives or blasting agents or type of detonator. A certified unrestricted blaster can fulfill the role of a designated individual on an application for permit to manufacture, use, handle, store, or sell explosive materials.

~~Chemical fume hood. A ventilated enclosure designed to contain and exhaust fumes, gases, vapors, mists, and particulate matter generated within the hood.~~

[ Cooking tent. A structure, enclosure or shelter, with or without sidewalls or drops, constructed of fabric or pliable material supported by any manner except by air or the contents that it protects and which contains cooking equipment that utilize open flames or produce smoke or grease laden vapors for the purpose of preparing and serving food to the public. ]

Corrosive. A chemical that causes visible destruction of or irreversible alterations in living tissue by chemical action at the point of contact. A chemical shall be considered corrosive if when tested on the intact skin of albino rabbits by the method described in DOTn 49 CFR 173.137, such chemical destroys or changes irreversibly the structure of the tissue at the point of contact following an exposure period of four hours. This term does not refer to action on inanimate surfaces. A substance shall be considered corrosive if it has a pH less than or equal to 2.0 or a pH greater than or equal to 12.5 on a pH scale of 0-14.

Design. For the purposes of a fireworks display, either inside a building or structure or outdoors, it shall mean the pyrotechnician who will be in attendance and makes the final artistic determination for the placement of fireworks and ground display pieces suitable for the display site.

Designated individual. A person who is in possession of a BCC issued by the SFMO, certified by the SFMO as a pyrotechnician, or a restricted or unrestricted blaster, any of whom are responsible for ensuring compliance with state law and regulations relating to blasting agents and explosives and applying for explosives or firework permits; is at least 21 years of age; and demonstrates the capability to effectively communicate safety messages verbally and in writing in the English language.

DHCD. The Virginia Department of Housing and Community Development.

Emergency supplemental hardware. Any approved hardware used only for emergency events or drills to keep intruders from entering the room during an active shooter or hostile threat event or drill.



Explosive manufacturing. Mixing, blending, extruding, assembling articles, disassembling, chemical synthesis, and other functions involved in making a product or device that is intended to explode.

~~Laboratory suite. A fire-rated enclosed laboratory area that will provide one or more laboratory spaces, within a Group B educational occupancy, that are permitted to include ancillary uses such as offices, bathrooms, and corridors that are contiguous with the laboratory area and are constructed in accordance with Section 430.3 of the USBC, Part I, Construction.~~

LBFPCA. Local Board of Fire Prevention Code Appeals.

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.

Maintained. To keep unimpaired in an appropriate condition, operation, and continuance as installed in accordance with the applicable building code, or as previously approved, and in accordance with the applicable operational and maintenance provisions of this code.

~~Mobile food preparation vehicles. Vehicles and enclosed trailers able to be occupied by persons during cooking operations that contain cooking equipment that utilize open flames or produce smoke or grease laden vapors for the purpose of preparing and serving food to the public. Vehicles used for private recreation shall not be considered mobile food preparation vehicles.~~

[ Mobile food preparation vehicles. Vehicles, covered trailers, carts, and enclosed trailers, or other moveable devices capable of being able to be occupied by persons during cooking operations and that contain cooking equipment that utilize open flames or are capable of producing smoke or grease laden vapors for the purpose of preparing and serving food to the public. Vehicles used for private recreation shall not be considered mobile food preparation vehicles. ]

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

[ Outdoor fireplace. A portable or permanent, outdoor, solid-fuel-burning fireplace that may be constructed of steel, concrete, clay, or other noncombustible material. An outdoor fireplace may be open in design, with a spark arrester, or may be equipped with a small hearth opening and a short chimney or chimney opening in the top with a combustion chamber of not more than 36 inches in diameter by 24 inches in height size. ]

Permissible fireworks. Any ~~sparklers, fountains, Pharaoh's serpents, caps for pistols, or pinwheels commonly known as whirligigs or spinning jennies~~ that do not emit sparks or other burning effects to a distance greater than five meters (16.4 feet); wheels that do not emit a flame radius greater than one meter (39 inches); crackling devices and flashers or strobes that do not emit sparks or other burning effects to a distance greater than two meters (78.74 inches); and sparkling devices or other fireworks devices that (i) do not explode or produce a report, (ii) do not travel horizontally or vertically under their own power, (iii) do not emit or function as a projectile, (iv) do not produce a continuous flame longer than 20 inches, (v) are not capable of being reloaded, and (vi) if designed to be ignited by a fuse, have a fuse that is protected to resist side ignition and a burning time of not less than four seconds and not more than eight seconds.

Pyrotechnician (firework operator). Any person supervising or engaged in the design, setup, or conducting of any fireworks display, either inside a building or outdoors. A certified pyrotechnician can fulfill the role of a designated individual on an application for a permit for a fireworks display.

Pyrotechnician, aerial. A person supervising or engaged in the design, setup, or conducting of an outdoor aerial fireworks display performed in accordance with the regulations as set forth in this code and NFPA 1123, a referenced standard for fireworks displays.

Pyrotechnician, proximate. A person supervising or engaged in the design, setup, or conducting of a fireworks display, either inside a building or outdoors, performed in accordance with the regulations as set forth in this code and NFPA 1126, a referenced standard for the use of pyrotechnics before a proximate audience.

Reactive target. A target designator intended to be shot at with a firearm and is purchased or obtained through a commercial or retail outlet, is comprised of two or more components in presized quantities of 1 pound (0.453592 kg) or less that are advertised and sold together with instructions on how to combine the components or create a target that explodes upon impact. Also known as exploding targets.

Responsible management. A person who is any of the following:

1. The sole proprietor of a sole proprietorship.
2. The partners of a general partnership.
3. The managing partners of a limited partnership.
4. The officers or directors of a corporation.
5. The managers or members of a limited liability company.
6. The managers, officers, or directors of an association.

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7. Individuals in other business entities recognized under the laws of the Commonwealth as having a fiduciary responsibility to the firm.

Restricted explosives manufacturing. When an individual is engaged in the incidental manufacture or production of explosive materials composed of commercially available components that are packaged or marketed for the purpose of producing explosive materials, including reactive targets, at a location not within the definition of unrestricted explosives manufacture; is for immediate use at the site of incidental explosives manufacturing or production without residual storage; and does not involve or include the bulk mixing and delivery vehicles that are within the scope of NFPA 495.

Sole proprietor. A person or individual, not a corporation, 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.

~~Special expert. An individual who has demonstrated qualifications in a specific area, outside the practice of architecture or engineering, through education, training, and experience.~~

State Fire Marshal. The State Fire Marshal as provided for by § 9.1-206 of the Code of Virginia.

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 Behavioral Health and Developmental Services, the Virginia Department of Education, [ the Virginia Department of Health, ] 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.

Teaching and research laboratory. A building or portion of a building where hazardous materials are stored, used, and handled for the purpose of testing, analysis, teaching, research, or developmental activities on a nonproduction basis rather than in a manufacturing process.

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.

Unrestricted explosives manufacturing. When any company, person, or group of persons is engaged in the business of manufacturing or producing explosive materials at a fixed site or facility for the purpose of commercial sale, use, or distribution of explosives.

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

~~B. Add the following definition under the term "Occupancy Classification Residential Group R" to read:~~

~~Residential Group 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. B.~~ Change the following definitions to read:

Approved. Acceptable to the authority having jurisdiction.

Automatic fire-extinguishing system. An approved system of devices and equipment that 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.

[ 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 parts of 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 Commonwealth Transportation Board. ]

Change of occupancy. Either of the following shall be considered a change of occupancy where the current VCC requires a greater degree of accessibility, structural strength, fire protection, means of egress, ventilation, or sanitation than that which is existing in the current building or structure:

1. Any change in the occupancy classification of a building or structure.
2. Any change in the purpose of, or change in the level of activity within, a building or structure.

Note: The use and occupancy classification of a building or structure shall be determined in accordance with Chapter 3 of the VCC.

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.

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 the 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 U.S. Department of Transportation DOTn for Fireworks, UN0336, 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 the 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.

Laboratory suite. A fire-rated enclosed laboratory area that will provide one or more laboratory spaces within a Group B educational occupancy that are permitted to include ancillary uses such as offices, bathrooms, and corridors that are contiguous with the laboratory area and are constructed in accordance with Section 430.3 of the USBC, Part I, Construction (13VAC5-63-220 L).

Mobile food preparation vehicles. Vehicles and enclosed trailers able to be occupied by persons during cooking operations that contain cooking equipment that utilize open flames or produce smoke or grease laden vapors for the purpose of preparing and serving food to the public. Vehicles used for private recreation shall not be considered mobile food preparation vehicles.

Occupancy classification. For the purposes of this code, occupancies are defined in accordance with the applicable building code.

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.

**13VAC5-51-131. IFC Chapter 3 General Requirements.**

A. The following changes shall be made to Section 301, General:

1. Change Section 301.2 to read:

301.2 Permits. Permits shall be required as set forth in Section 107.2 for the activities or uses regulated by Sections 306, 307, 308, [~~and 315.~~ 315, and 319. ]

2. Add Section 301.3 to read:

301.3 Occupancy. The occupancy of a structure shall be continued as originally permitted under and in full compliance with the codes in force at the time of construction or alteration. The occupancy of a structure shall not change to another occupancy that will subject the structure to any special provisions of this code or the applicable building code without the approval of the building official. Where a certificate of occupancy is not available for a building, the owner or owner's agent may request that one be issued by the building official and retained on site for reference.

B. The following changes shall be made to Section 302, Definitions:

Change Section 302.1 to read:

302.1 Definitions. The following terms are defined in Chapter 2:

- Bonfire.
- Explosive manufacturing.
- Hi-boy.
- High-voltage transmission line.
- Mobile food preparation vehicles.
- Open burning.
- Portable outdoor fireplace.
- Powered industrial truck.
- Reactive targets.
- Recreational fire.
- Restricted explosives manufacturing.
- Sky lantern.
- Unrestricted explosives manufacturing.

C. The following changes shall be made to Section 304, Combustible Waste Material:

1. Change Section 304.1.2 to read:

~~(N)304.1.2~~ 304.1.2 Vegetation. Weeds, grass, vines, or other growth that is capable of being ignited and endangering property shall be cut down and removed by the owner or occupant of the premises.

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2. Change Section 304.1.3 to read:

~~(N)304.1.3~~ 304.1.3 Space underneath seats. Spaces underneath grandstand and bleacher seats shall be kept free from combustible and flammable [ ~~materials unless approved by the applicable building code materials~~ ].

[ Exception: Where enclosed by fire-resistance-rated construction or otherwise approved in accordance with the applicable building code. ]

3. Change Section 304.3.2 to read:

304.3.2 Capacity exceeding 5.88 cubic feet. Containers with a capacity exceeding 5.88 cubic feet (44 gallons) (0.17 m<sup>3</sup>) shall be provided with lids. Containers and lids shall be constructed of noncombustible materials or [ ~~approved of~~ ] combustible materials [ with a peak rate of heat release not exceeding 300 kW/m<sup>2</sup> where tested in accordance with ASTM E1354 at an incident heat flux of 50 kW/m<sup>2</sup> in the horizontal orientation. ]

Exception: Wastebaskets complying with Section 808 ].

4. Change Section 304.3.3 to read:

304.3.3 Capacity exceeding 1.5 cubic yards. Dumpsters and containers with an individual capacity of 1.5 cubic yards (40.5 cubic feet (1.15 m<sup>3</sup>)) or more shall not be stored in buildings or placed within 5 feet (1524 mm) of combustible walls, openings or combustible roof eave lines.

Exceptions:

1. Dumpsters or containers in areas protected by an approved automatic sprinkler system installed throughout in accordance with the applicable ~~building code~~ NFPA 13 standard.

2. Storage in a structure shall not be prohibited where the structure is of Type I or IIA construction, located not less than 10 feet (3048 mm) from other buildings, and used exclusively for dumpster or container storage.

[ 3. Dumpsters or containers that are located adjacent to buildings where the exterior area is protected by an approved automatic sprinkler system. ]

5. Change Section 304.3.4 to read:

304.3.4 Capacity of 1.0 cubic yard or more. Dumpsters with an individual capacity of 1.0 cubic yard 200 gallons (0.76 m<sup>3</sup>) or more shall not be stored in buildings or placed within 5 feet (1524 mm) of combustible walls, openings or combustible roof eave lines unless the dumpsters are constructed of noncombustible materials or of combustible materials with a peak rate of heat release not exceeding 300 kW/m<sup>2</sup> where tested in accordance with ASTM E 1354 at an incident heat flux of 50 kW/m<sup>2</sup> in the horizontal orientation.

Exceptions:

1. Dumpsters in areas protected by an approved automatic sprinkler system installed throughout in accordance with the applicable ~~building code~~ NFPA 13 standard.

2. Storage in a structure shall not be prohibited where the structure is of Type I or IIA construction, located not less than 10 feet (3048 mm) from other buildings, and used exclusively for dumpster or container storage.

D. The following change shall be made to Section 306, Motion Picture Projection Rooms and Film:

Change Section 306.1 to read:

306.1 Motion picture projection rooms. Electric arc, xenon, or other light source projection equipment that develops hazardous gases, dust, or radiation and the projection of ribbon-type cellulose nitrate film, regardless of the light source used in projection, shall be operated within a motion picture projection room complying with the applicable building code.

E. The following changes shall be made to Section 307, Open Burning, Recreational Fires and Portable Outdoor Fireplaces:

1. Add an exception to Section 307.1 to read:

Exception: Approved outdoor live fire training using equipment or appliances accessible or available to the general public, and that complies with Section 307.4.

2. Change Section 307.2 to read:

307.2 Permit required. A permit shall be obtained from the fire code official in accordance with Section 107.2 prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, or a bonfire. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled.

F. The following changes shall be made to Section 308, Open Flames:

1. [ Change Section 308.1.6 to read:

308.1.6 Open-flame devices. Torches and other devices, machines, or processes liable to start or cause fire shall not be operated or used in or upon wildfire risk areas, except by a permit in accordance with Section 107.2 secured from the fire code official.

2. ] Change Section 308.2 to read:

308.2 Permits required. Permits shall be obtained from the fire code official in accordance with Section 107.2 prior to engaging in the following activities involving open flame, fire, and burning:

1. Use of a torch or flame-producing device to remove paint from a structure.

2. Use of open flame, fire, or burning in connection with Group A or E occupancies.

3. Use or operation of torches and other devices, machines, or processes liable to start or cause fire in or upon wildfire risk areas.

[ ~~2~~ 3. ] Change Section 308.3 to read:

308.3 Group A occupancies. Open-flame devices shall not be used in a Group A occupancy.

Exceptions:

1. Open-flame devices are allowed to be used in the following situations, provided approved precautions are taken to prevent ignition of a combustible material or injury to occupants:

1.1. Where necessary for ceremonial or religious purposes in accordance with Section 308.1.7.

1.2. On stages and platforms as a necessary part of a performance in accordance with Section 308.3.2.

1.3. Where candles on tables are securely supported on substantial noncombustible bases and the candle flames are protected.

2. Heat-producing equipment complying with Chapter 6 and the applicable building code.

3. Gas lights are allowed to be used provided adequate precautions satisfactory to the fire code official are taken to prevent ignition of combustible materials.

G. The following changes shall be made to Section 311, Vacant Premises:

~~1.~~ Change Section 311.1 to read:

~~311.1 General. Temporarily unoccupied buildings, structures, premises, or portions thereof, including tenant spaces, shall be safeguarded and maintained in accordance with Sections 311.1.1 through 311.6.~~

~~2.~~ 1. Change Section 311.1.1 to read:

311.1.1 Abandoned premises. Buildings, structures, and premises for which an owner cannot be identified or located by dispatch of a certificate of mailing to the last known or registered address, which persistently or repeatedly become unprotected or unsecured, which have been occupied by unauthorized persons or for illegal purposes, or which present a danger of structural collapse or fire spread to adjacent properties shall be considered abandoned and unsafe until declared abated in accordance with the Virginia Maintenance Code or the applicable building code.

~~3.~~ 2. Change Section 311.2.3 to read:

311.2.3 Fire separation. Fire-resistance-rated partitions, fire barriers, and fire walls separating vacant tenant spaces from the remainder of the building shall be maintained. Protection of openings, joints, and penetrations in fire-resistance-rated assemblies shall be maintained in accordance with Chapter 7.

~~4.~~ 3. Change Section 311.3 to read:

311.3 Removal of combustibles. Persons owning, or in charge or control of, a vacant building or portion thereof shall remove therefrom all accumulations of combustible materials, flammable or combustible waste, or rubbish and shall securely lock or otherwise secure doors, windows, and other openings to prevent entry by unauthorized persons. The premises shall be maintained clear of waste or hazardous materials.

Exceptions:

1. Buildings or portions of buildings undergoing additions, alterations, repairs, or change of occupancy in accordance with the applicable building code where waste is controlled and removed as required by Section 304.

2. Seasonally occupied buildings.

~~5.~~ 4. Add Section 311.5.6 to read:

311.5.6 Removal. Removal of placards posted in accordance with this section without the approval of the fire official shall be a violation of this code.

~~6.~~ 5. Change Section 311.6 to read:

~~(N)311.6~~ 311.6 Unoccupied tenant spaces in mall buildings. Unoccupied tenant spaces in covered and open mall buildings shall be:

1. Kept free from the storage of any materials.

2. [ Where provided, fire rated separations from the adjoining tenant spaces shall be maintained in accordance with Chapter 7.

3.] Without doors or other access openings other than one door that shall be kept key locked in the closed position except during that time when opened for inspection.

[ ~~3~~ 4. ] Kept free from combustible waste and be broom swept clean.

H. The following changes shall be made to Section 313, Fueled Equipment:

Change Section 313.1 to read:

313.1 General. Fueled equipment including motorcycles, mopeds, lawn-care equipment, portable generators, and portable cooking equipment shall not be stored, operated, or repaired within a building.

Exceptions:

1. Buildings or rooms constructed for such use in accordance with the applicable building code.

2. Where allowed by Section 314.

3. Storage of equipment utilized for maintenance purposes is allowed in approved locations where the aggregate fuel capacity of the stored equipment does not exceed 10 gallons (38 L) and the building is protected throughout by an approved automatic sprinkler system in accordance with the applicable NFPA 13 standard.

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I. The following changes shall be made to Section 314, Indoor Displays:

1. Change Section 314.1 to read:

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

2. Add Section 314.5 to read:

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

1. The amount of smokeless powder displayed by each vender is limited to the amount established in Section 5606.5.1.1.

2. The amount of smokeless powder each vender may store is limited to the storage arrangements and storage amounts established in Section 5606.5.2.1. Smokeless powder shall remain in the manufacturer's original sealed container, and the container shall remain sealed while inside the building. The repackaging of smokeless powder shall not be performed inside the building. Damaged containers shall not be repackaged inside the building and shall be immediately removed from the building in such manner to avoid spilling any powder.

3. There shall be at least 50 feet separation between 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 5606.5.2.3.

J. The following changes shall be made to Section 315, General Storage:

1. Change Section 315.2 to read:

315.2 Permit required. A permit for miscellaneous combustible storage shall be required as set forth in Section 107.2.

2. Change ~~Section~~ Exception 2 of Section 315.3.1 and Section 315.3.4 to read:

2. The 18-inch (457 mm) ceiling clearance is not required for storage along walls in areas of buildings equipped with an automatic sprinkler system in accordance with the applicable NFPA 13 standard.

~~(N)315.3.4~~ 315.3.4 Attic, under-floor, and concealed spaces. Attic, under-floor, and concealed spaces shall not be used for storage of combustible materials unless approved or not prohibited by the applicable building code.

3. Change Section 315.4 to read:

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

Exceptions:

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

2. The separation distance is allowed to be reduced when the fire official determines that [ ~~no~~ ] hazard to the adjoining property [ ~~exists~~ does not exist ].

4. Change Section 315.4.1 to read:

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

5. Change Section 315.6 to read:

~~(N)315.6~~ 315.6 Storage in plenums. Storage shall not be permitted in plenums unless approved for such use by the applicable building code. Abandoned material in plenums shall be deemed to be storage and shall be removed. Where located in plenums, the accessible portion of abandoned cables that are not identified for future use with a tag shall be deemed storage and shall be removed.

K. The following changes shall be made to Section 316, Hazards to Fire Fighters:

Change ~~Section 316.6.1~~ Sections 316.6 through 316.6.2 to read:

316.6 Structures and outdoor storage underneath high-voltage transmission lines, bridges, and elevated roadways. Structures and outdoor storage underneath high-voltage transmission lines, bridges, and elevated roadways shall comply with Sections 316.6.1 and 316.6.2, respectively.

~~(N)316.6.1~~ 316.6.1 Structures. Structures shall not be constructed within the utility easement beneath high-voltage transmission lines or underneath bridges or elevated roadways unless approved.

316.6.2 Outdoor storage. Outdoor storage within the utility easement underneath high-voltage transmission lines or underneath bridges or elevated roadways shall be limited to noncombustible materials. Storage of hazardous materials, including flammable and combustible liquids, is prohibited.

Exception: Combustible storage, including vehicles and fuel storage for backup power equipment serving public utility equipment or for the construction, repair, or maintenance operations of bridges or elevated roadways, is allowed provided that a plan indicating the storage configuration is submitted and approved.

L. The following changes shall be made to Section 317, Rooftop Gardens and Landscaped Roofs:

1. Change Section 317.1 to read:  
~~(N)317.1~~ 317.1 General. Rooftop gardens and landscaped roofs shall be maintained in accordance with Sections 317.2 through 317.5.
2. Change Section 317.2 to read:  
~~(N)317.2~~ 317.2 Rooftop garden or landscaped roof size. Rooftop garden or landscaped roof areas shall not exceed the size approved in accordance with the applicable building code.
3. Change Section 317.3 to read:  
~~(N)317.3~~ 317.3 Rooftop structure and equipment clearance. Required structure and equipment clearances shall be maintained as provided by the applicable building code.
4. ~~Change Section 317.4 to read:~~  
~~317.4~~ ~~Vegetation. Vegetation shall be maintained in accordance with Sections 317.4.1 and 317.4.2.~~

M. The following ~~changes~~ change shall be made to Section 318, Laundry Carts:

- Change Section 318.1 to read:
- 318.1 Laundry carts with a capacity of 1 cubic yard or more. Laundry carts with an individual capacity of 1 cubic yard (200 gallons (0.76 m<sup>3</sup>)) or more used in laundries within Groups B, E, F-1, I, M and R-1 occupancies shall be constructed of noncombustible materials or materials having a peak rate of heat release not exceeding 300 kW/m<sup>2</sup> at a flux of 50 kW/m<sup>2</sup> where tested in a horizontal orientation in accordance with ASTM E 1354.
- Exceptions:
1. Laundry carts in areas protected by an approved automatic sprinkler system throughout in accordance with the applicable NFPA 13 standard.
  2. Laundry carts in coin-operated laundries.

N. ~~Add~~ Change Section 319, Mobile Food Preparation Vehicles. ~~Add Sections 319.1 through 319.11, including subsections,~~ to read:

- 319.1 General. Mobile food preparation vehicles that are equipped with appliances that utilize open flames or produce smoke or grease laden vapors shall comply with this section.
- [ 319.1.1 Wheel chocks. Wheel chocks shall be used to prevent mobile food preparation vehicles from moving.
- 319.1.2 Separation. Mobile food preparation vehicles shall be separated from buildings or structures, combustible materials, vehicles, and other cooking operations by a minimum of 10 ft. (3m). ]

319.2 Permit required. Permits shall be required as set forth in Section 107.2.

[ 319.2.1 Permit authority having jurisdiction (AHJ). The enforcing agent of a permit requirement on a mobile food preparation vehicle (MFPV) shall be the appointed fire official for the Virginia local government to which the food truck is identified for personal property tax payment of the vehicle. If no such entity exists, if the local government has elected to not enforce this section of the SFPC, or if the MFPV is housed out of state, then it shall be the State Fire Marshal's Office (SFMO) or designee. ]

319.3 Seating. Seating for the public within any mobile food preparation vehicles is prohibited.

319.4 Exhaust hood. Cooking equipment that produces grease laden vapors shall be provided with a kitchen exhaust hood in accordance with NFPA 96, Annex B.

319.5 Fire protection. Fire protection shall be provided in accordance with Sections 319.5.1 through 319.5.2.

319.5.1 Fire protection for cooking equipment. Cooking equipment shall be protected by automatic fire extinguishing systems in accordance with Section [ ~~904.3.904.2.~~ ]

319.5.2 Fire extinguisher. Portable fire extinguishers shall be provided in accordance with Section ~~904.12.5~~ 906.4.

319.6 Appliance connection to fuel supply. Gas cooking appliances shall be secured in place and connected to fuel supply piping with an appliance connector complying with ANSI Z21.69/CSA 6.16. The connector installation shall be configured in accordance with manufacturer's installation instructions. Movement of appliances shall be limited by restraining devices installed in accordance with the connector and appliance manufacturer's instructions.

319.6.1 Construction and modifications. Following initial construction and any modifications of the fuel system, the system, including hoses, shall be proven free of leaks by performing a pressure test in accordance with NFPA 58 at not less than the normal operating pressure.

319.6.2 Leak detection. Gas systems shall be inspected prior to each use and following fuel tank replacement or refill in one of the following methods:

1. A water and soap solution shall be applied to every accessible connection or connection manipulated during the replacement or fueling and observed for evidence of gas leakage.
2. Pressure testing in accordance with Annex L of NFPA 58.

319.6.3 Leaks. When leaks are discovered during inspections and testing, the fuel supply shall be secured in the "off" position or disconnected from the appliance, and the appliance shall not be operated until serviced by a qualified person.

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319.7 Cooking oil storage containers. Cooking oil storage containers within mobile food preparation vehicles shall have a minimum aggregate area volume not to exceed 120 gallons (~~454L~~) (454 L) and shall be stored in such a way as to not be toppled or damaged during transport.

319.8 Cooking oil storage tanks. Cooking oil storage tanks within mobile food preparation vehicles shall comply with Sections 319.8.1 through 319.8.5.

319.8.1 Metallic storage tanks. Metallic cooking oil storage tanks shall be listed in accordance with UL 142 or UL 80, and shall be installed in accordance with the tank manufacturer's instructions.

319.8.2 Nonmetallic tanks. Nonmetallic cooking oil storage tanks shall be installed in accordance with the tank manufacturer's instructions and shall also comply with all of the following:

1. Tanks shall be listed for use with cooking oil, including maximum temperature to which the tanks will be exposed to during use.
2. Tank capacity shall not exceed 200 gallons (757 L) per tank.

319.8.3 Cooking oil storage system components. Metallic and nonmetallic cooking oil storage system components shall include piping, connections, fittings, valves, tubing, hose, pumps, vents, and other related components used for the transfer of cooking oil.

319.8.4 Design criteria. The design, fabrication, and assembly of system components shall be suitable for the working pressures, temperatures, and structural stresses to be encountered by the components.

319.8.5 Tank venting. Normal and emergency venting shall be provided for cooking oil storage tanks.

319.8.5.1 Normal vents. Normal vents shall be located above the maximum normal liquid line and shall have a minimum effective area not smaller than the largest filling or withdrawal connection. Normal vents are not required to vent to the exterior.

319.8.5.2 Emergency vents. Emergency relief vents shall be located above the maximum normal liquid line and shall be in the form of a device that will relieve excessive internal pressure caused by an exposure fire. For nonmetallic tanks, the emergency relief vent shall be allowed to be in the form of construction. Emergency vents are not required to discharge to the exterior.

319.9 Liquefied petroleum gas (LP-gas) systems. Where LP-gas systems provide fuel for cooking appliances, such systems shall comply with NFPA 58, Chapter 61 and Sections 319.9.1 through 319.9.5.

319.9.1 Maximum aggregate volume. The maximum aggregate capacity of LP-gas containers transported on the vehicle and used to fuel cooking appliances only shall not exceed 200 pounds propane capacity.

319.9.2 Protection of container. LP-gas containers installed on the vehicle shall be securely mounted and restrained to prevent movement.

319.9.3 LP-gas container construction. LP-gas containers shall be manufactured in compliance with the requirements of NPFA 58.

319.9.4 Protection of system piping. LP-gas system piping, including valves and fittings, shall be adequately protected to prevent tampering, impact damage, and damage from vibration.

319.9.5 LP-gas alarms. A listed LP-gas alarm shall be installed with the vehicle in the vicinity of LP-gas system components, in accordance with manufacturer's instructions.

319.10 Compressed natural gas (CNG) systems. Where CNG systems provide fuel for cooking appliances, such systems shall comply with Sections 319.10.1 through 319.10.4.

319.10.1 CNG containers supplying only cooking fuel. CNG containers installed solely to provide fuel for cooking purposes shall be in accordance with Sections 319.10.1.1 through 319.10.1.3.

319.10.1.1 Maximum aggregate volume. The maximum aggregate capacity of CNG containers transported on the vehicle shall not exceed 1,300 pounds water capacity.

319.10.1.2 Protection of container. CNG containers shall be securely mounted and restrained to prevent movement. Containers shall not be installed in locations subject to direct vehicle impact.

319.10.1.3 CNG container construction. The construction of CNG containers shall be approved.

319.10.2 CNG containers supplying transportation and cooking fuel. Where CNG containers and systems are used to supply fuel for cooking purposes in addition to being used for transportation fuel, the installation shall be in accordance with NFPA 52.

319.10.3 Protection of system piping. CNG system piping, including valves and fittings, shall be adequately protected to prevent tampering, impact damage, and damage from vibration.

319.10.4 Methane alarms. A listed methane gas alarm shall be installed within the vehicle in accordance with manufacturer's instructions.

319.11 Maintenance. Maintenance of systems on mobile food preparation vehicles shall be in accordance with Sections 319.11.1 through 319.11.3.

319.11.1 Exhaust system. The exhaust system, including hood, grease-removal devices, fans, ducts and other appurtenances, shall be inspected and cleaned in accordance with Chapter 6.



319.11.2 Fire protection systems and devices. Fire protection systems and devices shall be maintained in accordance with Chapter 9.

319.11.3 Fuel-gas systems. LP-gas containers installed on the vehicle and fuel-gas piping systems shall be inspected annually by an approved inspection agency or a company that is registered with the U.S. Department of Transportation to requalify LP-gas cylinders to ensure that system components are free of damage, suitable for the intended service, and not subject to leaking. CNG containers shall be inspected every three years in a qualified service facility. CNG containers shall not be used past their expiration dates listed on the manufacturer's container label. Upon satisfactory inspection, the approved inspection agency shall affix a tag on the fuel-gas system or within the vehicle indicating the name of the inspection agency and the date of satisfactory inspection.

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

A. The following change shall be made to Section 401, General:

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 Behavioral Health and Developmental 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.

B. The following changes shall be made to Section 403, Emergency Preparedness Requirements:

1. Add Section 403.1.1 to read:

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

2. Add Sections 403.2.2.1, 403.2.2.1.1, and 403.2.2.1.2 to read:

403.2.2.1 Night clubs. Night clubs shall comply with Sections 403.2.2.1.1 and 403.2.2.1.2.

403.2.2.1.1 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.

403.2.2.1.2 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.

3. Change Section 403.8.3.2 to read:

403.8.3.2 Employee staffing. Group I-3 occupancies shall be provided with 24-hour staffing. An employee shall be within three floors or 300 feet (~~91-440~~ 91,440 mm) horizontal distance of the access door of each resident housing area. In Group I-3 Conditions 3, 4, and 5, as defined in Chapter 2, the arrangement shall be such that the employee involved can start release of locks necessary for emergency evacuation or rescue and initiate other necessary emergency actions within 2 minutes of an alarm.

Exception: An employee shall not be required to be within three floors or 300 feet (~~91-440~~ 91,440 mm) horizontal distance of the access door of each resident housing area in areas in which all locks are unlocked remotely and automatically in accordance with the applicable building code.

4. Change Section 403.10 to read:

403.10 Group R occupancies. Group R occupancies shall comply with Sections 403.10.1 through 403.10.4.

5. Add Section 403.10.4 to read:

403.10.4 Groups R-3 and R-5 lodging facilities. An approved fire safety and evacuation plan in accordance with Section 404 shall be prepared and maintained for Groups R-3 and R-5 bed and breakfast and other transient boarding facilities that are either proprietor or non-proprietor occupied.

6. Change Section 403.11 to read:

403.11 Special uses. Special uses shall be in accordance with Sections 403.11.1 through ~~403.11.5~~ 403.11.6.

7. Change Section 403.11.1.4 to read:

403.11.1.4 Lease plan revisions. The lease plans shall be revised annually or as often as necessary to keep them current. Modifications or changes in tenants or occupancies shall not be made without prior approval of the fire code official.

8. Add Section ~~403.11.5~~ 403.11.6 to read:

~~403.11.5~~ 403.11.6 SRCF. An approved fire safety and evacuation plan in accordance with Section 404 shall be prepared and maintained for SRCFs.

C. The following ~~change~~ changes shall be made to Section 404, Fire Safety, Evacuation and Lockdown Plans:

1. Change Item 4.4 of Section 404.2.3.1 to read:

4.4. A description of how locking means and methods are in compliance with the requirements of the VCC and the applicable provisions of this code for egress and accessibility.

2. Change Section 404.4.1 to read:

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404.4.1 Distribution. The fire safety and evacuation plans shall be distributed to the tenants and building service employees by the owner or owner's agent. Tenants shall distribute to their employees applicable parts of the fire safety plan affecting the employees' actions in the event of a fire or other emergency. Fire safety and evacuation plans shall be made available by the proprietor of ~~Group~~ Groups R-3 and R-5 bed and breakfast and other transient boarding facilities to transient guests upon their arrival or are present in each transient guest room.

D. The following changes shall be made to Section 405, Emergency Evacuation Drills

1. Change Section 405.1 to read:

405.1 General. Emergency evacuation drills complying with Sections 405.2 through 405.9 shall be conducted at least annually where fire safety and evacuation plans are required by Section 403 or when required by the fire code official. Drills shall be designed in cooperation with the local authorities.

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

2. Add the following row to Table 405.2 [ and change Footnote d ] to read:

| Group or Occupancy                                   | Frequency | Participation |
|--|-----------|---------------|
| [ <u>Group R</u> ]<br>SRCF [ <u>except hospice</u> ] | Monthly   | All occupants |

[ d. Emergency evacuation drills in Group R-2 college and university buildings shall be in accordance with Section 403.10.2.1. Emergency evacuation drills are required in Group R-2 occupancies that are designed or developed and marketed to senior citizens 55 years of age or older in accordance with 42 USC § 3607(b)(2). Other Group R-2 occupancies do not require routine emergency evacuation drills but shall be in accordance with Section 403.10.2.2. ]

3. Add Section 405.2.1 to read:

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

E. The following change shall be made to Section 406, Employee Training and Response Procedures:

Add Section 406.3.4.1 to read:

406.3.4.1 Emergency supplemental hardware training. Where a facility has installed approved emergency supplemental hardware, employees shall be trained on their assigned duties and procedures for the use of such

device. Records of in-service training shall be made available to the fire code official upon request.

[ F. The following changes shall be made:

407.2 Safety data sheets. Safety data sheets (SDS) for all hazardous materials shall be either readily available on the premises as a paper copy or readily retrievable by electronic access. ]

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

A. The following changes shall be made to Section 501, General:

1. Change Section 501.2 to read:

501.2 Permits. A permit shall be required as set forth in Section 107.2.

2. Delete Section 501.4.

B. The following changes shall be made to Section 503, Fire Apparatus Access Roads:

1. 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 3310.1.

2. Change Section 503.1.1 to read:

503.1.1 Buildings and facilities. Approved fire apparatus access roads shall be provided for every facility, building, or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet (45,720 mm) of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.

Exceptions:

1. The fire code official is authorized to increase the dimension of 150 feet (45,720 mm) where any of the following conditions occur:

1.1. The building is equipped throughout with an approved automatic sprinkler system in accordance with the applicable NFPA13, ~~NFPA 13R, or NFPA13D~~ [ NFPA 13R, or NFPA 13D ] standard.

1.2. Fire apparatus access roads cannot be installed because of location on property, topography, waterways,

nonnegotiable grades, or other similar conditions, and an approved alternative means of fire protection is provided.

1.3. There are not more than two Group R-3 [ , R-5, ] or Group U occupancies.

2. Where approved by the fire code official, fire apparatus access roads shall be permitted to be exempted or modified for solar photovoltaic power generation facilities.

3. Add exception to Section 503.2.1 to read:

Exception: Fire apparatus access roads exclusively serving single family dwelling or townhouse developments that are fully sprinklered as provided for in ~~Sections~~ Section R313.1 or R313.2 of the International Residential Code shall have an unobstructed width of not less than 18 feet (5486 mm), exclusive of shoulders.

4. 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-~~503.7. ]

C. The following changes shall be made to Section 504, Access to Building Openings and Roofs:

1. Change Section 504.1 to read:

504.1 Required access. Exterior doors and openings required by the applicable building code shall be maintained readily accessible for emergency access by the fire department. An approved access walkway leading from fire apparatus access roads to exterior openings shall be provided when required by the fire code official.

2. Change Section 504.3 to read:

~~(N)504.3~~ 504.3 Stairway access to roof. Stairway access to the roof shall be maintained and marked at street and floor levels with a sign indicating that the stairway continues to the roof.

D. The following changes shall be made to Section 507, Fire Protection Water Supplies:

1. Add Section 507.3.1 to read:

507.3.1 Fire flow requirements for fully sprinklered residential developments. Notwithstanding Section 103.1.2, the fire flow requirements in Table B105.1(1) of Appendix B of the IFC shall be permitted to be used for determining fire flow in single family dwelling and townhouse developments which are fully sprinklered as provided for in ~~Sections~~ Section R313.1 or R313.2 of the International Residential Code.

2. Change Section 507.5.1 to read:

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.

Exceptions:

1. For in-fill development of fewer than five detached single-family dwellings constructed in existing residential developments.

2. For the reconstruction or rehabilitation of detached single-family dwellings.

3. Add Section 507.5.1.2 to read:

507.5.1.2 Fire hydrant requirements for fully sprinklered residential developments. Notwithstanding Section 103.1.2, the number and distribution of fire hydrants in Table C102.1 of Appendix C of the IFC shall be permitted to be used in single family dwelling and townhouse developments which are fully sprinklered as provided for in ~~Sections~~ Section R313.1 or R313.2 of the International Residential Code, with the spacing and distances of fire hydrants indicated in Table C102.1 increased by 100%.

E. The following changes shall be made to Section 508, Fire Command Center:

1. Change Section 508.1 to read:

~~(N)508.1~~ 508.1 General. Where required by the applicable building code or where otherwise provided, a fire command center for fire department operations shall comply with Sections 508.1.1 through 508.1.6.

2. Delete Section 508.1.1.

3. Change Section 508.1.2 to read:

~~(N)508.1.2~~ 508.1.2 Separation. Fire-rated construction shall be maintained in accordance with Section 703 of this code.

4. Delete Section 508.1.3.

5. Change Section 508.1.4 to read:

~~(N)508.1.4~~ 508.1.4 Layout approval. A layout of the fire command center and all features shall be submitted for approval prior to modification.

6. Change Section 508.1.6 to read:

~~(N)508.1.6~~ 508.1.6 Required features. In addition to the features required by the applicable building code, the fire command center shall contain the following:

1. A telephone for fire department use with controlled access to the public telephone system.

2. Schematic building plans indicating the typical floor plan and detailing the building core, means of egress, fire protection systems, firefighter air-replenishment systems, firefighting equipment, and fire department access and the location of fire walls, fire barriers, fire partitions, smoke barriers, and smoke partitions.

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3. An approved building information card that includes all of the following information:

3.1. General building information that includes property name, address, the number of floors in the building above and below grade, use and occupancy classification (for mixed uses, identify the different types of occupancies on each floor), and the estimated building population during the day, night, and weekend;

3.2. Building emergency contact information that includes a list of the building's emergency contacts including building manager, building engineer, and their respective work phone numbers, cell phone numbers, and email addresses;

3.3. Building construction information that includes the type of building construction including floors, walls, columns, and roof assembly;

3.4. Exit access stairway and exit stairway information that includes number of exit access stairways and exit stairways in building; each exit access stairway and exit stairway designation and floors served; location where each exit access stairway and exit stairway discharges; interior exit stairways that are pressurized; exit stairways provided with emergency lighting; each exit stairway that allows reentry; exit stairways providing roof access; elevator information that includes: number of elevator banks, elevator bank designation, elevator car numbers, and respective floors that they serve; location of elevator machine rooms; control rooms and control spaces; location of sky lobby; and location of freight elevator banks;

3.5. Building services and system information that includes location of mechanical rooms, location of building management system, location and capacity of all fuel oil tanks, location of emergency generator, and location of natural gas service;

3.6. Fire protection system information that includes location of standpipes, location of fire pump room, location of fire department connections, floors protected by automatic sprinklers, and location of different types of automatic sprinkler systems installed including dry, wet, and preaction; and

3.7. Hazardous material information that includes: location and quantity of hazardous material.

4. Work table.

F. The following changes shall be made to Section 510, Maintenance of In-Building Emergency Communication Equipment:

Change Sections 510.1 through 510.3 and delete Sections 510.4 through 510.6, including subsections.

Sections 510.1 through 510.3 to read:

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

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.

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

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

A. The following changes shall be made to Section 601, General:

1. Change Section 601.1 to read:

601.1 Scope. The provisions of this chapter shall apply to the operation and maintenance of fuel-fired appliances and heating systems, [ ~~emergency and standby power systems,~~ ] electrical systems, and equipment, mechanical refrigeration systems, elevator recall, [ ~~stationary storage battery systems~~ ] and commercial kitchen equipment.

2. Change Section 601.2 to read:

601.2 Permits. Permits shall be obtained for refrigeration [ ~~systems, battery systems and solar photovoltaic power~~ ] systems as set forth in Section 107.2.

B. The following changes shall be made to Section 603, Fuel-Fired Appliances:

1. Change Section 603.1 to read:

~~(N)603.1~~ 603.1 Installation. The installation of nonportable fuel gas appliances and systems shall comply with the applicable building code. The use of all other fuel-fired appliances, other than internal combustion engines, oil lamps and portable devices such as blow torches, melting pots and weed burners, shall comply with this section.

2. Change Section 603.1.1 to read:

~~(N)603.1.1~~ 603.1.1 Manufacturer's instructions. Appliances shall be [ ~~maintained~~ installed, operated and maintained ] in accordance with the manufacturer's

- instructions and applicable federal, state, and local rules and regulations. Where it becomes necessary to change, modify, or alter a manufacturer's instructions in any way, written approval shall first be obtained from the manufacturer.
3. Delete Section 603.1.2.
  4. Change Section 603.1.3 to read:
 

~~(N)603.1.3~~ 603.1.3 Electrical wiring and equipment. Electrical wiring and equipment used in connection with oil-burning equipment shall be maintained in accordance with Section [ ~~605~~ 604 ] and [ the applicable ] NFPA 70 [ standard ].
  5. Change Section 603.1.5 to read:
 

~~(N)603.1.5~~ 603.1.5 Access. Appliances shall be readily accessible for cleaning hot surfaces; removing burners; replacing motors, controls, air filters, chimney connectors, draft regulators, and other working parts; and for adjusting, cleaning, and lubricating parts.
  6. Change Section 603.1.6 to read:
 

~~(N)603.1.6~~ 603.1.6 Testing, diagrams and instructions. Following servicing or maintenance of oil-burning equipment, operation and combustion performance tests shall be conducted to determine that the burner is in proper operating condition and that all accessory equipment, controls, and safety devices function properly.
  7. Change Section 603.1.6.1 to read:
 

~~(N)603.1.6.1~~ 603.1.6.1 Diagrams. Two copies of diagrams showing the main oil lines and controlling valves shall be provided, one copy of which shall be posted at the oil-burning equipment and another at an approved location that will be accessible in case of emergency.
  8. ~~Change Section 603.1.7 to read:~~

~~(N)603.1.7~~ ~~Clearances. Working clearances between oil-fired appliances and electrical panelboards and equipment shall be in accordance with NFPA 70. Clearances between oil-fired equipment and oil supply tanks shall be in accordance with NFPA 31.~~
  9. ~~8.~~ Change Section 603.2 to read:
 

~~(N)603.2~~ 603.2 Chimneys. Masonry, metal, and factory-built chimneys shall be maintained in accordance with the applicable building code; and NFPA 211.
  10. ~~9.~~ Change Section 603.3 to read:
 

~~(N)603.3~~ 603.3 Fuel oil storage systems. Fuel oil storage systems shall be maintained [ ~~as provided by~~ in accordance with this section and ] the applicable building code.
  11. ~~10.~~ Change Section 603.3.1 to read:
 

~~(N)603.3.1~~ 603.3.1 Fuel oil storage in outside, aboveground tanks. Where connected to a fuel-oil piping system, the maximum amount of fuel oil storage allowed outside above ground without additional protection shall be 660 gallons (2498 L) unless otherwise installed in accordance with the applicable building code. The storage of fuel oil above ground in quantities exceeding 660 gallons (2498 L) shall [ ~~empty~~ ] be maintained in accordance with NFPA 31.
  12. ~~11.~~ Change Section 603.3.2 to read:
 

~~(N)603.3.2~~ 603.3.2 Fuel oil storage inside buildings. Fuel oil storage inside buildings shall be maintained in accordance with [ this section and ] the applicable building code.
  13. ~~12.~~ Change Section 603.3.2.1 to read:
 

~~(N)603.3.2.1~~ 603.3.2.1 Quantity limits. [ ~~The amount of fuel oil storage in fuel oil storage tanks inside buildings shall not exceed that amount approved under the applicable building code. One or more fuel oil storage tanks containing Class II or III combustible liquid shall be permitted to be stored in a building. Unless otherwise approved by the applicable building code, the aggregate capacity of all tanks shall not exceed the following:~~

660 gallons (2498 L) in unsprinklered buildings, where stored in a tank complying with UL 80, UL 142 or UL 2085.

1,320 gallons (4996 L) in buildings equipped with an automatic sprinkler system in accordance with the applicable NFPA 13 standard, where stored in a tank complying with UL 142.

3,000 gallons (11 356 L) where stored in protected aboveground tanks complying with UL 2085 and Section 5704.2.9.7 and the room is protected by an automatic sprinkler system in accordance with the applicable NFPA 13 standard. ]
  14. ~~13.~~ Change Section 603.3.2.2 to read:
 

~~(N)603.3.2.2~~ 603.3.2.2 Restricted use and connection. Tanks subject to Section 603.3.2 shall be used only [ ~~as approved under~~ to supply fuel oil to fuel-burning equipment, generators or fire pumps installed in accordance with ] the applicable building code. [ ~~Closed piping systems shall be maintained in accordance with the applicable building code. Connections between tanks and equipment supplied by such tanks shall be maintained as closed piping systems. ]~~
  15. ~~14.~~ Change Section 603.3.2.3 to read:
 

~~(N)603.3.2.3~~ 603.3.2.3 Applicability of maximum allowable quantity and control area requirements. The quantity of combustible liquid stored in tanks subject to Section 603.3.2 shall not be counted toward the maximum allowable quantity set forth in Table 5003.1.1(1), and such tanks shall not be required to be located in a control area when there are such allowances under the applicable building code.

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~~16.~~ 15. Change Section 603.3.2.4 [ and 603.3.2.6 ] and delete Sections 603.3.2.5 [ and ~~603.3.2.6~~ ]:

[ ~~Change Section~~ Sections ] 603.3.2.4 [ and 603.3.2.6 ] to read:

~~(N)603.3.2.4~~ 603.3.2.4 Installation. [ ~~Tanks and piping systems shall be maintained~~ New or modified tanks and piping systems shall be approved by the Building Official ] in accordance with the applicable building code. [ 603.3.2.6 Spill control. Where provided or required in accordance with the applicable building code, spill control shall be maintained in accordance with Section 5703.4 and the applicable building code. ]

~~17.~~ 16. Change Section ~~603.3.2.5~~ 603.3.2.7 to read:

~~(N)603.3.2.5~~ 603.3.2.7 Tanks in basements. Tanks in basements shall be maintained in accordance with the applicable building code.

~~18.~~ 17. Change Section 603.3.3 to read:

~~(N)603.3.3~~ 603.3.3 Underground storage of fuel oil. [ ~~The storage of fuel oil in underground storage tanks~~ Underground storage tanks used for the storage of fuel oil ] shall be maintained [ and operated ] in accordance with the applicable building code [ and the applicable NFPA 31 standard ].

~~19.~~ 18. Change Section 603.5 to read:

~~(N)603.5~~ 603.5 Heating appliances. Heating appliances shall be [ ~~maintained in accordance with the applicable building code~~ listed and shall comply with Sections 603.5.1 and 603.5.2 ].

~~20.~~ 19. Change Section 603.5.1 to read:

~~(N)603.5.1~~ 603.5.1 Guard against contact. The heating element or combustion chamber guard shall be maintained so as to prevent accidental contact by persons or material to the extent required by the applicable building code.

~~21.~~ 20. Change Section 603.5.2 to read:

~~(N)603.5.2~~ 603.5.2 Heating appliance [ ~~installation and~~ ] maintenance. Heating appliances shall be maintained in accordance with the [ manufacturer's instructions, the ] applicable building code [ , and the applicable NFPA 31 standard ].

~~22.~~ 21. Change Section 603.6 to read:

~~(N)603.6~~ 603.6 Chimneys and appliances. Chimneys, incinerators, smokestacks or similar devices for conveying smoke or hot gases to the outer air and the stoves, furnaces, fireboxes or boilers to which such devices are connected shall be maintained [ ~~in accordance with the applicable building code~~ according to manufacturer's instructions, comply with the applicable building code, and be maintained so as to not create a fire hazard ].

~~23.~~ 22. Change Section 603.6.1 to read:

~~(N)603.6.1~~ 603.6.1 Masonry chimneys. Masonry chimneys that, upon inspection, are found to be without a flue liner and that have open mortar joints that will permit smoke or gases to be discharged into the building or that are cracked as to be dangerous shall be repaired in accordance with the applicable building code.

~~24.~~ 23. Change Section 603.6.2 to read:

~~(N)603.6.2~~ 603.6.2 Metal chimneys. Metal chimneys [ or supports ] that are [ damaged or ] corroded shall be repaired or replaced.

~~25.~~ Change Section ~~603.6.3~~ to read:

~~(N)603.6.3~~ ~~Decorative shrouds. Decorative shrouds installed at the termination of factory built chimneys shall be removed except where such shrouds are listed and labeled for use with the specific factory built chimney system and are installed in accordance with the chimney manufacturer's instructions.~~

~~26.~~ 24. Change Section 603.6.4 to read:

~~(N)603.6.4~~ 603.6.4 Factory-built chimneys. Existing factory-built chimneys [ or their supports ] that are [ damaged or ] corroded shall be repaired or replaced.

~~27.~~ 25. Change Section 603.6.5 to read:

~~(N)603.6.5~~ 603.6.5 Connectors. Existing chimney and vent connectors [ or their supports ] that are damaged or corroded shall be repaired or replaced.

~~28.~~ 26. Add a note to Section 603.7 to read:

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

~~29.~~ 27. Change Section 603.8 to read:

~~(N)603.8~~ 603.8 Incinerators. Commercial, industrial and residential-type incinerators and chimneys shall be [ ~~maintained as~~ ] installed in accordance with the applicable building code [ and maintained ].

~~30.~~ 28. Change Section 603.8.1 to read:

~~(N)603.8.1~~ 603.8.1 Residential incinerators. Residential incinerators not regulated by the applicable building code shall be of an approved type.

~~31.~~ 29. Change Section 603.8.2 to read:

~~(N)603.8.2~~ 603.8.2 Spark arrestor. Incinerators not regulated by the applicable building code shall be equipped with an effective means for arresting sparks.

~~32.~~ 30. Delete Section ~~608.8.6~~ 603.8.6.

C. The following changes shall be made to Section 604, Emergency and Standby Power Systems:

1. Change Section 604.1 to read:

~~(N)604.1 General. Emergency power systems and standby power systems shall be maintained in accordance with the applicable building code.~~

2. Change Section 604.1.1 to read:

~~(N)604.1.1 Generators. Emergency and standby power generators shall be listed.~~

3. Delete Section 604.1.2.

4. Change Section 604.1.3 to read:

~~(N)604.1.3 Load transfer. Emergency power systems shall automatically provide secondary power within 10 seconds after primary power is lost unless specified otherwise by the applicable building code. Standby power systems shall automatically provide secondary power within 60 seconds after primary power is lost unless specified otherwise by the applicable building code.~~

5. Change Section 604.1.4 to read:

~~(N)604.1.4 Load duration. Emergency power systems and standby power systems shall require power for a minimum duration of hours without being refueled or recharged, unless otherwise specified by the applicable building code.~~

6. Change Section 604.1.5 to read:

~~(N)604.1.5 Uninterruptable power source. An uninterrupted source of power shall be provided for equipment where required by the manufacturer's instructions, the listing, the applicable building code, or the applicable referenced standards.~~

7. Change Section 604.1.6 to read:

~~(N)604.1.6 Interchangeability. Emergency power systems shall be an acceptable alternative for installations that require standby power systems when permitted by the applicable building code.~~

8. Delete Section 604.1.7.

9. Change Section 604.1.8 to read:

~~604.1.8 Maintenance. Existing installations shall be maintained in accordance with the original approval and Section 604.4.~~

10. Change Section 604.2 to read:

~~(N)604.2 Specific equipment requirements. Emergency and standby power systems shall be maintained in accordance with Sections 604.2.1 through 604.2.16.~~

11. Change Section 604.2.1 to read:

~~(N)604.2.1 Elevators and platform lifts. Standby power shall be maintained in accordance with NFPA 72 for~~

~~elevators and platform lifts required by the applicable building code.~~

12. Change Section 604.2.2 to read:

~~(N)604.2.2 Emergency alarm systems. Emergency power shall be maintained for emergency alarm systems as required by applicable building code.~~

13. Delete Section 604.2.3.

14. Change Section 604.2.4 to read:

~~(N)604.2.4 Emergency voice or alarm communication systems. Emergency power shall be maintained for emergency voice or alarm communication systems as required by the applicable building code. The system shall be capable of powering the required load for a duration of not less than 24 hours, as required in NFPA 72.~~

15. Change Section 604.2.5 to read:

~~(N)604.2.5 Exit signs. Emergency power for exit signs shall be capable of powering the required load for a duration of not less than 90 minutes unless otherwise specified by the applicable building code.~~

16. Change Section 604.2.6 to read:

~~(N)604.2.6 Group I-2 occupancies. Essential electrical systems for Group I-2 occupancies shall be maintained in accordance with NFPA 70 when required by applicable building code.~~

17. Change Section 604.2.7 to read:

~~(N)604.2.7 Group I-3 occupancies. Power-operated sliding doors or power-operated locks for swinging doors in Group I-3 occupancies shall be operable by a manual release mechanism at the door and emergency power provided for the doors and locks shall be maintained where required by the applicable building code.~~

18. Change Section 604.2.8 to read:

~~(N)604.2.8 Hazardous materials. Emergency and standby power shall be maintained in accordance with NFPA 70 in occupancies with hazardous materials when required by the applicable building code.~~

19. Delete Section 604.2.9.

20. Change Section 604.2.10 to read:

~~(N)604.2.10 Horizontal sliding doors. Standby power shall be maintained in accordance with NFPA 70 for horizontal sliding doors as required by the applicable building code. The standby power supply shall have a capacity to operate not fewer than 50 closing cycles of the door unless otherwise specified by the applicable building code.~~

21. Change Section 604.2.11 to read:

~~(N)604.2.11 Hydrogen fuel gas rooms. Standby power shall be maintained in accordance with NFPA 70 for~~

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hydrogen fuel gas rooms as required by the applicable building code.

22. Change Section 604.2.12 to read:

~~(N)604.2.12 Means of egress illumination. Emergency power shall be maintained for means of egress illumination in accordance with the applicable building code.~~

23. Change Section 604.2.13 to read:

~~(N)604.2.13 Membrane structures. Standby power shall be maintained for auxiliary inflation systems in permanent membrane structures in accordance with applicable building code. Auxiliary inflation systems shall be provided in temporary air supported and air inflated membrane structures in accordance with Section 3103.10.4.~~

24. Change Section 604.2.14 to read:

~~(N)604.2.14 Semiconductor fabrication facilities. Emergency power shall be maintained in accordance with NFPA 70 for semiconductor fabrication facilities as required by the applicable building code.~~

25. Change Section 604.2.15 to read:

~~(N)604.2.15 Smoke control systems. Standby power shall be maintained in accordance with NFPA 70 for smoke control as required by the applicable building code.~~

26. Change Section 604.2.16 to read:

~~(N) 604.2.16 Underground buildings. Emergency and standby power shall be maintained in accordance with NFPA 70 in underground buildings as required by the applicable building code.~~

27. Change Section 604.3 to read:

~~(N)604.3 Critical circuits. Cables used for survivability of required critical circuits shall be listed. Electrical circuit protective systems shall be maintained in accordance with their listing requirements.~~

28. Change Section 604.4 to read:

~~604.4 Maintenance. Emergency and standby power systems shall be maintained in accordance with NFPA 70, NFPA 110, and NFPA 111 such that the system is capable of supplying service within the time specified for the type and duration required in accordance with the applicable building code.~~

29. Change Section 604.5 to read:

~~604.5 Operational inspection and testing. Emergency power systems, including all appurtenant components, shall be inspected and tested under load in accordance with NFPA 110, NFPA 70, and NFPA 111.~~

~~Exception: Where the emergency power system is used for standby power or peak load shaving, such use shall be recorded and shall be allowed to be substituted for~~

~~scheduled testing of the generator set, provided that appropriate records are maintained.~~

30. Add Section 604.8 to read:

~~604.8 Testing of battery powered emergency lights and exit signs. Required emergency lighting utilizing battery powered emergency lights or exit signs, or both, shall be tested annually. The emergency lights and exit signs shall be tested for proper operation for the time period established in the building code in effect when the equipment was installed. Written records of tests shall be retained by the owner of the building for a minimum of two years after the test is conducted and shall be made available to the fire code official upon request.~~

~~D. C.~~ The following changes shall be made to Section ~~605~~ 604, Electric Equipment, Wiring, and Hazards:

1. Change Section ~~605.2~~ 604.2 to read:

~~605.2~~ 604.2 Illumination. Illumination shall be maintained for service equipment areas, motor control centers, and electrical panelboards.

2. Change Section ~~605.9~~ 604.9 to read:

~~(N)605.9~~ 604.9 Temporary wiring. Temporary wiring for electrical power and lighting installations not regulated by the applicable building code is allowed for a period not to exceed 90 days. Temporary wiring methods shall meet the applicable provisions of NFPA 70.

Exception: Temporary wiring for electrical power and lighting installations is allowed during periods of construction, remodeling, repair, or demolition of buildings, structures, equipment, or similar activities.

[ ~~3. Change Section~~ ] ~~605.10.1~~ [ 604.10.1 to read: ]

~~605.10.1~~ [ 604.10.1 Listed and labeled. Only portable electric space heaters listed and labeled in accordance with UL 1278 shall be used. ]

4. Change Section 605.11 to read:

~~(N)605.11 Solar photovoltaic power systems. Solar photovoltaic power systems shall be maintained in accordance with Sections 605.11.1 through 605.11.2, the applicable building code and NFPA 70.~~

5. Change Section 605.11.1 to read:

~~(N)605.11.1 Access and pathways. Roof access, pathways, and spacing requirements shall be maintained in accordance with Section 605.11.1.~~

6. Change Section 605.11.1.1 to read:

~~(N)605.11.1.1 Roof access points. Roof access points shall be maintained in areas that do not require the placement of ground ladders over openings such as windows or doors and located at strong points of building construction in locations where the access point does not conflict with overhead obstructions such as tree limbs, wires, or signs.~~



- 7. ~~Delete Section 605.11.1.2.~~
- 8. ~~Delete Section 605.11.1.2.1.~~
- 9. ~~Delete Section 605.11.1.2.2.~~
- 10. ~~Delete Section 605.11.1.2.3.~~
- 11. ~~Delete Section 605.11.1.2.4.~~
- 12. ~~Delete Section 605.11.1.2.5.~~
- 13. ~~Delete Section 605.11.1.3.~~
- 14. ~~Delete Section 605.11.1.3.1.~~
- 15. ~~Delete Section 605.11.1.3.2.~~
- 16. ~~Delete Section 605.11.1.3.3.~~

17. Change Section 605.11.2 to read:

~~(N)605.11.2 Ground mounted photovoltaic arrays. A clear, brush free area of 10 feet (3048 mm) shall be maintained for ground mounted photovoltaic arrays.~~

~~E. D.~~ The following changes shall be made to Section ~~606~~ 605, Mechanical Refrigeration:

1. Change Section ~~606.1~~ Sections 605.1 and 605.1.2 and delete Section 605.1.1.

Sections 605.1 and 605.1.2 to read:

~~606.1~~ 605.1 Scope. Refrigeration systems shall be maintained in accordance with the applicable building code.

605.1.2 Ammonia refrigeration. Refrigeration systems using ammonia refrigerant and the buildings in which such systems are installed shall comply with [ the applicable operating procedures of ] IAR 7 [ for operating procedures ]. [ Decommissioning of ammonia refrigeration systems shall comply with IAR-8 and the applicable building code. ]

2. Change Section ~~606.2~~ 605.2 to read:

~~606.2~~ 605.2 Refrigerants. The use and purity of new, recovered, and reclaimed refrigerants shall be in accordance with the applicable building code.

3. Change Section ~~606.3~~ 605.3 to read:

~~606.3~~ 605.3 Refrigerant classification. Refrigerants shall be classified in accordance with the applicable building code.

4. Change Section ~~606.4~~ 605.4 to read:

~~606.4~~ 605.4 Change in refrigerant type. A change in the type of refrigerant in a refrigeration system shall be [ approved by the Building Official ] in accordance with the applicable building code.

5. Change Section ~~606.6~~ 605.6 to read:

~~606.6~~ 605.6 Testing of equipment. Refrigeration equipment and systems having a refrigerant circuit

containing more than 220 pounds (100 kg) of Group A1 or 30 pounds (14 kg) of any other group refrigerant shall be subject to periodic testing in accordance with Section [ ~~606.6.1~~ 605.6.1 ]. Records of tests shall be maintained. Tests of emergency devices or systems required by the applicable building code shall be conducted by persons trained and qualified in refrigeration systems.

6. Change Section ~~606.7~~ 605.7 to read:

~~606.7~~ 605.7 Emergency signs. Refrigeration units or systems having a refrigerant circuit containing more than 220 pounds (100 kg) of Group A1 or 30 pounds (14 kg) of any other group refrigerant shall be provided with approved emergency signs, charts and labels in accordance with NFPA 704. Hazard signs shall be in accordance with the applicable building code for the classification of refrigerants listed therein.

7. Change Section ~~606.8~~ Sections 605.8 and 605.8.1 to read:

~~(N)606.8~~ 605.8 Refrigerant detector detection. Refrigerant detection systems shall be maintained. ~~The alarm shall be actuated at a value not greater than the corresponding threshold limit value time weighted average values (TLV-TWA) for those agents.~~ Where ammonia is used as the refrigerant, detection shall comply with IAR 2. Detectors and alarms shall be maintained in approved locations. The detector shall transmit a signal to an approved location. For refrigerants other than ammonia, refrigerant detection shall comply with Section 605.8.1.

605.8.1 Refrigerants other than ammonia. Refrigerant detection systems [ required by the applicable building code ] shall be maintained. [ ~~The alarm shall be actuated at a value not greater than the corresponding threshold limit value time weighted average values (TLV-TWA) for those agents.~~ ] Detectors and alarms required by the applicable building code shall be maintained in approved locations. [ ~~The detector shall transmit a signal to an approved location.~~ Unless otherwise permitted by the applicable building code, detection of a refrigerant concentration exceeding the upper detection limit or 25% of the lower flammable limit (LFL), whichever is lower, shall stop refrigerant equipment in the machinery room. ]

8. Change Section ~~606.9~~ 605.9 to read:

~~(N)606.9~~ 605.9 Remote controls. Remote controls [ ~~required by the applicable building code shall be maintained and accessible at all times as required by that code.~~ of the mechanical equipment and appliances located in the machinery room shall be maintained and remain accessible in accordance with the applicable building code at all times. ]

9. Change Section ~~606.9.1~~ 605.9.1 to read:

~~(N)606.9.1~~ 605.9.1 Refrigeration system emergency shutoff. [ ~~Emergency shutoffs shall be maintained and accessible at all times.~~ Where a clearly identified switch

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of an approved type is required by the applicable building code to provide off-only control of refrigerant compressors, refrigerant pumps and normally closed automatic refrigerant valves located in the machinery room, the switch shall be maintained as approved. Unless otherwise permitted by the applicable building code, this equipment shall be maintained to automatically shut off when the refrigerant vapor concentration in the machinery room exceeds the vapor detector's upper detection limit or 25% of the LEL, whichever is lower. ]

10. Change Section ~~606.9.2~~ 605.9.2 to read:

~~(N)606.9.2~~ 605.9.2 Ventilation system. Ventilation system switches shall be clearly identified and maintained in an approved manner.

11. Change Section ~~606.10~~ 605.10 to read:

~~(N)606.10~~ 605.10 Emergency pressure control system. [ ~~Permanently~~ Emergency pressure control system provided for permanently ] installed refrigeration systems containing more than 6.6 pounds (3 kg) of flammable, toxic or highly toxic refrigerant or ammonia shall be maintained as installed in accordance with the applicable building code and this code.

12. Change Section ~~606.10.1~~ 605.10.1 to read:

~~(N)606.10.1~~ 605.10.1 Automatic crossover valves. Automatic crossover valves shall be maintained as installed in accordance with the applicable building code.

13. Change Section ~~606.10.1.1~~ 605.10.1.1 to read:

~~(N)606.10.1.1~~ 605.10.1.1 Overpressure limit set point. Automatic crossover valves shall be arranged and maintained in accordance with the applicable building code.

14. Change Section ~~606.10.1.2~~ 605.10.1.2 to read:

~~(N)606.10.1.2~~ 605.10.1.2 Manual operation. [ ~~Manual~~ Where provided or required in accordance with the applicable building code, manual ] operation of the automatic crossover valve [ ~~, where provided,~~ ] shall be maintained [ ~~in accordance with the applicable building code~~ ].

15. Delete Section ~~606.10.1.3~~ 605.10.1.3.

16. Change Section ~~606.10.2~~ 605.10.2 to read:

~~(N)606.10.2~~ 605.10.2 Automatic emergency stop. An automatic emergency stop feature shall be maintained in accordance with the applicable building code.

17. Delete Section ~~606.10.2.1~~ 605.10.2.1.

18. Delete Section ~~606.10.2.2~~ 605.10.2.2.

19. Change Section ~~606.12~~ 605.12 to read:

~~(N)606.12~~ 605.12 Discharge and termination of pressure relief and purge systems. Pressure relief devices, fusible

plugs and purge systems discharging to the atmosphere from refrigeration systems containing flammable, toxic or highly toxic refrigerants or ammonia shall be maintained in accordance with Sections [ ~~606.12.3 through 606.12.5~~ 605.12.2 through 605.12.4 ].

~~20. Delete Section 606.12.1.~~

~~21. Change Section 606.12.1.1 to read:~~

~~(N)606.12.1.1 Ammonia refrigeration. Refrigeration systems using ammonia refrigerant and the buildings in which such systems are installed shall comply with IAR-7 for operating procedures.~~

~~22. 20. Change Section 606.12.2 605.12.1 to read:~~

~~(N)606.12.2 605.12.1~~ Fusible plugs and rupture members. Unless otherwise required by the applicable building code, discharge piping and devices connected to the discharge side of a fusible plug or rupture member shall have provisions to prevent plugging the pipe in the event the fusible plug or rupture member functions.

~~23. 21. Change Section 606.12.3 605.12.2 to read:~~

~~(N) 606.12.3 605.12.2~~ Flammable refrigerants. Unless otherwise regulated by the applicable building code, systems containing more than 6.6 pounds (3 kg) of flammable refrigerants having a density equal to or greater than the density of air shall discharge vapor to the atmosphere only through an approved treatment system in accordance with Section [ ~~606.12.6 605.12.5~~ ] or a flaring system in accordance with Section [ ~~606.12.7 605.12.6~~ ]. Systems containing more than 6.6 pounds (3 kg) of flammable refrigerants having a density less than the density of air shall be permitted to discharge vapor to the atmosphere provided that the point of discharge is located outside of the structure at not less than 15 feet (4572 mm) above the adjoining grade level and not less than 20 feet (6096 mm) from any window, ventilation opening, or exit.

~~24. 22. Change Section 606.12.4 605.12.3 to read:~~

~~(N)606.12.4 605.12.3~~ Toxic and highly toxic refrigerants. [ ~~Toxic or highly toxic refrigerant discharge methods shall be maintained~~ Systems containing more than 6.6 pounds (3 kg) of toxic or highly toxic refrigerants that discharge vapor to the atmosphere shall discharge through a treatment system, flaring system, or other approved system ] in accordance with the applicable building code.

~~25. 23. Change Section 606.12.5 605.12.4 to read:~~

~~(N)606.12.5 605.12.4~~ Ammonia refrigerant. [ ~~The discharge methods for systems~~ Systems ] containing more than 6.6 pounds (3 kg) of ammonia refrigerant [ ~~shall be maintained that discharge vapor to the atmosphere shall discharge through a treatment system, flaring systems, ammonia diffusion systems,=, or other approved system~~ ] in accordance with the applicable building code.

[ Exception: Ammonia/water absorption systems containing less than 22 pounds (10kg) of ammonia and for which the ammonia circuit is located entirely outdoors. ]

~~26.~~ ~~24.~~ Change ~~Section 606.12.6~~ Sections 605.12.5 through 605.12.7 to read:

~~(N)606.12.6~~ 605.12.5 Treatment systems. [ Treatment Unless otherwise approved by the applicable building code, treatment ] systems [ for refrigerant gas discharge ] shall be maintained [ and operated to reduce the allowable discharge concentration of the refrigerant gas to not more than 50% of the IDLH at the point of exhaust. Treatment systems shall be operated and maintained ] in accordance with [ Chapter 60 and ] the applicable building code.

~~(N)606.12.7~~ 605.12.6 Flaring systems. Flaring systems for incineration of flammable refrigerants shall be [ operated and ] maintained [ in accordance with the applicable building code, to incinerate the entire discharge. The products of refrigerant incineration shall not pose health or environmental hazards. Where required by the applicable building code, standby fuel, such as LP-gas, and standby power shall be maintained to have the capacity to operate for the required time for complete incineration of refrigerant in the system and any additional capacity required by the applicable building code. Standby electrical power, where required to complete the incineration process, shall be maintained in accordance with Section 1203. ]

~~27.~~ Change ~~Section 606.12.8~~ to read:

~~(N)606.12.8~~ 605.12.7 Ammonia diffusion systems. Ammonia diffusion systems shall be maintained in accordance with the applicable building code.

~~28.~~ ~~25.~~ Change ~~Section 606.13~~ 605.13 to read:

~~(N)606.13~~ 605.13 [ Discharge location for refrigeration machinery room ventilation. Treatment systems for exhaust from mechanical ventilation systems serving refrigeration machinery rooms containing flammable, toxic or highly toxic refrigerants, other than ammonia, capable of exceeding 25% of the LFL or 50% of the IDLH shall be maintained in accordance with the applicable building code. Mechanical ventilation exhaust. Treatment systems required by the applicable building code for exhaust from mechanical ventilation systems serving refrigeration machinery rooms containing flammable, toxic or highly toxic refrigerants, other than ammonia, capable of exceeding 25% of the LFL or 50% of the IDLH shall be operated and maintained. ]  
Exception: Refrigeration systems containing Group A2L complying with Section 605.17.

~~29.~~ ~~26.~~ Change ~~Section 606.16~~ 605.16 to read:

~~(N)606.16~~ 605.16 Electrical equipment. The hazardous location classification [ as determined in accordance with the applicable building code and the applicable NFPA 70

standard ] of refrigeration machinery rooms where refrigerants of Groups A2, A3, B2 and B3 [ , as defined in the International Mechanical Code, ] are used, shall be maintained [ in accordance with the applicable building code ].

~~27.~~ Change Sections 605.17 through 605.17.2 to read:

605.17 Special requirements for Group A2L refrigerant machinery rooms. Machinery rooms with systems containing Group A2L refrigerants shall comply with Sections 605.17.1 through [ ~~605.17.2~~ 605.17.3 ].

[ Exception: Machinery rooms conforming to the Class 1, Division 2 hazardous location classification requirements of NFPA 70. ]

605.17.1 Refrigerant detection system. Refrigerant detection systems in machinery rooms shall be maintained in accordance with the applicable building code.

605.17.2 Emergency ventilation system [ operation ], [ ~~Emergency~~ An emergency ] ventilation systems shall be maintained [ to operate at the minimum exhaust rate specified ] in accordance with the applicable building code. [ Means to manually shut down the system shall be maintained. ]

~~28.~~ Delete Table 605.17.2 and [ change ] Section 605.17.3 [ to read:

605.17.3 Emergency ventilation system discharge. Where required by the applicable building code, the point of discharge to the atmosphere shall remain located outside of the structure and away from any window, ventilation opening, or exit. ]

~~F. E.~~ The following changes shall be made to ~~Section 607 606,~~ Elevator Operation, Maintenance, and Fire Service Keys:

1. Change ~~Section 607.1~~ 606.1 to read:

~~607.1~~ 606.1 Operation. Existing elevators with a travel distance of 25 feet (7620 mm) or more shall comply with the requirements of Section [ ~~607.5~~ 606.5 ] and the USBC, Part III, Maintenance.

2. Change ~~Section 607.2~~ 606.2 to read:

~~607.2~~ 606.2 Standby power. In buildings and structures where standby power is required or furnished to operate an elevator, standby power shall be maintained in accordance with Section [ ~~604~~ 1203 ]. Operation of the system shall be in accordance with Sections ~~607.2.1~~ 606.2.1 through ~~607.2.4~~ 606.2.4.

3. Change ~~Section 607.2.4~~ 606.2.4 to read:

~~607.2.4~~ 606.2.4 Machine room ventilation. Where standby power is connected to elevators, the machine room ventilation or air conditioning shall remain connected to the standby power source in accordance with the applicable building code.

4. Change ~~Section 607.4~~ 606.4 to read:

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~~607.4~~ 606.4 Fire service access elevator lobbies. Where fire service access elevators are required by the applicable building code, fire service access elevator lobbies shall be maintained free of storage and furniture.

5. Change Section ~~607.5~~ 606.5 to read:

~~607.5~~ 606.5 Occupant evacuation elevator lobbies. Where occupant evacuation elevators are provided in [ ~~under~~ accordance with ] the applicable building code, occupant evacuation elevator lobbies shall be maintained free of storage and furniture.

6. Change Section ~~607.6~~ 606.6 to read:

~~607.6~~ 606.6 Water protection of hoistway enclosures. Methods to prevent water from infiltrating into a hoistway enclosure required by the applicable building code shall be maintained.

~~G. The following changes shall be made to Section 608, Storage Battery Systems:~~

~~1. Change Section 608.1 to read:~~

~~608.1 Scope. Stationary storage battery systems having an electrolyte capacity of more than 50 gallons (189 L) for flooded lead acid, nickel cadmium (Ni-Cd), and valve-regulated lead acid (VRLA) or more than 1,000 pounds (454 kg) for lithium ion and lithium metal polymer used for facility standby power, emergency power, or uninterruptible power supplies shall comply with this section and Table 608.1 when required by the applicable building code.~~

~~2. Change Section 608.4 to read:~~

~~608.4 Room design and construction. Enclosure of stationary battery systems shall comply with the applicable building code. Battery systems shall be allowed to be in the same room with the equipment they support.~~

~~3. Change Section 608.6.1 to read:~~

~~(N)608.6.1 Room ventilation. Ventilation shall be maintained in accordance with the applicable building code.~~

~~4. Change Section 608.6.2 to read:~~

~~(N)608.6.2 Cabinet ventilation. Where VRLA batteries are installed inside a cabinet, the cabinet shall be approved for use in occupied spaces and shall be mechanically or naturally vented in accordance with one of the following methods:~~

~~1. The cabinet ventilation shall limit the maximum concentration of hydrogen to 1% of the total volume of the cabinet during the worst case event of simultaneous "boost" charging of all the batteries in the cabinet.~~

~~2. Where calculations are not available to substantiate the ventilation rate, continuous ventilation shall be provided at a rate of not less than 1 cubic foot per minute per square foot 1 ft<sup>3</sup>/min/ft<sup>2</sup> or 0.0051 m<sup>3</sup>/(sm<sup>2</sup>) of floor area covered~~

~~by the cabinet. The room in which the cabinet is installed shall be ventilated as required in Section 608.6.1.~~

~~5. Change Section 608.6.3 to read:~~

~~(N)608.6.3 Supervision. Mechanical ventilation systems where required by Sections 608.6.1 and 608.6.2 shall be supervised by an approved central, proprietary, or remote station service or shall initiate an audible and visual signal at a constantly attended onsite location when required by the applicable building code.~~

~~6. Change Section 608.8 to read:~~

~~(N)608.8 Seismic protection. Seismic protection required for battery systems shall be maintained in accordance with the applicable building code.~~

~~7. Change Section 608.9 to read:~~

~~(N)608.9 Smoke detection. Automatic smoke detection system shall be maintained in accordance with Chapter 9 in rooms containing stationary battery systems.~~

~~H. F. The following changes shall be made to Section 609 607, Commercial Kitchen Hoods:~~

~~1. Change Section 609.1 607.1 to read:~~

~~609.1 607.1 General. Commercial kitchen exhaust hoods shall comply with the requirements of this Section.~~

~~2. Change Section 609.2 607.2 to read:~~

~~(N)609.2 607.2 Where required. A Type I hood shall be installed at or above all commercial cooking appliances and domestic cooking appliances used for commercial purposes that produce grease vapors in mobile food preparation vehicles.~~

Exception: A Type I hood shall not be required for an electric cooking appliance where an approved testing agency provides documentation that the appliance effluent contains 5 mg/m<sup>3</sup> or less of grease when tested at an exhaust flow rate of 500 cfm (0.236 m<sup>3</sup>/s) in accordance with UL 710B.

~~3. Change Section 609.3.3.3 607.3.3.3 to read:~~

~~609.3.3.3 607.3.3.3 Records. Records for inspections shall state the individual and company performing the inspection, a description of the inspection, and when the inspection took place. Records for cleanings shall state the individual and company performing the cleaning and when the cleaning took place. Such records shall be completed after each inspection or cleaning and maintained for a minimum of three years and be copied to the fire code official upon request.~~

~~4. Change Section 609.3.3.3.1 607.3.3.3.1 to read:~~

~~609.3.3.3.1 607.3.3.3.1 Tags. Where a commercial kitchen hood or duct system is inspected or cleaned, a tag containing the service provider name, address, telephone number and date of service shall be provided in a~~

conspicuous location. Prior tags shall be covered or removed.

Exception: Where records required by Section ~~609.3.3.3~~ 607.3.3.3 are maintained on the premises.

~~F. G.~~ The following change shall be made to Section ~~610~~ 608, Commercial Kitchen ~~Hoods~~ Cooking Oil Storage:

Change Section ~~610.7~~ 608.7 to read:

~~(N)610.7~~ 608.7 Electrical equipment. Electrical equipment used for the operation of cooking oil storage systems shall comply be maintained in accordance with NFPA 70.

[ H. The following changes shall be made:

609.2 Commercial cooking operations. Where ventilation is provided or required by the applicable building code at or above all commercial cooking appliances and domestic cooking appliances used for commercial purposes that produce grease vapors, ventilation shall be operated and maintained. The fire code official is not authorized to require alteration or installation of a ventilation hood in accordance with SFPC Section 102.6. ]

**13VAC5-51-133.8. IFC Chapter 7 Fire and Smoke Protection Features.**

A. The following changes shall be made to Section 701, General:

1. Change Section 701.1 to read:

701.1 Scope. The provisions of this chapter shall govern maintenance of the materials, systems, and assemblies used for structural fire resistance and fire-resistance-rated construction separation of adjacent spaces to safeguard against the spread of fire and smoke within a building and the spread of fire to or from buildings.

2. Change ~~Section 701.2~~ Sections 701.6 and 701.7 to read:

701.6 Maintenance. The required fire-resistance rating of fire-resistance-rated construction, including walls, firestops, shaft enclosures, partitions, smoke barriers, floors, [ protected mass timber elements, ] fire-resistive coatings, and sprayed fire-resistant materials applied to structural members and fire-resistant joint systems, shall be maintained. Such elements shall be visually inspected by the owner annually and properly repaired, restored, or replaced where damaged, altered, breached, or penetrated. Records of inspections and repairs shall be maintained. Where concealed, such elements shall not be required to be visually inspected by the owner unless the concealed space is accessible by the removal or movement of a panel, access door, ceiling tile, or similar movable entry to the space. Openings made therein for the passage of pipes, electrical conduit, wires, ducts, air transfer openings, and holes made for any reason shall be protected with approved methods capable of resisting the passage of smoke and fire. Openings through fire-resistance-rated

assemblies shall be protected by self-closing or automatic-closing doors of approved construction meeting the fire protection requirements for the assembly.

[ Exception: When requested by the building owner and approved by the fire official, the visual inspection required by 703.1 may be modified to a time period greater than annually based on the history of the previous inspections. ]

~~701.2~~ 701.7 Unsafe conditions. Where any components in this chapter are not maintained and do not function as intended or do not have the fire resistance required by the code under which the building was constructed, remodeled, or altered, such components or portion thereof shall be deemed an unsafe condition in accordance with Section [ ~~110.1~~ 110.1 ]. Components or portions thereof determined to be unsafe shall be repaired or replaced to conform to that code under which the building was constructed, remodeled, or altered or this chapter, as deemed appropriate by the fire code official.

Where the extent of the conditions of components is such that any building, structure, or portion thereof presents an imminent danger to the occupants of the building, structure, or portion thereof, the fire code official shall act in accordance with Section 110.5.

~~B. The following changes shall be made to Section 703, Fire-Resistance Rated Construction:~~

~~1. Change Section 703.1 to read:~~

~~703.1 Maintenance. The required fire resistance rating of fire resistance rated construction, including walls, firestops, shaft enclosures, partitions, smoke barriers, floors, fire resistive coatings, and sprayed fire resistant materials applied to structural members and fire resistant joint systems, shall be maintained. Such elements shall be visually inspected by the owner annually and properly repaired, restored, or replaced where damaged, altered, breached, or penetrated. Records of inspections and repairs shall be maintained. Where concealed, such elements shall not be required to be visually inspected by the owner unless the concealed space is accessible by the removal or movement of a panel, access door, ceiling tile, or similar movable entry to the space. Openings made therein for the passage of pipes, electrical conduit, wires, ducts, air transfer openings, and holes made for any reason shall be protected with approved methods capable of resisting the passage of smoke and fire. Openings through fire resistance rated assemblies shall be protected by self-closing or automatic closing doors of approved construction meeting the fire protection requirements for the assembly.~~

~~Exception: When requested by the building owner and approved by the fire official, the visual inspection required by 703.1 may be modified to a time period greater than annually based on the history of the previous inspections.~~

~~2. Change Section 703.1.1 to read:~~

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~~703.1.1 Fireblocking and draftstopping. Required fireblocking and draftstopping in combustible concealed spaces shall be maintained to provide continuity and integrity of the construction.~~

3. Change Section 703.2.1 to read:

~~703.2.1 Testing. Opening protectives shall be inspected and tested annually in accordance with NFPA 80 to confirm proper operation and full closure. A written record shall be maintained and be available to the fire code official.~~

4. Change Section 703.2.2 to read:

~~703.2.2 Signs. Where required by the fire code official, a sign shall be permanently displayed on or near each fire door in letters not less than 1 inch (25 mm) high to read as follows:~~

~~1. For doors designed to be kept normally open: FIRE DOOR—DO NOT BLOCK.~~

~~2. For doors designed to be kept normally closed: FIRE DOOR—KEEP CLOSED.~~

5. Change Section 703.2.3 to read:

~~703.2.3 Hold open devices and closers. Hold open devices and automatic door closers, where provided, shall be maintained. During the period that such device is out of service for repairs, the door it operates shall remain in the closed position.~~

6. Add new Section 703.2.4 to read:

~~703.2.4 Door operation. Swinging fire doors shall close from the full open position and latch automatically. The door closer shall exert enough force to close and latch the door from any partially open position.~~

~~C. B. The following changes change shall be made to Section 704, Floor Openings and Shafts: Joints and Voids:~~

~~1. Change Section 704.1 to read:~~

~~704.1 Enclosure. New floor openings in existing buildings shall comply with the International Building Code.~~

~~2. Change Section 704.2 to read:~~

~~(N) 704.2 704.2 Opening protectives. Where openings are required to be protected, opening protectives and associated closing devices shall be maintained as self-closing or automatic-closing [ in accordance with Section 705.2 ].~~

~~C. The following changes shall be made to Section 705, Door and Window Openings:~~

~~[ 1. Change Section 705.2.2 to read:~~

~~705.2.2 Signs. Where required by the fire code official, a sign shall be permanently displayed on or near each fire door in letters not less than 1 inch (25 mm) high to read as follows:~~

~~For doors designed to be kept normally open: FIRE DOOR—DO NOT BLOCK.~~

~~For doors designed to be kept normally closed: FIRE DOOR—KEEP CLOSED.~~

~~2. Change Section 705.2.3 to read:~~

~~705.2.3 Hold open devices and closers. Hold open devices and automatic door closers, where provided, shall be maintained. During the period that such device is out of service for repairs, the door it operates shall remain in the closed position.~~

~~3. Change Section 705.2.4 to read:~~

~~705.2.4 Door operation. Swinging fire door operations shall be maintained in accordance with the applicable building code.~~

~~4. 1. ] Change Section 705.2.5 to read:~~

~~705.2.5 Smoke-activated and heat-activated doors. Smoke-activated doors shall be maintained to self-close or automatically close upon detection of smoke in accordance with the applicable building code.~~

~~[ 5. 2. ] Change Section 705.2.6 to read:~~

~~705.2.6 Testing. Opening protectives shall be inspected and tested annually in accordance with NFPA 80 to confirm proper operation and full closure. A written record shall be maintained and be available to the fire code official.~~

~~[ D. The following change shall be made to Section 707, Concealed Spaces:~~

~~Change Section 707.1 to read:~~

~~707.1 Fireblocking and draftstopping. Required fireblocking and draftstopping in combustible concealed spaces shall be maintained to provide continuity and integrity of the construction. ]~~

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

A. Change Section 801.1 to read:

801.1 Scope. The provisions of this chapter shall govern interior finish, interior trim, furniture, furnishings, decorative materials and decorative vegetation in buildings.

B. Change the title of Section 803 and Section 803.1 to read:

Section 803 Interior Wall and Ceiling Finish and Trim in Buildings

~~(N) 803.1 803.1 General. The provisions of this section shall apply to the maintenance of interior wall and ceiling finishes and interior wall and ceiling trim in existing buildings in accordance with the applicable building code.~~

C. Delete Change Section 803.1.1- to read:

D. Change Section 803.1.2 to read:

~~(N)803.1.2~~ 803.1.1 Classification. Interior wall or ceiling finishes shall be classified and tested in accordance with the applicable building code.

E. ~~D.~~ [ ~~Delete Change~~ ] Section ~~803.1.2.1~~ 803.1.1.1 [ to read:  
803.1.1.1 Manufacturer's product information and testing reports. Manufacturer's product information and testing reports shall be furnished to the Fire Official upon request. ]

E. ~~Delete Sections 803.1.2 and 803.1.3.~~

F. Change Sections 803.2 and 803.3 to read:

~~(N)803.2~~ 803.2 Stability. Interior finish materials regulated by this chapter shall [ ~~be~~ remain ] applied or otherwise fastened in accordance with the applicable building code.

~~(N)803.3~~ 803.3 Interior finish requirements. Interior wall and ceiling finish shall have a flame spread index not greater than that approved under the applicable building code. [ New interior finish shall not be installed unless approved by the Building Official in accordance with the applicable building code. ]

G. Delete Table 803.3.

H. Change Section 803.5 to read:

~~(N)803.5~~ 803.5 [ ~~Textiles.~~ Textile wall coverings. ] Where used as interior wall or ceiling finish materials, textiles, including materials having woven or nonwoven, napped, tufted, looped or similar surface, shall comply with the requirements of the applicable building code. [ Newly introduced materials shall not be installed unless approved by the Building Official. ]

I. Delete Sections 803.5.1 ~~and~~, 803.5.1.1, [ ~~and~~ ] 803.5.2 [ ~~and~~ 803.6 ].

J. Change Sections ~~803.5.2 through~~ [ 803.6. ] 803.7. 803.8. [ 803.9. ] 803.10. and 803.11 to read:

~~(N)803.5.2 Newly introduced textile wall and ceiling coverings. Newly introduced textile wall and ceiling coverings shall be approved by the building official.~~

[ 803.6 Textile ceiling coverings. Where used as interior wall or ceiling finish materials, textiles, including materials having woven or nonwoven, napped, tufted, looped, or similar surface, shall comply with the requirements of the applicable building code. Newly introduced materials shall not be installed unless approved by the Building Official. ]

~~(N)803.6~~ 803.7 Expanded vinyl wall ~~or ceiling~~ coverings. Expanded vinyl wall ~~or ceiling~~ coverings shall be maintained in accordance with the applicable building code. [ Newly introduced materials shall not be installed unless approved by the Building Official. ]

~~(N)803.7 Facings or wood veneers intended to be applied on site over a wood substrate. Facings or veneers intended to be~~

~~applied on site over a wood substrate shall be maintained in accordance with the applicable building code.~~

~~(N)803.8 Foam plastic materials. Foam plastic materials shall not be used as interior wall and ceiling finish unless specifically allowed by the applicable building code.~~

K. ~~Delete Sections 803.8.1 through 803.8.3.~~

L. ~~Change Section 803.10, the title of Section 804, and Section 804.1 to read:~~

803.8 Expanded vinyl ceiling coverings. Expanded vinyl ceiling coverings shall be maintained in accordance with the applicable building code. [ Newly introduced materials shall not be installed unless approved by the Building Official.

803.9 High-density polyethylene (HDPE) and polypropylene (PP).

Where high-density polyethylene or polypropylene is used as an interior finish, it shall comply with the applicable building code. Newly introduced materials shall not be installed unless approved by the Building Official. ]

~~(N)803.10~~ 803.10 Site-fabricated stretch systems. Where used as newly installed interior wall or interior ceiling finish materials, site-fabricated stretch systems containing all three components described in the definition in Chapter 2 shall [ ~~not~~ ] be [ ~~tested~~ installed unless approved by the Building Official ] in accordance with the applicable building code.

803.11 Foam plastic materials. Foam plastic materials shall not be used as interior wall and ceiling finish [ or interior trim ] unless specifically allowed by [ the Building Official in accordance with ] the applicable building code.

K. ~~Delete Sections 803.11.1 and 803.11.2 and change [ Section Sections ] 803.12 [ through 803.15 ] to read:~~

803.12 Facings or wood veneers intended to be applied on site over a wood substrate. Facings or veneers intended to be applied on site over a wood substrate shall be maintained in accordance with the applicable building code.

[ 803.13 Laminated products factory produced with an attached wood substrate. Laminated products factory produced with an attached wood substrate shall be maintained in accordance with the applicable building code.

803.14 Thickness exemption. Materials having a thickness less than 0.036 inch (0.9mm) applied to the surface of walls or ceilings shall not be subject to interior finish requirements.

803.15 Heavy timber exemption. Exposed portions of buildings elements complying with the requirements of Type IV construction in accordance with the applicable building code shall not be subject to interior finish requirements. ]

L. ~~Change the title of Section 804 and Section 804.1 to read:~~

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## Section 804 Interior Wall and Ceiling Trim and Interior Floor Finish in Buildings

~~(N)804.1 804.1 Interior trim. [ Material, other than foam plastic, used as interior trim shall be maintained in accordance with the applicable building code. Combustible trim, as defined by the applicable building code, excluding handrails and guardrails, shall be maintained. Newly introduced materials shall not be installed unless approved by the Building Official. ]~~

M. Delete Section Sections 804.1.1 and 804.1.2.

N. Change Sections Section 804.2 to read:

~~(N)804.2 804.2 Foam plastic. Foam plastic used as interior trim shall be maintained in accordance with the applicable building code. [ Newly introduced materials shall not be installed unless approved by the Building Official. ]~~

O. Delete Sections 804.2.1 through 804.2.4.

P. [ Delete Sections 804.3.2 through 804.4. ] Change Sections 804.3 through [ 804.4 804.3.1.1 ] to read:

~~(N)804.3 804.3 Interior floor finish. Interior floor finish and floor covering materials shall be maintained in accordance with the applicable building code.~~

~~(N)804.3.1 804.3.1 Classification. Interior floor finish and floor covering materials shall be classified in accordance the applicable building code.~~

[ ~~(N)804.3.2 804.3.2 Testing and identification. Interior floor finish and floor covering materials shall be tested in accordance with the applicable building code.~~

~~(N)804.3.3 804.3.3 Interior floor finish requirements. Interior floor coverings materials shall comply with Sections 804.3.3.1 and 804.3.3.2, and interior floor finish materials shall comply with Section 804.3.1.~~

~~(N)804.3.3.1 804.3.3.1 Testing. Floor covering material shall be testing in accordance with the applicable building code.~~

~~(N)804.3.3.2 804.3.3.2 Minimum critical radiant flux. In all occupancies, new interior floor finish and floor covering materials in enclosures for stairways and ramps, exit passageways, corridors and rooms or spaces not separated from corridors by full height partitions extending from the floor to the underside of the ceiling shall withstand a minimum critical radiant flux as required by the applicable building code.~~

~~(N)804.4 804.4 Interior floor wall base. Interior floor wall base shall be maintained in accordance with the applicable building code.~~

804.3.1.1. Manufacturer's product information and testing reports. Manufacturer's product information and testing reports shall be furnished to the Fire Official upon request. ]

Q. Change the title of Section 805 and Sections 805.1.1.2, 805.1.2.2, 805.2.1.2, 805.2.2.2, 805.4.1.2, and 805.4.2.2 to read:

## Section 805 Upholstered Furniture and Mattresses in Buildings

805.1.1.2 Heat release rate. Newly introduced upholstered furniture shall have limited rates of heat release when tested in accordance with ASTM E 1537 or California Technical Bulletin 133, as follows:

1. The peak rate of heat release for the single upholstered furniture item shall not exceed 80 kW.

Exception: Upholstered furniture in rooms or spaces protected by an approved automatic sprinkler system in accordance with the applicable NFPA 13 standard.

2. The total energy released by the single upholstered furniture item during the first 10 minutes of the test shall not exceed 25 megajoules (MJ).

Exception: Upholstered furniture in rooms or spaces protected by an approved automatic sprinkler system installed in accordance with the applicable NFPA 13 standard.

805.1.2.2 Heat release rate. Newly introduced mattresses shall have limited rates of heat release when tested in accordance with ASTM E 1590 or California Technical Bulletin 129, as follows:

1. The peak rate of heat release for the single mattress shall not exceed 100 kW.

Exception: Mattresses in rooms or spaces protected by an approved automatic sprinkler system installed in accordance with the applicable NFPA 13 standard.

2. The total energy released by the single mattress during the first 10 minutes of the test shall not exceed 25 MJ.

Exception: Mattresses in rooms or spaces protected by an approved automatic sprinkler system installed in accordance with the applicable NFPA 13 standard.

805.2.1.2 Heat release rate. Newly introduced upholstered furniture shall have limited rates of heat release when tested in accordance with ASTM E 1537 or California Technical Bulletin 133, as follows:

1. The peak rate of heat release for the single upholstered furniture item shall not exceed 80 kW.

Exception: Upholstered furniture in rooms or spaces protected by an approved automatic sprinkler system in accordance with the applicable NFPA 13 standard.

2. The total energy released by the single upholstered furniture item during the first 10 minutes of the test shall not exceed 25 MJ.

Exception: Upholstered furniture in rooms or spaces protected by an approved automatic sprinkler system



installed in accordance with the applicable NFPA 13 standard.

805.2.2.2 Heat release rate. Newly introduced mattresses shall have limited rates of heat release when tested in accordance with ASTM E 1590 or California Technical Bulletin 129, as follows:

1. The peak rate of heat release for the single mattress shall not exceed 100 kW.

Exception: Mattresses in rooms or spaces protected by an approved automatic sprinkler system in accordance with the applicable NFPA 13 standard.

2. The total energy released by the single mattress during the first 10 minutes of the test shall not exceed 25 MJ.

Exception: Mattresses in rooms or spaces protected by an approved automatic sprinkler system in accordance with the applicable NFPA 13 standard.

805.4.1.2 Heat release rate. Newly introduced upholstered furniture shall have limited rates of heat release when tested in accordance with ASTM E 1537 or California Technical Bulletin 133, as follows:

1. The peak rate of heat release for the single upholstered furniture item shall not exceed 80 kW.

Exception: Upholstered furniture in rooms or spaces protected by an approved automatic sprinkler system installed in accordance with the applicable NFPA 13 standard.

2. The total energy released by the single upholstered furniture item during the first 10 minutes of the test shall not exceed 25 MJ.

Exception: Upholstered furniture in rooms or spaces protected by an approved automatic sprinkler system installed in accordance with the applicable NFPA 13 standard.

805.4.2.2 Heat release rate. Newly introduced mattresses shall have limited rates of heat release when tested in accordance with ASTM E 1590 or California Technical Bulletin 129, as follows:

1. The peak rate of heat release for the single mattress shall not exceed 100 kW.

Exception: Mattresses in rooms or spaces protected by an approved automatic sprinkler system installed in accordance with the applicable NFPA 13 standard.

2. The total energy released by the single mattress during the first 10 minutes of the test shall not exceed 25 MJ.

Exception: Mattresses in rooms or spaces protected by an approved automatic sprinkler system installed in accordance with the applicable NFPA 13 standard.

R. Change the title of Section 806 and Exception 1 in Section 806.1.1 and add ~~exception~~ Exception 3 in Section 806.1.1 to read:

Section 806 Decorative Vegetation in Buildings

1. Trees located in areas protected by an automatic sprinkler system in accordance with the applicable NFPA 13 standard [ shall not be prohibited in Groups A, E, M, R-1, and R-2 ].

3. Trees shall be permitted in places of worship in Group A occupancies.

S. Change the title of Section 807 ~~and exception 1 in Section 807.3~~ and Exceptions 1 and 2 in Section 807.2 to read:

Section 807 Decorative Materials Other Than Decorative Vegetation in Buildings

1. In auditoriums in Group A, the permissible amount of curtains, draperies, fabric hangings, and ~~other~~ similar combustible decorative ~~material~~ materials suspended from walls or ceilings shall not exceed 75% of the aggregate wall area where the building is equipped throughout with an approved automatic sprinkler system in accordance with the applicable NFPA 13 standard [ building code ] and where the material is installed in accordance with [ ~~Section 803.15~~ of the applicable building code International Building Code ].

2. In Group R-2 dormitories, within sleeping units and dwelling units, the permissible amount of curtains, draperies, fabric hangings, and similar decorative materials suspended from walls or ceilings shall not exceed 50% of the aggregate wall areas where the building is equipped throughout with an approved automatic sprinkler system installed in accordance with the applicable NFPA 13 standard.

~~T. Change exception 2 in Section 807.3 to read:~~

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

~~U. T. Change the Exception to 807.4 to read:~~

Exception: Testing of artificial vegetation is not required in Group I-1; Group I-2, Condition 1; Group R-2; Group R-3; or Group R-4 occupancies equipped throughout with an approved automatic sprinkler system installed in accordance with the applicable NFPA 13 standard, where such artificial vegetation complies with the following:

1. Wreaths or other decorative items on doors shall not obstruct the door operation and shall not exceed 50% of the surface area of the door.

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2. Decorative artificial vegetation shall be limited to not more than 30% of the wall area to which it is attached.

3. Decorative artificial vegetation not on doors or walls shall not exceed 3 feet (914 mm) in any dimension.

U. Change Section Sections 807.5.1.2 and 807.5.2.1 to read:

807.5.1.2 Motion picture screens. The screens upon which motion pictures are projected in buildings of Group A shall either meet the flame propagation performance criteria of Test Method 1 or Test Method 2, as appropriate, of NFPA 701 or shall comply with the requirements for a Class B interior finish in accordance with the applicable building code.

~~V. Change Section 807.5.2.1 to read:~~

807.5.2.1 Storage in corridors and lobbies. Clothing and personal effects shall not be stored in corridors and lobbies.

Exceptions:

1. Corridors protected by an approved automatic sprinkler system in accordance with the applicable NFPA 13 standard.
2. Corridors protected by an approved fire alarm system installed in accordance with [ the applicable ] NFPA 72 [ standard ].
3. Storage in metal lockers, provided the minimum required egress width is maintained.

~~W. V. Change Sections 807.5.3.1 through 807.5.3.4 [ and 807.5.4 ] to read:~~

807.5.3.1 Group I-1 and Group I-2 Condition 1 within units. In Group I-1 and Group I-2 Condition 1 occupancies, equipped with an approved automatic sprinkler system in accordance with the applicable NFPA 13 standard, within sleeping units and dwelling units, combustible decorative materials placed on walls shall be limited to not more than 50% of the wall area to which they are attached.

807.5.3.2 In Group I-1 and Group I-2 Condition 1 for areas other than within units. In Group I-1 and Group I-2 Condition 1 occupancies, equipped with an approved automatic sprinkler system installed in accordance with the applicable NFPA 13 standard, combustible decorative materials placed on walls in areas other than within dwelling and sleeping units shall be limited to not more than 30% of the wall area to which they are attached.

807.5.3.3 In Groups I-2 Condition 2. In Group I-2 Condition 2 occupancies, equipped with an approved automatic sprinkler system installed in accordance with the applicable NFPA 13 standard, combustible decorative materials placed on walls shall be limited to not more than 30% of the wall area to which they are attached.

807.5.3.4 Other areas in Groups I-1 and I-2. In Group I-1 and I-2 occupancies, in areas not equipped with an approved

automatic sprinkler system, combustible decorative materials shall be of such limited quantities that a hazard of fire development or spread is not present.

[ 807.5.4 Group I-3. In Group I-3, combustible decorative materials are prohibited.

Exception:

Cell areas in buildings equipped throughout with an automatic sprinkler system in accordance with the applicable NFPA 13 standard where a maximum 4 sq. ft. area has been demarcated on the wall for personal items 0.025 inch (0.64 mm) or less in thickness applied directly to and adhering to the wall. ]

~~X. W. Change Section 807.5.5.1 to read:~~

807.5.5.1 Storage in corridors and lobbies. Clothing and personal effects shall not be stored in corridors and lobbies.

Exceptions:

1. Corridors protected by an approved automatic sprinkler system in accordance with the applicable NFPA 13 standard.
2. Corridors protected by an approved fire alarm system installed in accordance with Section 907.
3. Storage in metal lockers, provided the minimum required egress width is maintained.

~~Y. X. Change the title of Section 808 and Sections 808.1 and 808.2, and 808.4 to read:~~

Section 808 Furnishings Other Than Upholstered Furniture and Mattresses or Decorative Materials in Buildings

808.1 Wastebaskets and linen containers in Groups I-1, I-2, and I-3 occupancies and Group B ambulatory care facilities. Wastebaskets, linen containers, and other waste containers, including their lids, located in Groups I-1, I-2, and I-3 occupancies shall be constructed of noncombustible materials or of materials that meet a peak rate of heat release not exceeding 300 kW/m<sup>2</sup> when tested in accordance with ASTM E 1354 at an incident heat flux of 50 kW/m<sup>2</sup> in the horizontal orientation. Metal wastebaskets and other metal waste containers with a capacity of 20 gallons (75.7 L) or more shall be listed in accordance with UL 1315 and shall be provided with a noncombustible lid. Portable containers exceeding 32 gallons (121 L) shall be stored in an area classified as a waste and linen collection room and constructed in accordance with the applicable building code.

[ Exception: Recycling containers complying with Section 808.1.2 are not required to be stored in waste and linen collection rooms. ]

808.2 Waste containers with a capacity of 20 gallons or more in Group R-2 college and university dormitories. Waste containers, including their lids, located in Group R-2 college and university dormitories, and with a capacity of 20 gallons

(75.7 L) or more, shall be constructed of noncombustible materials or of materials that meet a peak rate of heat release not exceeding 300 kW/m<sup>2</sup> when tested in accordance with ASTM E 1354 at an incident heat flux of 50 kW/m<sup>2</sup> in the horizontal orientation. Metal wastebaskets and other metal waste containers with a capacity of 20 gallons (75.7 L) or more shall be listed in accordance with UL 1315 and shall be provided with a noncombustible lid. Portable containers exceeding 32 gallons (121 L) shall be stored in an area classified as a waste and linen collection room constructed in accordance with the applicable building code.

808.4 Combustible lockers. Where lockers constructed of combustible materials are used, the lockers shall be considered to be interior finish and shall [ ~~comply with Section 803.~~ be approved by the Building Official in accordance with the applicable building code. ]

Exception: Lockers constructed entirely of wood and noncombustible materials shall be permitted to be used wherever interior finish materials are required to meet Class C classification in accordance with the applicable building code.

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

A. The following changes shall be made to Section 901, General:

1. Change Section 901.1 to read:  
901.1 Scope. The provisions of this chapter shall apply to the inspection, operation, testing and maintenance of all fire protection systems.
2. Delete Sections 901.2 and 901.2.1.
3. Change Section 901.3 to read:  
901.3 Permits. Permits shall be required as set forth in Section 107.2.
4. Change Sections 901.4 and 901.4.1 to read:  
~~(N)901.4~~ 901.4 Maintenance and alterations. Fire protection systems shall be maintained in accordance with the original installation standards for that system. Alterations and repairs to fire protection systems shall be done in accordance with the applicable building code and the applicable standards.  
~~(N)901.4.1~~ 901.4.1 Required fire protection systems. Fire protection systems shall be repaired, operated, tested and maintained in accordance with this code. A fire protection system for which a design option, exception or reduction to the provisions of this code or the applicable building code has been granted shall be considered to be a required system.
5. 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~~ 103.3.1 of Part I of the USBC (13VAC5-63-30 E).

6. Change Section 901.4.3 to read:  
~~(N)901.4.3~~ 901.4.3 Fire areas. Where buildings, or portions thereof, are divided into fire areas so as not to exceed the limits established for requiring a fire protection system in accordance with the applicable building code, such fire areas shall be maintained [ in accordance with Chapter 7 and the applicable building code ].
7. Delete Section 901.4.4.
8. Change ~~Section~~ Sections 901.4.6, 901.4.6.3, and 901.4.6.4 to read:  
~~(N)901.4.6~~ 901.4.6 Pump and riser room size. Where provided, fire pump rooms and automatic sprinkler system riser rooms shall maintain clearances around equipment to elements of permanent construction, including other installed equipment and appliances, and shall be sufficient to allow inspection, service, repair or replacement without removing such elements of permanent construction or disabling the function of a required fire-resistance-rated assembly. Passageways provided for the removal of equipment shall remain unobstructed.  
901.4.6.3 Environment. Suitable means shall be provided for maintaining the temperature in automatic sprinkler system riser rooms and fire pump rooms above 40°F (5°C).  
901.4.6.4 Lighting. Permanently installed artificial illumination in automatic sprinkler system riser rooms and fire pump rooms shall be maintained in accordance with the applicable building code.
9. [ ~~Delete Change~~ ] Section 901.5.1 [ - ~~to read:~~ ]  
901.5.1 Occupancy. In buildings where a fire protection system is required by this code or the applicable building code, it shall be unlawful to occupy any portion of a building or structure until the fire protection system installation has been tested and approved by the building official. ]
10. ~~Change Add~~ Section 901.5.2 to read:  
901.5.2 Hydrant and fire service main acceptance testing. Fire hydrant systems and private fire service mains shall be subject to acceptance tests as contained in the installation standards and as approved by the fire code official. The fire code official shall be notified before any required acceptance testing.
11. 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

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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.

12. Change Sections 901.7.1 through 901.7.6 and add Section 901.7.7 to read:

901.7.1 Modifications during impairment. The fire code official is authorized to require safeguards in a building or fire area when the required fire protection is out of service. Those safeguards may be based upon the provisions of the applicable building code or other recognized safety standards.

901.7.2 Impairment coordinator. The building owner shall assign an impairment coordinator to comply with the requirements of this section. In the absence of a specific designee, the owner shall be considered the impairment coordinator.

901.7.3 Tag required. A tag shall be used to indicate that a system or portion thereof has been removed from service.

901.7.4 Placement of tag. The tag shall be posted at each fire department connection, system control valve, fire alarm control unit, fire alarm annunciator and fire command center indicating which system or part thereof has been removed from service. The fire code official shall specify where the tag is to be placed.

901.7.5 Preplanned impairment programs. Preplanned impairments shall be authorized by the impairment coordinator. Before authorization is given, a designated individual shall be responsible for verifying that all of the following procedures have been implemented:

1. The extent and expected duration of the impairment have been determined.
2. The areas or buildings involved have been inspected and the increased risks determined.
3. Recommendations have been submitted to management or the building owner or manager.
4. The fire department has been notified.
5. The insurance carrier, the alarm company, the building owner or manager and other authorities having jurisdiction have been notified.
6. The supervisors in the areas to be affected have been notified.
7. A tag impairment system has been implemented.
8. Necessary tools and materials have been assembled on the impairment site.

901.7.6 Emergency impairments. Where unplanned impairments occur, appropriate emergency action shall be taken to minimize potential injury and damage. The impairment coordinator shall implement the steps outlined in Section 901.7.4.

901.7.7 Restoring systems to service. When impaired equipment is restored to normal working order, the impairment coordinator shall verify that all of the following procedures have been implemented:

1. Necessary inspections and tests have been conducted to verify that affected systems are operational.
2. Supervisors have been advised that protection is restored.
3. The fire department has been advised that protection is restored.
4. The building owner or manager, insurance carrier, alarm company and other involved parties have been advised that protection is restored.
5. The impairment tag has been removed.

13. Change Section 901.8 to read:

901.8 Removal of or tampering with equipment. It shall be unlawful for any person to remove, tamper with, or otherwise disturb any fire hydrant, fire detection and alarm system, fire suppression system, or other fire appliance required by this code or the applicable building code except for the purpose of extinguishing fire, for training purposes, for recharging or making necessary repairs, or where approved by the fire code official.

14. Change Section 901.8.2 to read:

901.8.2 Removal of existing occupant-use hose lines. The fire code official is authorized to permit the removal of existing occupant-use hose lines where all of the following conditions exist:

1. Installation is not required by this code or the applicable building code.
2. The hose line would not be utilized by trained personnel or the fire department.
3. The remaining outlets are compatible with local fire department fittings.

15. Add Section 901.11 to read:

901.11 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.

B. The following changes shall be made to Section 903, Automatic Sprinkler Systems:

1. Delete Sections 903.1.1 through 903.2.11.1.3, including Tables.
2. Change Section 903.2.11.2 to read:

- ~~(N)903.2.11.2~~ 903.2.11.2 Rubbish and linen chutes. Access to automatic sprinkler systems shall be maintained for servicing of the automatic sprinkler system components.
3. Delete Sections 903.2.11.3 through 903.2.11.6, including Tables.
4. Change Sections 903.2.12 and 903.3 to read:  
~~(N)903.2.12~~ 903.2.12 During construction and demolition. Automatic sprinkler systems required by the applicable building code during construction, alteration and demolition operations shall be maintained in accordance with Chapter 33.  
~~(N)903.3~~ 903.3 Installation [ and maintenance ] requirements. Automatic sprinkler systems shall be [ ~~maintained in accordance with the applicable building code.~~ approved by the Building Official and installed in accordance with the applicable building code. Automatic sprinkler systems shall be maintained in accordance with Section 901.6. ]
5. Delete Sections 903.3.1 through 903.3.5.2.
6. Change ~~Sections~~ Section 903.3.6 to read:  
~~(N)903.3.6~~ 903.3.6 Hose threads. Fire hose threads and fittings used in connection with automatic sprinkler systems shall be maintained as approved by the fire code official.
7. [ ~~Delete~~ Change ] Sections 903.3.7 [ ~~through and~~ 903.3.8.1 and delete Sections 903.3.8 and 903.3.8.2 through ] 903.3.8.4.  
[ 903.3.7 Fire department connections. Fire department connections shall be maintained in accordance with Section 912.  
903.3.8.1 Limited area sprinkler systems. Limited area sprinkler systems shall be maintained in accordance with the NFPA 25. ]
8. Change ~~Sections~~ Section 903.3.8.5 to read:  
~~(N)903.3.8.5~~ 903.3.8.5 Calculations. When required by inspections, testing, and maintenance provisions of NFPA 25, hydraulic calculations shall be provided to demonstrate that the available water flow and pressure are adequate to supply all sprinklers installed in any single fire area with discharge densities corresponding to the hazard classification.
9. Delete Sections [ ~~903.4~~ 903.4.1 ] through 903.4.3. [ Change Section 903.4 to read:  
903.4 Sprinkler system supervision and alarms. All valves controlling the water supply for automatic sprinkler systems, pumps, tanks, water levels and temperatures, critical air pressures, water-flow switches, and alarms on all sprinkler systems shall remain in service in the normal position and properly sealed, locked, or electrically supervised in accordance with the applicable building code. ]
10. Change Section 903.6 to read:  
 903.6 Where required in existing buildings and structures. An automatic sprinkler system shall be provided in existing buildings and structures in accordance with Section 102.7 of this code.
- C. The following changes shall be made to Section 904, Alternative Automatic Fire-Extinguishing Systems:
1. Change Sections 904.1 and 904.1.1 to read:  
~~(N)904.1~~ 904.1 General. Automatic fire-extinguishing systems, other than automatic sprinkler systems, shall be inspected, tested and maintained in accordance with the provisions of this section and the applicable referenced standards.  
 904.1.1 Certification of service personnel for fire-extinguishing equipment. Service personnel providing or conducting maintenance on automatic fire-extinguishing systems, other than automatic sprinkler systems, shall possess a valid certificate issued by an approved agency or other approved organization for the type of system and work performed.
2. Delete ~~Section~~ Sections 904.2 and 904.2.1.
3. Change Sections [ 904.2, ] 904.2.2 [ ~~and,~~ ] 904.3 [ , and 904.3.1 ] to read:  
~~(N)904.2.2~~ [ 904.2 Electrical wiring. Electrical wiring shall be maintained in accordance with NFPA 70. ]  
904.2.2 Commercial hood and duct systems. Each required commercial kitchen exhaust hood and duct system required by Section 319.4 for mobile food preparation vehicles to have a Type I hood shall be protected with an approved automatic fire-extinguishing system installed in accordance with this code.  
~~(N)904.3~~ 904.3 [ ~~Installation. Automatic fire-extinguishing systems shall be installed in accordance with Annex B of NFPA 96 when required in mobile food preparation vehicles.~~ Commercial hood and duct systems in mobile food preparation vehicles. Each required commercial kitchen exhaust hood and duct system required by Section 319.4 for mobile food preparation vehicles to have a Type I hood shall be protected with an approved automatic fire-extinguishing system installed in accordance with this code.  
904.3.1 Installation. Automatic fire-extinguishing systems shall be installed in accordance with Annex B of NFPA 96 when required in mobile food preparation vehicles. ]
4. Delete Sections [ ~~904.3.1 through 904.4.3.~~ 904.3.2, 904.3.3, 904.3.4, 904.3.5, and 904.4.1 through 904.4.3 and change Section 904.4 to read:

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904.4 Warning signs. Where alarms are required to indicate the operation of automatic fire-extinguishing systems, warning signs shall be maintained to warn of pending agent discharge. Where exposure to automatic-extinguishing agents poses a hazard to persons and a delay is required to ensure the evacuation of occupants before agent discharge, a separate warning sign shall be maintained in accordance with the applicable building code. ]

5. Change Section 904.5 to read:

904.5 Wet-chemical systems. Wet-chemical extinguishing systems shall be maintained, periodically inspected and tested in accordance with NFPA 17A and their listing. Records of inspections and testing shall be maintained.

6. Change Section 904.6 to read:

904.6 Dry-chemical systems. Dry-chemical extinguishing systems shall be maintained, periodically inspected and tested in accordance with NFPA 17 and their listing. Records of inspections and testing shall be maintained.

7. Change Section 904.7 to read:

904.7 Foam systems. Foam-extinguishing systems shall be maintained, periodically inspected and tested in accordance with NFPA 11 and NFPA 16 and their listing. Records of inspections and testing shall be maintained.

8. Change Section 904.8 to read:

904.8 Carbon dioxide systems. Carbon dioxide extinguishing systems shall be maintained, periodically inspected and tested in accordance with NFPA 12 and their listing. Records of inspections and testing shall be maintained.

9. Change Section 904.9 to read:

904.9 Halon systems. Halogenated extinguishing systems shall be maintained, periodically inspected and tested in accordance with NFPA 12A and their listing. Records of inspections and testing shall be maintained.

10. Change Section 904.10 to read:

904.10 Clean-agent systems. Clean-agent fire-extinguishing systems shall be maintained, periodically inspected and tested in accordance with NFPA 2001 and their listing. Records of inspections and testing shall be maintained.

11. Change Section 904.11 to read:

~~(N)904.11~~ 904.11 Automatic water mist systems. Automatic water mist systems shall be maintained in accordance with NFPA 25 and the manufacturer's instructions.

12. Delete Sections 904.11.1.1 through 904.11.2.3.

13. Change Sections 904.12 through 904.12.2 to read:

~~(N)904.12~~ 904.12 Commercial cooking systems. Automatic fire-extinguishing systems for commercial cooking shall comply with this section.

~~(N)904.12.1~~ 904.12.1 Manual system operation. Where provided, manual actuation devices shall be maintained as installed in accordance with the applicable building code and shall not be obstructed.

~~(N)904.12.2~~ 904.12.2 System interconnection. Where required by the applicable building code, the actuation of the fire extinguishing system shall automatically shut down the fuel or electrical power supply to the cooking equipment. The fuel and electrical supply reset shall be manual.

14. Delete Sections 904.12.3 through 904.12.4.

15. Change ~~Sections~~ Section 904.12.4.1 to read:

~~(N)904.12.4.1~~ 904.12.4.1 Listed sprinklers. Sprinklers replaced in accordance with NFPA 25, which are used for the protection of fryers, shall be tested in accordance with UL 199E, listed for that application, and installed in accordance with their listing.

16. Change Section ~~904.12.6.1~~ 904.12.5.1 to read:

~~(N)904.12.6.1~~ 904.12.5.1 Existing automatic fire-extinguishing systems. Where a change in the cooking media, positioning of cooking equipment, or replacement of cooking equipment occurs in existing commercial cooking systems, the automatic fire-extinguishing system shall be required to comply with the applicable building code.

17. Delete Sections 904.13 through ~~904.13.2~~ 904.13.1.2.

18. Change Section 904.14 to read:

904.14 Aerosol fire-extinguishing systems. Aerosol fire-extinguishing systems shall be periodically inspected, tested and maintained in accordance with [ ~~Section 901 and this section,~~ ] NFPA 2010 and in accordance with their listing. [ ~~Such devices and appurtenances shall be maintained in compliance with manufacturer's instructions.~~ ]

D. The following changes shall be made to Section 905, Standpipe Systems:

1. Change Sections 905.1 and 905.2 to read:

~~(N)905.1~~ 905.1 General. Standpipe systems shall be inspected, tested and maintained in accordance with the provisions of this section and the applicable referenced standards.

~~(N)905.2~~ 905.2 Maintenance standard. Standpipe systems shall be maintained in accordance with this section and NFPA [ ~~4 25 and as approved in accordance with the applicable building code, including the applicable NFPA 14 standard.~~ Hose connections shall be maintained so that there is at least 3 in. (76.2 mm) clearance between any

adjacent object and the handle of the valve when the valve is in any position ranging from fully open to fully closed ]. Fire department connections for standpipe systems shall be in accordance with Section 912.

2. Delete Sections 905.3 through 905.3.4.

3. Change Sections Section 905.3.4.1 to read:

~~(N)905.3.4.1 905.3.4.1 [ Hose Stage hose ]~~ and cabinet. Where required by the applicable building code, [ hose connections shall be equipped with sufficient lengths of 1-1/2 inch (38 mm) hose to provide fire protection for the required area. Hoses shall be equipped with an approved adjustable fog nozzle and be mounted in a cabinet or on a rack. stages greater than 1,000 square feet in area (93 m2) with hose connections shall be maintained with sufficient lengths of 1-1/2-inch (38 mm) hose to provide fire protection for the required area.

Hoses shall be maintained with an adjustable fog nozzle mounted in a cabinet or on a rack approved by the fire code official. Each rack for 1-1/2-inch (38 mm) or smaller hose shall be provided with a label that includes the wording "FIRE HOSE FOR USE BY TRAINED PERSONNEL" and operating instructions. ]

4. Delete Sections 905.3.5 and 905.3.6.

5. [ Change Delete ] Section 905.3.7 [ ~~to read: (N)905.3.7 905.3.7~~ Marinas and boatyards. Standpipes in marinas and boatyards shall comply with Chapter 36 ].

6. Delete Sections 905.3.8 through 905.5.2.

7. Change Section 905.5.3 to read:

~~(N)905.5.3 905.5.3~~ Class II system [ 1-inch hose ]. [ Each rack for 1-1/2 inch (38 mm) or smaller hose shall be provided with a label that includes the wording "FIRE HOSE FOR USE BY TRAINED PERSONNEL" and operating instructions. ] A minimum 1-inch (25 mm) hose shall be allowed to be used for hose stations in light-hazard occupancies where investigated and listed for this service and where approved by the fire code official.

8. Delete Sections 905.6 through 905.6.2.

[ 9. Change Sections 905.7 through 905.7.2 to read:

~~(N)905.7 905.7~~ Cabinets. Cabinets containing firefighting equipment, such as standpipes, fire hose, fire extinguishers or fire department valves, shall not be blocked from use or obscured from view.

~~(N)905.7.1 905.7.1~~ Cabinet equipment identification. Cabinets shall be identified in an approved manner by a permanently attached sign with letters not less than 2 inches (51 mm) high in a color that contrasts with the background color indicating the equipment contained therein.

Exceptions:

~~1. Doors not large enough to accommodate a written sign shall be marked with a permanently attached pictogram of the equipment contained therein.~~

~~2. Doors that have either an approved visual identification clear glass panel or a complete glass door panel are not required to be marked.~~

~~(N)905.7.2 905.7.2~~ Locking cabinet doors. Cabinets shall be unlocked.

Exceptions:

~~1. Visual identification panels of glass or other approved transparent frangible material that is easily broken and allows access.~~

~~2. Approved locking arrangements.~~

~~3. Group I-3 occupancies.~~

~~10. 9. ]~~ Delete [ Sections Section ] 905.8 and [ change Section ] 905.9 [ ~~- to read:~~

905.9 Valve supervision. Valves controlling water supplies shall be maintained as supervised in accordance with the applicable building code. Where a fire alarm system is provided, a supervisory signal shall also be transmitted to the control unit.

Exceptions:

1. Valves to underground key or hub valves in roadway boxes provided by the municipality or public utility do not require supervision.

2. Valves locked in the normal position and inspected as permitted in the applicable building code in buildings not equipped with a fire alarm system. ]

[ ~~11. 10. ]~~ Change Section 905.10 to read:

~~(N)905.10 905.10~~ During construction. Standpipe systems required during construction and demolition operations shall comply with Chapter 33.

[ ~~12. 11. ]~~ Delete [ Section Sections 905.11 and ] 905.12.

E. The following changes shall be made to Section 906, Portable Fire Extinguishers:

1. Change Item 1 in Section 906.1 to read:

1. In ~~Group~~ Groups A, B, E, F, H, I, M, R-1, R-4<sub>2</sub> and S occupancies.

Exceptions:

1. In Groups 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.

2. Add a note to Section 906.1 to read:

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

3. Change Section 906.2.1 to read:

906.2.1 Certification of service personnel for portable fire extinguishers. Service personnel providing or conducting maintenance on portable fire extinguishers shall possess a valid certificate issued by an approved agency, or other approved organization for the type of work performed.

F. The following changes shall be made to Section 907, Fire Alarm and Detection Systems:

1. Change Section 907.1 to read:

907.1 General. This section covers the performance and maintenance of fire alarm systems and their components in buildings and structures.

2. Delete Sections 907.1.1 and 907.1.2.

3. Change Section 907.1.3 to read:

~~(N)907.1.3~~ 907.1.3 Equipment. Systems and components not regulated by the applicable building code shall be listed and approved for the purpose for which they are installed.

4. Delete Sections 907.2 through 907.2.6.3.2.

5. Delete Sections 907.2.6.3.3 through ~~907.2.10.3~~ 907.2.9.3.

6. Change Section ~~907.2.11~~ 907.2.10 to read:

~~(N)907.2.11~~ 907.2.10 Single-station and multiple-station smoke alarms. Alarms not required by the applicable building code shall be listed single-station and multiple-station smoke alarms complying with UL 217 and installed in accordance with the manufacturer's instructions and NFPA 72.

7. Delete Sections ~~907.2.11.1~~ 907.2.10.1 through 907.3.1.

8. Change Sections 907.3.2 and 907.3.3 to read:

~~(N)907.3.2~~ ~~Delayed egress locks~~ 907.3.2 Special locking systems. Where ~~delayed egress locks~~ special locking systems are installed on means of egress doors, [ ~~they shall be maintained as installed in accordance with the associated fire detection system shall also be maintained in accordance with NFPA 72 and~~ ] the applicable building code.

~~(N)907.3.3~~ 907.3.3 Elevator emergency operation. Automatic fire detectors installed for elevator emergency operation shall be maintained [ ~~as provided by in accordance with the provisions of the applicable ASME A17.1/CSA B44 standard, NFPA 72, and~~ ] the applicable building code.

9. Delete Sections 907.3.4 through 907.4.1.

10. Change Section 907.4.2 to read:

~~(N)907.4.2~~ 907.4.2 Manual fire alarm boxes. [ ~~Manual~~ Where a manual ] fire alarm [ ~~boxes or pull stations shall be maintained as provided in accordance with the applicable building code system is provided or required by the applicable building code, fire alarm boxes shall be maintained in accordance with Sections 907.4.2.1 through 907.4.2.6.~~ ]

11. Delete Sections 907.4.2.1 and 907.4.2.2.

12. Change Sections 907.4.2.3 and 907.4.2.5 to read:

~~(N)907.4.2.3~~ 907.4.2.3 Color. [ ~~Manual~~ Unless otherwise approved by the applicable building code, manual ] fire alarm boxes shall be maintained [ ~~as installed unless otherwise approved~~ red in color ].

907.4.2.5 Protective covers. The fire code official is authorized to require the installation of listed manual fire alarm box protective covers to prevent malicious false alarms or to provide the manual fire alarm box with protection from physical damage. The protective cover shall be transparent or red in color with a transparent face to permit visibility of the manual fire alarm box. Each cover shall include proper operating instructions. A protective cover that emits a local alarm signal shall not be installed unless approved. Protective covers shall not reduce the required means of egress width.

13. Delete Sections 907.4.3 [ ~~through 907.5~~ and 907.4.3.1 and change Section 907.5 to read:

907.5 Occupant notification systems. Fire alarm system annunciation and occupant notification required by the applicable building code shall be maintained. ]

14. Change [ ~~Section~~ Sections ] 907.5.1 [ and 907.5.2 ] to read:

~~(N)907.5.1~~ 907.5.1 Presignal feature. A presignal feature shall not be utilized unless approved by the fire code official and the fire department. Where a presignal feature is provided, a signal shall be annunciated at a constantly attended location approved by the fire department so that occupant notification can be activated in the event of fire or other emergency.

[ 907.5.2 Audible alarms. The distinct sound emitted by audible alarm notification appliances and approved in accordance with the applicable building code is not to be used for any purposes other than that of a fire alarm. The required audibility and intelligibility of alarms shall be maintained in accordance with the applicable building code. ]

15. Delete Sections [ ~~907.5.2~~ 907.5.2.1 ] through [ 907.5.2.2.2 and change Section ] 907.5.2.2.3 [ - to read: ]

[ 907.5.2.2.3 Alternative uses for emergency voice/alarm communication systems. The emergency voice/alarm communication system shall be allowed to be used for



other announcements, provided that the manual fire alarm use takes precedence over any other use. ]

16. Change Section 907.5.2.2.4 to read:

~~(N)907.5.2.2.4~~ 907.5.2.2.4 Emergency voice or alarm communication captions. Where stadiums, arenas and grandstands are required to caption audible public announcements in accordance with of the applicable building code, the emergency or voice alarm communication system shall be captioned. Prerecorded or live emergency captions shall be from an approved location constantly attended by personnel trained to respond to an emergency.

17. Delete Sections 907.5.2.2.5 through 907.6.2.

18. Change Section 907.6.3 to read:

~~(N)907.6.3~~ 907.6.3 Initiating device identification. [ ~~The fire~~ Fire ] alarm systems that identify the specific initiating device address, location, device type, floor level where applicable, and status, including indication of normal, alarm, trouble and supervisory status, shall [ ~~be maintained as provided~~ maintain accurate programming ] in accordance with [ NFPA 72 and ] the applicable building code.

19. Delete Sections 907.6.3.1 through 907.6.4.2.

20. Change Sections 907.6.5 through 907.6.6 to read:

~~(N)907.6.5~~ 907.6.5 Access. Access [ shall be maintained ] to each fire alarm device and notification appliance for periodic inspection, maintenance and testing [ ~~shall not be obstructed~~ ].

~~(N)907.6.6~~ 907.6.6 Monitoring. The monitoring of fire alarm systems required by the applicable building code shall be maintained in accordance with NFPA 72.

21. Delete Sections 907.7 through 907.7.2.

22. Change Section 907.7.3 to read:

907.7.3 Instructions. Operating, testing and maintenance instructions and [ ~~existing~~ ] record drawings ("as built") and equipment specifications shall be provided at an approved location.

23. Change Section 907.8.2 to read:

907.8.2 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.

24. Change Section 907.8.5 to read:

907.8.5 Maintenance, inspection and testing. The building owner shall be responsible for maintaining the fire and life safety systems in an operable condition at all times. Service personnel shall meet the qualification requirements of NFPA 72 for maintaining, inspecting and testing such systems. A written record shall be maintained and shall be made available to the fire code official. In addition to all applicable information contained in Figure 7.8.2 of NFPA 72, the written record of inspections, testing and maintenance shall contain the following minimum information:

1. Date, name and address of property.
2. Name of person performing inspection, maintenance and tests, or combination thereof, and affiliation, business address and telephone number.
3. Name, address and representative of approving agency or agencies.
4. Test frequency.
5. Designation of the [ ~~detector or detectors tested standard or procedures used for the inspection or test~~ ] (for example, "Test performed in accordance with [ NFPA 72 ] Section \_\_\_\_\_").
6. [ ~~Physical location~~ List of each device tested and the result. The list should include the physical location and device description of each initiating and notification device tested. ] (for example, "Heat detector in main kitchen; horn-strobe in Room 115.") [ ~~and a list of all initiating and notification devices and appliances tested.~~ ]
7. [ ~~Functional list of detectors and required sequence of operations~~ Other tests as required by either the equipment manufacturer's published instructions or the authority having jurisdiction ].
8. [ ~~Check of all smoke detectors.~~ Signature of tester and approved authority representative ].
9. [ ~~Loop resistance for all fixed temperature, line-type detectors.~~ ]
10. ~~Other tests as required by either the equipment manufacturer's published instructions or the authority having jurisdiction.~~
11. ~~Signature of tester and approved authority representative.~~
12. [ ~~Disposition of problems identified during test~~ or devices not tested ] (examples, "Owner notified," "Problem corrected or successfully retested, or both," "Device abandoned in place.").

25. Delete Section 907.9.

G. The following changes shall be made to Section 908, Emergency Alarm Systems:

Change Sections 908.1 ~~through 908.7~~ and 908.2 to read:

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908.1 Group H occupancies. Emergency alarms for the detection and notification of an emergency condition in Group H occupancies shall be maintained as provided in accordance with the applicable building code [ and manufacturer's specifications ].

~~(N)908.2 908.2~~ Group H-5 occupancy. Emergency alarms for notification of an emergency condition in a hazardous production material (HPM) facility shall be maintained as provided in accordance with the applicable building code. Continuous gas detection systems shall be maintained for HPM gases as provided in accordance with the applicable building code [ and manufacturer's specifications ].

~~(N)908.3 Highly toxic and toxic materials. Where required by the applicable building code for highly toxic and toxic materials, gas detection systems shall be maintained.~~

~~(N)908.4 Ozone gas generator rooms. Where required by the applicable building code, gas detection systems provided in ozone gas generator rooms shall be maintained.~~

~~(N)908.5 Repair garages. A flammable gas detection system provided in accordance with the applicable building code in repair garages for vehicles fueled by nonodorized gases shall be maintained.~~

~~(N)908.6 Refrigeration systems. Refrigeration system machinery rooms provided with refrigerant detection in accordance with the applicable building code shall be maintained.~~

~~908.7 Carbon dioxide systems. Emergency alarm systems provided in accordance with the applicable building code shall be maintained.~~

H. The following changes shall be made to Section 909, Smoke Control Systems:

1. Change Section 909.1 to read:

~~(N)909.1 909.1~~ Scope and purpose. This section applies to the inspection, testing, and maintenance of mechanical or passive smoke control systems. The purpose of these systems to provide a tenable environment for the evacuation or relocation of occupants. These provisions are not intended for the preservation of contents, the timely restoration of operations, or for assistance in fire suppression or overhaul activities. [ Smoke control systems regulated by this section serve a different purpose than the smoke-venting and heat-venting provisions found in Section 910. ]

2. Delete Sections 909.2 through 909.4.5.

3. Change Section 909.4.6 to read:

~~(N)909.4.6 909.4.6~~ Duration of operation. All portions of active or engineered smoke control systems shall be capable of continued operation after detection of the fire event for a period of not less than that required by the applicable building code.

4. Delete Section 909.4.7.

5. Change Section 909.5 to read:

~~(N)909.5 909.5~~ Smoke barriers. Smoke barriers required for passive smoke control and smoke control systems using the pressurization method shall be maintained in accordance with Chapter 7 of this code.

6. Delete Sections 909.5.1 and 909.5.2.

7. Change Section 909.5.3 to read:

~~(N)909.5.3 909.5.3~~ Opening protection. Protection of openings in smoke barriers shall be maintained in accordance with Chapter 7.

8. Delete Section 909.5.3.1.

9. Change Section 909.5.3.2 to read:

~~(N)909.5.3.2 909.5.3.2~~ Ducts and air transfer openings. Protection of ducts and air transfer openings [ by smoke dampers ] shall be maintained in accordance with Chapter 7.

10. Delete Sections 909.6 through 909.10.4.

11. [ ~~Delete Section 909.10.5.~~ ] Change Sections [ ~~909.10.5 909.11~~ ] through [ ~~909.11.1 909.11.2~~ ] to read:

[ ~~(N)909.10.5 909.10.5~~ Fans. Motors driving fans associated with smoke control systems shall not be operated beyond their nameplate horsepower (kilowatts) as determined from measurement of actual current draw and shall have a minimum service factor of 1.15. ]

~~(N)909.11 909.11~~ Standby power. Standby power provided for smoke control systems shall be maintained in accordance with Section ~~604~~ 1203.

~~(N)909.11.1 909.11.1~~ Equipment room. Fire barriers associated with equipment rooms servicing smoke control systems shall be maintained in accordance with Chapter 7. [ 909.11.2 Power sources and power surges. Conditioners, suppressors, or other approved uninterruptable power sources provided for elements of smoke control systems shall be maintained in accordance with the applicable building code. ]

12. Delete Sections [ ~~909.11.2 909.12~~ ] through 909.13.3.

13. Change Sections 909.14 and 909.15 to read:

909.14 Marking and identification. The detection and control systems shall be clearly marked at all junctions, accesses and terminations.

909.15 Control diagrams. Identical control diagrams showing all devices in the system and identifying their location and function shall be maintained current and kept on file with the fire code official, with the fire department, and in the fire command center in a format and manner approved by the fire chief.

14. [ Change Section 909.16. ] Delete [ ~~Sections 909.16 and Section~~ ] 909.16.1.

[ 909.16 Firefighter's smoke control panel. A firefighter's smoke control panel for fire department emergency response purposes only, including manual control or override of automatic control for mechanical smoke control systems, shall be maintained in accordance with the applicable building code. ]

15. Change Section 909.16.2 to read:

~~(N)909.16.2~~ 909.16.2 Smoke control panel. The firefighter's control panel shall maintain control capability over the complete smoke control system equipment within the building in accordance with the applicable building code.

16. [ ~~Delete Change~~ ] Section 909.16.3 [ - to read:

909.16.3 Control action and priorities. All firefighter's control panel actions and priorities required by the applicable building code shall be maintained as approved. ]

17. Change ~~Sections~~ Section 909.17 and ~~909.18~~ to read:

~~(N)909.17~~ 909.17 System response time. Smoke-control system activation, including all associated components, shall be initiated in accordance with its design. The total response time shall not be less than the requirements specified in the design.

~~(N)909.18 Acceptance testing.~~

18. Delete Sections ~~909.18.1~~ 909.18 through 909.18.8.3.

19. Change Sections 909.18.8.3.1 and 909.18.9 to read:

~~(N)909.18.8.3.1~~ 909.18.8.3.1 Report filing. A copy of the final report required by the applicable building code shall be filed with the fire code official and an identical copy shall be maintained in an approved location at the building.

~~(N)909.18.9~~ 909.18.9 Identification and documentation. Copies of charts, drawings, and other documents identifying and locating each component of the smoke control system and describing their proper function and maintenance requirements shall be maintained on file at the building. Devices shall have an approved identifying tag or mark on them consistent with such copies and shall be dated indicating the last time they were successfully tested and by whom.

20. Delete Section 909.19.

21. Change Sections 909.20.1, 909.20.6, and 909.21 to read:

909.20.1 Schedule. A routine maintenance and operational testing program shall be initiated immediately after the smoke control system has passed the acceptance tests. A written schedule for routine maintenance and operational testing shall be established and approved by the fire code

official [ ~~in accordance with Chapter 9 of the applicable building code~~ ].

~~(N)909.20.6~~ 909.20.6 Components bypassing weekly test. Where components of the smoke control system are bypassed by the preprogrammed weekly test in accordance with the applicable building code, such components shall be tested semiannually. The system shall be tested under standby power conditions.

~~(N)909.21~~ 909.21 Elevator hoistway pressurization alternative. Where elevator hoistway pressurization is provided in lieu of required enclosed elevator lobbies, the pressurization system shall be maintained in accordance with [ ~~Section 909~~ Sections 909.21.1 through 909.21.11 ].

22. Delete Sections 909.21.1 through 909.21.2.

23. Change [ ~~Sections~~ Section ] 909.21.3 [ ~~through 909.21.4.1~~ ] to read:

~~(N)909.21.3~~ 909.21.3 Ducts for system. Any duct system protected with a fire-resistance rating shall be maintained in accordance with Chapter 7.

[ ~~(N)909.21.4~~ ~~909.21.4~~ Fan system. The fan system provided for the pressurization system shall comply with Sections 909.21.4.1.

~~(N)909.21.4.1~~ ~~909.21.4.1~~ Fire resistance. Where provided in accordance with the applicable building code, the fire-resistance rating required for the elevator shaft enclosure shall be maintained in accordance with Chapter 7. ]

24. Delete Sections 909.21.4.2 through 909.21.4.4.

25. Change Section 909.21.5 to read:

~~(N)909.21.5~~ 909.21.5 Standby power. Standby power systems for pressurization systems shall be maintained in accordance with Section ~~604~~ 1203.

26. Delete [ ~~Sections 909.21.6 and Section~~ ] 909.21.7 [ - and change Section 909.21.6 to read:

909.21.6 Activation of pressurization system. Where required or provided in accordance with the applicable building code, activation of the elevator pressurization system by the building fire alarm system or the elevator lobby smoke detectors shall be maintained. ]

27. [ ~~Change Sections 909.21.8 and 909.21.9 to read:~~

~~(N)909.21.8~~ ~~909.21.8~~ Marking and identification. Detection and control systems shall be marked in accordance with Section 909.14. ~~(N)909.21.9~~ ~~909.21.9~~ Control diagrams. Control diagrams shall be provided in accordance with Section 909.15. 28. ] Delete Section 909.21.10.

[ ~~29. Change 28. Delete~~ ] Section 909.21.11 [ ~~to read:~~

~~(N)909.21.11~~ ~~909.21.11~~ System response time. Hoistway pressurization systems response time shall be maintained in accordance with the requirements for smoke control system response time in the applicable building code. ]

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I. The following changes shall be made to Section 910, Smoke and Heat Removal:

[ ~~1.~~ Change Section 910.1 to read:

~~(N)910.1 910.1~~ General. ~~Where required by the applicable building code, smoke and heat vents or mechanical smoke removal systems shall be maintained as installed.~~

~~2. 1.~~ ] Delete Sections 910.2 through 910.3.3.

[ ~~3. 2.~~ ] Change Section 910.4 to read:

~~(N)910.4 910.4~~ Mechanical smoke removal systems. Mechanical smoke removal systems provided shall be maintained [ ~~as installed~~ ] in accordance with [ this section and ] the applicable building code.

[ ~~4. 3.~~ ] Delete Sections 910.4.1 through [ ~~910.4.7. 910.4.3, 910.4.5, and 910.4.6~~ and change Sections 910.4.4 and 910.4.7 to read:

910.4.4 Activation. Where the applicable building code requires that a mechanical smoke removal system shall be activated by manual controls only, only manual controls shall be permitted.

910.4.7 Controls. Where the applicable building code requires that manual controls be provided for the smoke removal system that have the capability to override the automatic shutdown of fans that are part of the smoke removal system, the override capability shall be maintained. ]

J. The following changes shall be made to Section 911, Explosion Control:

1. Change Section 911.1 to read:

~~(N)911.1 911.1~~ General. Explosion control systems and components shall be maintained and operated in accordance with [ the applicable provisions of ] NFPA 69 or NFPA 495 [ ~~, as applicable~~ ]. Deflagration venting shall not be used as a means to protect buildings from detonation hazards.

2. Delete Table 911.1 and Sections 911.2 through 911.4.

K. The following changes shall be made to Section 912, Fire Department Connections:

1. Delete [ ~~Sections Section~~ ] 912.1 [ ~~through 912.2.1~~ ].

2. [ Change Sections 912.2 and 912.2.1 to read:

912.2 Location. With respect to hydrants, driveways, buildings, and landscaping, fire department connections shall remain located in accordance with the applicable building code so that fire apparatus and hose connected to supply the system will not obstruct access to the buildings for other fire apparatus.

912.2.1 Visible location. Fire department connections shall remain located on the street side of buildings or facing approved fire apparatus access roads, fully visible

and recognizable from the street, fire apparatus access road or nearest point of fire department vehicle access or as otherwise approved by the fire code official and in accordance with the applicable building code.

~~3.~~ ] Change Section 912.6 to read:

~~(N)912.6 912.6~~ Backflow protection. The potable water supply to automatic sprinkler and standpipe systems protected against backflow as required by the applicable building code shall be maintained in accordance with NFPA 25.

L. The following changes shall be made to Section 913, Fire Pumps:

1. Change Sections 913.1 through 913.2.1 to read:

~~(N)913.1 913.1~~ General. [ ~~Where provided, fire Fire~~ ] pumps shall be maintained in accordance with [ this section, the applicable NFPA 20 standard, NFPA 25, and ] the applicable building code.

~~(N)913.2 913.2~~ Protection against interruption of service. The fire pump, driver and controller shall be maintained in accordance with the applicable building code [ against possible interruption of service through damage caused by explosion, fire, flood, earthquake, rodents, insects, windstorm, freezing, vandalism, and other adverse conditions ].

~~(N)913.2.1 913.2.1~~ Protection of fire pump rooms. Rooms where fire pumps are separated from all other areas of the building by a fire-rated assembly in accordance with the applicable building code shall be maintained in accordance with Chapter 7.

2. Delete Section 913.2.2.

3. Change Sections 913.3 and 913.4 to read:

~~(N)913.3 913.3~~ Temperature of pump room. Suitable means shall be provided for maintaining the temperature of a pump room or pump house above 40°F (5°C).

~~(N)913.4 913.4~~ Valve supervision. Where provided, the fire pump suction, discharge and bypass valves, and isolation valves on the backflow prevention device or assembly shall be maintained [ as supervised ] in accordance with the applicable building code. [ Where a fire alarm system is provided, a supervisory signal shall also be transmitted to the control unit.

Exception: Valves locked in the normal position and inspected as permitted in the applicable building code in buildings not equipped with a fire alarm system. ]

4. Delete Section 913.5.1.

M. [ ~~The following changes shall be made to Section 914, Fire Protection Based on Special Detailed Requirements of Use and Occupancy:~~

~~1. Delete Sections 914.1 through 914.2.3.~~

2. Change Section 914.2.4 to read:

~~914.2.4 Fire department access to equipment. Rooms or areas containing controls for air conditioning systems, automatic fire extinguishing systems, automatic sprinkler systems, or other detection, suppression, or control elements shall be identified for use by the fire department.~~

3. Delete Sections 914.3 through 914.11.3, including Tables. Delete Section 914. ]

N. The following changes shall be made to Section 915, Carbon Monoxide Detection:

1. Change Section 915.1 to read:

~~(N)915.1~~ 915.1 General. Where provided, carbon monoxide detection shall be installed in accordance with the applicable building code.

2. Delete Sections 915.1.1 through 915.5.3.

3. Change Section 915.6 to read:

~~915.6 Maintenance. Carbon monoxide alarms and carbon monoxide detection systems shall be maintained in accordance with NFPA 720. Carbon monoxide alarms and carbon monoxide detectors that become inoperable or begin producing end-of-life signals shall be replaced.~~

O. The following changes shall be made to Section 916, Gas Detection Systems:

1. Change Section 916.1 to read:

916.1 Gas detection systems. Gas detection systems shall be maintained in accordance with the applicable building code [ and this section ].

2. Delete Sections 916.2 [ ~~through 917.~~ and 916.2.1 ].

[ 3. Change Sections 916.3 through 916.6 to read:

916.3 Equipment. Gas detection system equipment shall be operated and maintained in accordance with the applicable building code and manufacturer's instructions.

916.4 Power connections. Gas detection systems shall remain permanently connected to the building electrical power supply or, where approved by the applicable building code, cord connected to an unswitched receptacle using an approved restraining means that secures the plug to the receptacle.

916.5 Emergency and standby power. Standby or emergency power shall be maintained in accordance with Section 1203. Where required by the applicable building code, the gas detection system shall initiate a trouble signal at an approved location if the power supply is interrupted.

916.6 Sensor locations. Sensors shall remain in locations approved in accordance with the applicable building code where leaking gases are expected to accumulate.

4. Delete Section 916.7 and change 916.9 through 916.11 to read:

916.9 Signage. Signs shall be provided and maintained adjacent to gas detection system alarm signaling devices that advise occupants of the nature of the signals and actions to take in response to the signal.

916.10 Fire alarm system connections. Gas sensors and gas detection systems shall not be connected to fire alarm systems unless approved in accordance with the applicable building code and connected in accordance with the fire alarm equipment manufacturer's instructions.

916.11 Inspection, testing, and sensor calibration. Inspection and testing of gas detection systems shall be conducted not less than annually. Sensor calibration shall be confirmed at the time of sensor installation and calibration shall be performed at the frequency specified by the sensor manufacturer.

P. The following change shall be made to Section 917, Mass notification systems:

917.1 Mass notification. Where provided, mass notification systems shall be maintained in accordance with NFPA 72. ]

**13VAC5-51-135.5. IFC Chapter 10 Means of Egress.**

A. The following changes shall be made to Section 1001, Administration:

1. Change Section 1001.1 to read:

1001.1 General. Means of egress systems for buildings or portions thereof shall be maintained in accordance with the applicable building code and Section 1031.

2. Add [ ~~Section Sections~~ ] 1001.3 [ and 1001.3.1 ] to read:

1001.3 Overcrowding. Overcrowding, admittance of any person beyond the approved occupant load established by the USBC or other building code under which the building was constructed, or obstructing aisles, passageways, or any part of the means of egress shall not be allowed. The fire code official, upon finding any condition that constitutes a life safety hazard, shall be authorized to cause the event to be stopped until such condition or obstruction is corrected.

[ 1001.3.1 Temporary occupant load determination. Where the fire code official determines that overcrowding may exist, the fire code official shall be permitted to utilize the egress component sizing requirements and occupant load allowances of the VCC to determine a temporary occupant load. Where such determination is made, the fire code official shall be permitted to require an approved temporary sign posting of the maximum allowable occupant load and such sign shall be maintained until the building official approves the allowable occupant load at which time a permanent sign shall be posted, where applicable, or the temporary sign may be removed. ]

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3. Add Section 1001.4 to read:

1001.4 Unauthorized use of emergency supplemental hardware. No person shall utilize any approved emergency supplemental hardware to prevent the ingress or egress from any occupied space.

Exceptions:

1. Utilized by authorized persons or other persons occupying such space in the event of any actual or perceived hostile threat or active shooter event.

2. Utilized in conjunction with any approved lockdown drill requiring the utilization of the approved emergency supplemental hardware.

3. Utilization for the testing, use, and training by emergency response personnel.

Where such device is utilized in accordance with the Exceptions 1, 2, and 3, the hardware device shall be removed immediately following the conditions of such exceptions.

B. The following changes shall be made to Section 1003, General Means of Egress:

1. Change Section 1003.1 to read:

~~(N)1003.1~~ 1003.1 Applicability. The general requirements specified in Sections 1003 through 1015 shall apply to the maintenance of the building.

2. Change Section 1003.2 to read:

~~(N)1003.2~~ 1003.2 Ceiling height. The means of egress ceiling height shall be maintained in accordance with the applicable building code.

3. Change Section 1003.3 to read:

1003.3 Protruding objects. Protruding objects on circulation paths shall comply with the requirements of Sections 1003.3.1 and 1003.3.4.

4. Change Section 1003.3.1 to read:

~~(N)1003.3.1~~ 1003.3.1 Headroom. Minimum headroom shall be maintained in accordance with the applicable building code.

5. [ ~~Delete Change~~ ] Section 1003.3.2 [ - to read:

1003.3.2 Post-mounted objects. Clearances for a free-standing object mounted on a post or pylon shall be maintained in accordance with the applicable building code. ]

6. [ ~~Delete Change~~ ] Section 1003.3.3 [ - to read:

1003.3.3 Horizontal projections. Limitations of projection of objects into a means of egress in accordance with the applicable building code shall be maintained and not reduce the means of egress. ]

7. Change Section 1003.3.4 to read:

~~(N)1003.3.4~~ 1003.3.4 Clear width. Protruding objects shall not reduce the minimum clear width of accessible routes.

8. Change Section 1003.4 to read:

~~(N)1003.4~~ 1003.4 Floor surface. [ Walking surfaces shall be maintained in accordance with the applicable building code. ] Slip and trip hazards in the means of egress shall be abated.

9. [ ~~Delete Change~~ ] Section 1003.5 [ - to read:

1003.5 Elevation change. Where changes in elevation in the means of egress exist they shall be maintained in accordance with the applicable code. ]

10. Change Section 1003.6 to read:

~~(N)1003.6~~ 1003.6 Means of egress continuity. Means of egress continuity shall be maintained in accordance with the applicable building code. [ Obstructions, except those permitted by the applicable building code, shall not reduce the minimum width or required capacity of means of egress components. ]

11. [ ~~Delete Change~~ ] Section 1003.7 [ - to read:

1003.7 Elevators, escalators, and moving walks. Elevators, escalators, and moving walks that are an approved component of a required means of egress shall be maintained in accordance with the applicable building code. ]

C. The following changes shall be made to Section 1004, Occupant Load:

1. Change Section 1004.1 to read:

~~(N)1004.1~~ 1004.1 Design occupant load. The design occupant load shall be maintained in accordance with the applicable building code.

2. Delete Section ~~1004.1.1~~ Sections 1004.2 through 1004.3, 1004.5, 1004.5.1, and 1004.6, including Table 1004.5.

3. ~~Delete Section 1004.1.1.1.~~ Change Sections 1004.4 and 1004.7 to read:

1004.4 Multiple occupancies. Where a building contains two or more occupancies, the means of egress requirements shall be maintained in accordance with the applicable building code.

1004.7 Outdoor areas. The means of egress for outdoor areas shall be maintained in accordance with the applicable building code.

4. Delete Section ~~1004.1.1.2~~ 1004.8.

5. Delete Section ~~1004.1.1.3.~~

6. Delete Section ~~1004.1.2~~ and Table ~~1004.1.2.~~

7. Delete Section ~~1004.2.~~

8. 5. Change Section ~~1004.3~~ 1004.9 to read:

~~(N)1004.3~~ 1004.9 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 the owner's authorized agent.

9. Delete Section 1004.4.

10. Change Section 1004.5 to read:

~~(N)1004.5~~ Outdoor areas. The means of egress for outdoor areas shall be maintained in accordance with the applicable building code.

11. Change Section 1004.6 to read:

~~(N)1004.6~~ Multiple occupancies. Where a building contains two or more occupancies, the means of egress requirements shall be maintained in accordance with the applicable building code.

D. The following changes shall be made to Section 1005, Means of Egress Sizing:

1. Change Section 1005.1 to read:

~~(N)1005.1~~ 1005.1 General. All portions of the means of egress system shall be sized in accordance with the applicable building code.

2. Change Section 1005.2 to read:

~~(N)1005.2~~ 1005.2 Minimum width based on component. The minimum width of any means of egress components shall be maintained in accordance with the applicable building code.

3. Change Section 1005.3 to read:

~~(N)1005.3~~ 1005.3 Required capacity based on occupant load. The required capacity of the means of egress for any room, area, space or story shall be maintained in accordance with the applicable building code.

4. Change Section 1005.3.1 to read:

~~(N)1005.3.1~~ 1005.3.1 Stairways. The capacity, in inches, of means of egress stairways shall be maintained in accordance with the applicable building code.

5. Delete Section 1005.3.2.

6. Change Section 1005.4 to read:

~~(N)1005.4~~ 1005.4 Continuity. The minimum width or required capacity of the means of egress required from any story of a building shall be maintained in accordance with the applicable building code.

7. Delete Section 1005.5.

8. Change Section 1005.6 to read:

~~(N)1005.6~~ 1005.6 Egress convergence. Where the means of egress from stories above and below converge at an intermediate level, the capacity of the means of egress from the point of convergence shall be maintained in accordance with the applicable code.

9. Change Section 1005.7 to read:

~~(N)1005.7~~ 1005.7 Encroachment. Encroachments into the required means of egress width shall be in accordance with the provisions of the applicable building code.

10. [ ~~Delete~~ Change ] Section 1005.7.1 [ - to read:

1005.7.1 Doors. Doors shall be maintained such that when fully opened, shall not reduce the required width by more than what is permitted by the applicable building code. Door swing in any position shall not reduce the required width by more than one-half unless allowed by the applicable building code. ]

11. [ ~~Delete~~ Change ] Section 1005.7.2 [ - to read:

1005.7.2 Other projections. Other projections shall be maintained and shall be in accordance with the applicable building code. ]

12. Delete Section 1005.7.3.

E. The following changes shall be made to Section 1006, Numbers of Exits and Exit Access Doorways:

1. Change Section 1006.1 to read:

~~(N)1006.1~~ 1006.1 General. The number of exits or exit access doorways required within the means of egress system shall be maintained in accordance with the applicable building code.

2. Change Section 1006.2 to read:

~~(N)1006.2~~ 1006.2 Egress from spaces. Egress from spaces shall be maintained in accordance with the applicable building code.

3. Delete Section Sections [ ~~1006.2.1~~ 1006.2.2.1 ] through 1006.2.6, including subsections, and Table 1006.2.1 [ - and change Sections 1006.2.1 through 1006.2.2 to read:

1006.2.1 Egress based on occupant load and common path of egress travel distance. The minimum number of exits or exit access doorways required by the applicable building code from any space shall be maintained.

1006.2.1.1 Three or more exits or exit access doorways. Where three or more exits or exit access doorways are required by the applicable building code, the number required shall be maintained.

1006.2.2 Egress based on use. The minimum number of exits or access to exits required by the applicable building code shall be maintained. Approved egress for boiler, incinerator and furnace rooms, refrigeration machinery rooms, refrigerated rooms or spaces, I-4 day care, vehicular ramps, and R-3 or R-4 occupancies or spaces

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shall be maintained in accordance with the applicable building code. ]

~~4. Delete Section 1006.2.1.1.~~

~~5. Delete Section 1006.2.2.~~

~~6. Delete Section 1006.2.2.1.~~

~~7. Delete Section 1006.2.2.2.~~

~~8. Delete Section 1006.2.2.3.~~

~~9. Delete Section 1006.2.2.4.~~

~~10. Delete Section 1006.2.2.5.~~

~~11. 4.~~ Change Section 1006.3 to read:

~~(N)1006.3~~ 1006.3 Egress from stories or occupied roofs. The means of egress system serving any story or occupied roof shall be maintained in accordance with the applicable building code.

~~12. 5.~~ Delete Section [ ~~Sections 1006.3.1 through 1006.3.3.1, including subsections, and~~ ] Table ~~1006.3.1~~ [ ~~tables~~ Tables 1006.3.2, 1006.3.3(1), and 1006.3.3(2) and change Sections 1006.3.1 through 1006.3.3 to read:

1006.3.1 Adjacent story. A path of travel, approved in accordance with the applicable building code, that passes through an adjacent story shall be maintained.

1006.3.2 Egress based on occupant load. Each story and roof of a building shall maintain the minimum number of separate and distinct exits required by the applicable building code.

1006.3.3 Single exits. A single exit or access to a single exit from any story or occupied roof approved in accordance with the applicable building code shall be maintained ].

~~13. Delete Section 1006.3.2 and Tables 1006.3.2(1) and 1006.3.2(2).~~

~~14. Delete Section 1006.3.2.1.~~

~~15. Delete Section 1006.3.2.2.~~

F. The following changes shall be made to Section 1007, Exit and Exit Access Doorway Configuration:

1. Change Section 1007.1 to read:

~~(N)1007.1~~ 1007.1 General. Exits, exit access doorways, and exit access stairways and ramps serving spaces, including individual building stories, shall be maintained in accordance with the applicable code.

2. Delete Section 1007.1.1.

3. Delete Section 1007.1.1.1.

4. Delete Section 1007.1.2.

5. Delete Section 1007.1.3.

6. Delete Section 1007.1.3.1.

G. The following changes shall be made to Section 1008, Means of Egress Illumination:

1. Change Section 1008.1 to read:

~~(N)1008.1~~ 1008.1 Means of egress illumination. Illumination provided in the means of egress shall be maintained in accordance with the applicable code.

2. Change Section 1008.2 to read:

~~(N)1008.2~~ 1008.2 Illumination required. Illumination provided for the means of egress serving a room or space shall be maintained in accordance with the applicable building code.

3. [ ~~Delete Change~~ ] Section 1008.2.1 [ - to read:

1008.2.1 Illumination level under normal power. The means of egress illumination level required by the applicable building code shall be maintained. ]

4. Delete [ Section ~~Sections~~ ] 1008.2.2 and [ ~~change Section~~ ] 1008.2.3 [ - to read:

1008.2.3 Exit discharge. Illumination required by the applicable building code along the path of travel for the exit discharge from each exit to the public way shall be maintained. ]

5. Change Section 1008.3 to read:

~~(N)1008.3~~ 1008.3 Emergency power for illumination. The power supply for means of egress illumination shall be maintained in accordance with the applicable building code.

6. Delete ~~Section~~ ~~Sections~~ 1008.3.1 through [ ~~1008.3.5~~ 1008.3.4 and change Section 1008.3.5 to read:

1008.3.5 Illumination level under emergency power. Emergency lighting facilities required and approved by the applicable building code shall be maintained. ]

~~7. Delete Section 1008.3.2.~~

~~8. Delete Section 1008.3.3.~~

~~9. Delete Section 1008.3.4.~~

~~10. Delete Section 1008.3.5.~~

H. The following changes shall be made to Section 1009, Accessible Means of Egress:

1. Change Section 1009.1 to read:

~~(N)1009.1~~ 1009.1 Accessible means of egress required. Accessible means of egress shall be maintained in accordance with the applicable building code.

2. Change Section 1009.2 to read:

~~(N)1009.2~~ 1009.2 Continuity and components. Continuity and components provided for accessible means of egress



shall be maintained in accordance with the applicable building code.

- 3. Delete Section 1009.2.1.
- 4. Change Section 1009.3 and delete Sections 1009.3.1, 1009.3.2, and 1009.3.3.

Section 1009.3 to read:

~~(N)1009.3~~ 1009.3 Stairways. Stairways part of an accessible means of egress shall be maintained in accordance with the applicable building code.

- 5. Change Section 1009.4 and delete Sections 1009.4.1 and 1009.4.2.

Section 1009.4 to read:

~~(N)1009.4~~ 1009.4 Elevators. Elevators considered part of the means of egress shall be maintained in accordance with the applicable building code.

- 6. Change Section 1009.5 to read:
 

~~(N)1009.5~~ 1009.5 Platform lifts. Platform lifts serving as a part of an accessible means of egress shall be maintained in accordance with the applicable building code.

- 7. Change Section 1009.6 to read:
 

~~(N)1009.6~~ 1009.6 Areas of refuge. Areas of refuge shall be maintained in accordance with the applicable building code.

- 8. Delete Section Sections 1009.6.1 through 1009.6.5.

~~9. Delete Section 1009.6.2.~~

~~10. Delete Section 1009.6.3.~~

~~11. Delete Section 1009.6.4.~~

~~12. Delete Section 1009.6.5.~~

- ~~13. 9.~~ Change Section 1009.7 to read:

~~(N)1009.7~~ 1009.7 Exterior areas for assisted rescue. Exterior areas for assisted rescue shall be maintained in accordance with the applicable building code.

- ~~14. 10.~~ Delete Section Sections 1009.7.1 through 1009.7.4.

~~15. Delete Section 1009.7.2.~~

~~16. Delete Section 1009.7.3.~~

~~17. Delete Section 1009.7.4.~~

- ~~18. 11.~~ Change Section 1009.8 to read:

~~(N)1009.8~~ 1009.8 Two-way communication. Where provided, two-way communication systems shall be maintained in accordance with the applicable building code.

- ~~19. 12.~~ Delete Section 1009.8.1.

I. The following changes shall be made to Section 1010, Doors, Gates and Turnstiles:

- 1. Change Section 1010.1 to read:

~~(N)1010.1~~ 1010.1 Doors. Doors serving a means of egress system shall be maintained in accordance with the applicable building code. Means of egress doors shall be readily distinguishable from the adjacent construction and finishes such that the doors are easily recognizable as doors. Mirrors or similar reflecting materials shall not be used on means of egress doors. Means of egress doors shall not be concealed by curtains, drapes, decorations or similar materials.

- 2. Delete Section Sections 1010.1.1 through 1010.1.4.3 and [ 1010.1.5 through 1010.1.8 1010.1.6 and 1010.1.7 ], including subsections, and Tables 1010.1.4.1(1) and 1010.1.4.1(2) [ - and change Sections 1010.1.5 and 1010.1.8 to read:

1010.1.5 Floor elevation. Floors or landings at doorways shall be maintained in accordance with the applicable building code.

1010.1.8 Door arrangement. Minimum space between doors in a series of doors shall be maintained as approved in accordance with the applicable code. ]

~~3. Delete Section 1010.1.1.1.~~

~~4. Delete Section 1010.1.2.~~

~~5. Delete Section 1010.1.2.1.~~

~~6. Delete Section 1010.1.3.~~

~~7. Delete Section 1010.1.3.1.~~

~~8. Delete Section 1010.1.4.~~

~~9. Delete Section 1010.1.4.1 and Tables 1010.1.4.1(1) and 1010.1.4.1(2).~~

~~10. Delete Section 1010.1.4.1.1.~~

~~11. Delete Section 1010.1.4.1.2.~~

~~12. Delete Section 1010.1.4.2.~~

~~13. Delete Section 1010.1.4.3.~~

~~14. Delete Section 1010.1.5.~~

~~15. Delete Section 1010.1.6.~~

~~16. Delete Section 1010.1.7.~~

~~17. Delete Section 1010.1.8.~~

- ~~18. 3.~~ Change Section 1010.1.9 to read:

1010.1.9 Door operations. [ Locks and latches approved in accordance with the applicable building code shall be maintained. ] Except as specifically permitted by [ ~~this section or~~ ] the applicable building code, egress doors shall be readily openable from the egress side without the use of a key or special knowledge or effort.

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4. Delete [ ~~Section Sections 1010.1.9.1 through 1010.1.9.3, 1010.1.9.2 and change Sections 1010.1.9.1 and 1010.1.9.3~~ to read:

1010.1.9.1 Hardware. Door handles, pulls, latches, locks, and other operating devices on doors required by the applicable building code to be accessible shall be maintained. Additions or alterations of hardware shall be approved by the building official in accordance with Section 102.6.

1010.1.9.3 Monitored or recorded egress. Electrical systems that monitor or record egress activity and impact the door operations shall be approved in accordance with the applicable building code and shall be maintained in accordance with this section. ]

~~19. Delete Section 1010.1.9.2.~~

~~20. Change Section 1010.1.9.3~~ 5. Change Section 1010.1.9. to read:

~~(N)1010.1.9.3~~ 1010.1.9.4 Locks and latches. Where required, a readily visible durable sign is posted on the egress side on or adjacent to the door stating: THIS DOOR TO REMAIN UNLOCKED WHEN THIS SPACE IS OCCUPIED. The sign shall be in letters 1 inch (25 mm) high on a contrasting background and shall be maintained. Emergency supplemental hardware provided in accordance with the applicable building code shall be provided with a readily visible durable sign posted on the egress side on or adjacent to the door stating: THIS HARDWARE SHALL BE USED BY AUTHORIZED PERSONNEL ONLY. The sign shall be in letters 1 inch (25 mm) high on a contrasting background.

~~21. Delete Section 1010.1.9.4.~~

~~22. 6. Delete Section Sections [ 1010.1.9.5 1010.1.8.1 and 1010.1.10.1 ] through 1010.1.10.2, including subsections [ - and change Sections 1010.1.9.5 through 1010.1.1.10 to read:~~

1010.1.9.5 Bolt locks. Manually operated flush bolts or surface bolts approved in accordance with the applicable building code shall be maintained.

1010.1.9.6 Unlatching. Where the applicable building code requires that the unlatching of any door or leaf require no more than one operation, one operation shall be maintained.

1010.1.9.6.1 Closet doors. Where closet doors that latch in the closed position are required by the applicable building code to be openable from the inside, they shall be maintained.

1010.1.9.7 Controlled egress doors in Groups I-1 and I-2. Electric locking systems, including electromechanical locking systems and electromagnetic locking systems, shall be operated and maintained in accordance with the applicable building code.

1010.1.9.8 Delayed egress. Delayed egress locking systems shall be operated and maintained in accordance with the applicable building code.

1010.1.9.9 Sensor release of electrically locked egress doors. The electric locks on sensor-released doors located in a means of egress shall be operated and maintained in accordance with the applicable building code.

1010.1.9.10 Door hardware release of electrically locked egress doors. Door hardware release of electric locking systems installed on doors in the means of egress shall be operated and maintained in accordance with the applicable code.

1010.1.9.11 Locking arrangements in buildings within correctional facilities. In buildings within correctional and detention facilities, doors in means of egress serving rooms or spaces occupied by persons whose movements are controlled for security reasons shall be operated and maintained in accordance with the applicable building code.

1010.1.9.12 Stairway doors. Interior stairway means of egress doors required by the applicable building code to be openable from both sides shall be maintained.

1010.1.10 Panic and fire exit hardware. Where the applicable building code requires panic or fire exit hardware on doors it shall be maintained. ]

~~23. Delete Section 1010.1.9.5.1.~~

~~24. Delete Section 1010.1.9.6.~~

~~25. Delete Section 1010.1.9.7.~~

~~26. Delete Section 1010.1.9.8.~~

~~27. Delete Section 1010.1.9.9.~~

~~28. Delete Section 1010.1.9.10.~~

~~29. Delete Section 1010.1.9.11.~~

~~30. Delete Section 1010.1.10.~~

~~31. Delete Section 1010.1.10.1.~~

~~32. Delete Section 1010.1.10.2.~~

~~33. 7. Change Section 1010.2 to read:~~

~~(N)1010.2~~ 1010.2 Gates. Gates serving the means of egress system shall be [ operated and ] maintained in accordance with the applicable building code.

~~34. 8. Delete Section 1010.2.1.~~

~~35. 9. Change Section 1010.3 to read:~~

~~(N)1010.3~~ 1010.3 Turnstiles. Turnstiles or similar devices shall be [ operated and ] maintained in accordance with the applicable building code.

~~36.~~ ~~10.~~ Delete ~~Section~~ Sections 1010.3.1 [ ~~through 1010.3.1.1, 1010.3.3, and~~ ] 1010.3.4 [ ~~including subsections~~; and change 1010.3.2 to read:

1010.3.2 Security access turnstiles. Security access turnstiles that inhibit travel in the direction of egress shall only be maintained and only operated in accordance with the applicable building code. ]

~~37. Delete Section 1010.3.2.~~

J. The following changes shall be made to Section 1011, Stairways:

1. Change Section 1011.1 to read:

~~(N)1011.1~~ 1011.1 General. Stairways serving [ ~~occupied portions~~ any portion ] of a building shall be maintained in accordance with the applicable building code.

2. Change Section 1011.2 to read:

~~(N)1011.2~~ 1011.2 Width and capacity. The capacity of stairways shall be maintained in accordance with the applicable building code.

3. Change Section 1011.3 to read:

~~(N)1011.3~~ 1011.3 Headroom. Headroom requirements for stairways shall be maintained in accordance with the applicable building code.

4. Change Section 1011.4 to read:

~~(N)1011.4~~ 1011.4 Walkline. The walkline across winder treads shall be maintained in accordance with the applicable building code.

5. Change Section 1011.5 to read:

~~(N)1011.5~~ 1011.5 Stair treads and risers. Stair treads and risers shall be maintained in accordance with the applicable building code

6. Delete ~~Section~~ Sections [ ~~1011.5.1 1011.5.2~~ ] through [ 1011.5.5.3, 1011.7.1, and 1011.7.2 and change Sections 1011.5.1, 1011.6, 1011.7, 1011.7.3, and ] 1011.7.4 [ - to read:

1011.5.1 Dimensional uniformity. Stair tread and riser dimensions shall comply with the applicable building code and shall be maintained.

1011.6 Stairway landings. The floor or landing at the top and bottom of each stairway shall be maintained in accordance with the applicable building code.

1011.7 Stairway arrangement. Stairways shall be maintained in accordance with the applicable building code. Construction or alterations shall be approved by the building official in accordance with Section 102.6.

1011.7.3 Storage and enclosures under interior stairways. The usable spaces under enclosed and unenclosed stairways shall only be used for combustible storage where approved in accordance with the applicable building code.

1011.7.4 Storage and enclosures and storage under exterior stairways. The usable spaces under exterior stairways shall only be used for combustible storage where approved in accordance with the applicable building code. ]

~~7. Delete Section 1011.5.2.~~

~~8. Delete Section 1011.5.3.~~

~~9. Delete Section 1011.5.4.~~

~~10. Delete Section 1011.5.4.1.~~

~~11. Delete Section 1011.5.5.~~

~~12. Delete Section 1011.5.5.1.~~

~~13. Delete Section 1011.5.5.2.~~

~~14. Delete Section 1011.5.5.3.~~

~~15. Delete Section 1011.6.~~

~~16. Delete Section 1011.7.~~

~~17. Delete Section 1011.7.1.~~

~~18. Delete Section 1011.7.2.~~

~~19. Delete Section 1011.7.3.~~

~~20. Delete Section 1011.7.4.~~

~~21.~~ 7. Change Section 1011.8 to read:

~~(N)1011.8~~ 1011.8 Vertical rise. Vertical rise of a flight of stairs shall be maintained in accordance with the applicable building code.

~~22.~~ 8. Change Section 1011.9 to read:

~~(N)1011.9~~ 1011.9 Curved stairways. Curved stairways with winder treads shall be maintained in accordance with the applicable building code.

~~23.~~ 9. Change Section 1011.10 to read:

~~(N)1011.10~~ 1011.10 Spiral stairways. Spiral stairways used as a component in the means of egress shall be maintained in accordance with the applicable building code.

~~24.~~ 10. Change Section 1011.11 to read:

~~(N)1011.11~~ 1011.11 Handrails. Handrails for stairways shall be maintained in accordance with the applicable building code.

~~25.~~ 11. Change Section 1011.12 to read:

~~(N)1011.12~~ 1011.12 Stairway to roof. Stairways to a roof shall be maintained in accordance with the applicable building code.

~~26.~~ 12. [ ~~Delete Change~~ ] ~~Section~~ Sections 1011.12.1–~~27.~~ ~~Delete Section and~~ 1011.12.2 [ - to read:

1011.12.1 Stairway to elevator equipment. Access to roofs and penthouses for maintenance of elevator equipment

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shall be maintained as approved in accordance with the applicable building code.

1011.12.2 Roof access. Where a stairway provides access to a roof through a penthouse, such access shall be maintained as approved and in accordance with the applicable building code. ]

~~28.~~ 13. Change Section 1011.13 to read:

~~(N)1011.13~~ 1011.13 Guards. Guards shall be maintained in accordance with the applicable building code.

~~29.~~ 14. Change Section 1011.14 to read:

~~(N)1011.14~~ 1011.14 Alternating tread devices. Alternating tread devices shall be maintained in accordance with the applicable building code.

~~30.~~ 15. Delete ~~Section~~ Sections 1011.14.1-

~~31.~~ Delete ~~Section~~ and 1011.14.2.

~~32.~~ 16. Change Section 1011.15 to read:

~~(N)1011.15~~ 1011.15 Ships ladders. Ships ladders shall be maintained in accordance with the applicable building code.

~~33.~~ 17. Delete ~~Section~~ Sections 1011.15.1-~~34.~~ Delete ~~Section~~ 1011.15.2. ~~35.~~ Delete ~~Section~~ [ through and 1011.15.2 and change Section ] 1011.16 [ - to read:

1011.16 Ladders. Permanent ladders shall be maintained as approved and in accordance with the applicable building code. ]

K. The following changes shall be made to Section 1012, Ramps:

1. Change Section 1012.1 to read:

~~(N)1012.1~~ 1012.1 Scope. The provisions of this section shall apply to the maintenance of ramps used as a component of a means of egress.

2. Change Section 1012.2 to read:

~~(N)1012.2~~ 1012.2 Slope. Ramp slopes shall be maintained in accordance with the applicable building code.

3. Change Section 1012.3 to read:

~~(N)1012.3~~ 1012.3 Cross slope. The cross slope for ramps shall be maintained in accordance with the applicable building code.

4. Change Section 1012.4 to read:

~~(N)1012.4~~ 1012.4 Vertical rise. The rise for any ramp run shall be maintained in accordance with the applicable building code.

5. Change Section 1012.5 to read:

~~(N)1012.5~~ 1012.5 Minimum dimensions. The minimum dimensions of means of egress ramps shall be maintained [ as approved and ] in accordance with the applicable building code.

~~6.~~ Delete ~~Section~~ Sections 1012.5.1-

~~7.~~ Delete ~~Section~~ 1012.5.2.

~~8.~~ Delete ~~Section~~ through 1012.5.3.

~~9.~~ 7. Change Section 1012.6 to read:

~~(N)1012.6~~ 1012.6 Landings. Landings serving ramps shall be maintained in accordance with the applicable building code.

~~10.~~ 8. Delete ~~Section~~ Sections 1012.6.1 through [ ~~1012.7.2.~~ 1012.6.5, 1012.7.1, and 1012.7.2 and change 1012.7 to read:

1012.7 Ramp construction. Ramps shall be maintained as approved in accordance with the applicable building code. Construction or alterations shall be approved by the building official in accordance with Section 102.6. ]

~~11.~~ Delete ~~Section~~ 1012.6.2.

~~12.~~ Delete ~~Section~~ 1012.6.3.

~~13.~~ Delete ~~Section~~ 1012.6.4.

~~14.~~ Delete ~~Section~~ 1012.6.5.

~~15.~~ Delete ~~Section~~ 1012.7.

~~16.~~ Delete ~~Section~~ 1012.7.2.

~~17.~~ 9. Change Section 1012.8 to read:

~~(N)1012.8~~ 1012.8 Handrails. Handrails serving ramps shall be maintained in accordance with the applicable building code.

~~18.~~ 10. Change Section 1012.9 to read:

~~(N)1012.9~~ 1012.9 Guards. Guards shall be maintained in accordance with the applicable building code.

~~19.~~ 11. Change Section 1012.10 to read:

~~(N)1012.10~~ 1012.10 Edge protection. Edge protection shall be maintained in accordance with the applicable building code.

~~20.~~ 12. Delete ~~Section~~ Sections 1012.10.1-

~~21.~~ Delete ~~Section~~ and 1012.10.2.

L. The following changes shall be made to Section 1013, Exit Signs:

1. Change Section 1013.1 to read:

~~(N)1013.1~~ 1013.1 Where required. Exits and exit access doors shall be maintained in accordance with the applicable building code.

2. Change Section 1013.2 to read:

~~(N)1013.2~~ 1013.2 Floor-level exit signs in Group R-1. Floor-level exit signs in Group R-1 buildings shall be maintained in accordance with the applicable building code.

3. Change Section 1013.3 to read:

~~(N)1013.3~~ 1013.3 Illumination. Exit sign illumination shall be maintained in accordance with the applicable building code.

4. Change Section 1013.4 to read:

~~(N)1013.4~~ 1013.4 Raised character and braille exit signs. Raised character and braille exit signs shall be maintained in accordance with the applicable building code.

5. Change Section 1013.5 to read:

~~(N)1013.5~~ 1013.5 Internally illuminated exit signs. Electrically powered, self-luminous, and photoluminescent exit signs shall be maintained in accordance with the applicable building code.

6. Change Section 1013.6 to read:

~~(N)1013.6~~ 1013.6 Externally illuminated exit signs. Externally illuminated exit signs shall be maintained in accordance with the applicable building code.

7. Delete ~~Section~~ Sections 1013.6.1-

~~8. Delete Section 1013.6.2. 9. Delete Section through~~ 1013.6.3.

M. The following changes shall be made to Section 1014, Handrails:

1. Change Section 1014.1 to read:

~~(N)1014.1~~ 1014.1 Where required. Handrails serving stairways, ramps, stepped aisles, and ramped aisles shall be maintained in accordance with the applicable building code.

2. Change Section 1014.2 to read:

~~(N)1014.2~~ 1014.1 Height. Handrail height, shall be maintained in accordance with the applicable building code.

3. Change Section 1014.3 to read:

~~(N)1014.3~~ 1014.3 Handrail graspability. Handrail graspability shall be maintained in accordance with the applicable building code.

4. Delete Section 1014.3.1.

5. Delete Section 1014.3.2.

6. Change Section 1014.4 to read:

~~(N)1014.4~~ 1014.4 Continuity. Handrail continuity shall be maintained in accordance with the applicable building code.

7. Delete Section 1014.5.

8. Delete Section 1014.6.

9. Change Section 1014.7 to read:

~~(N)1014.7~~ 1014.7 Clearance. Clear space between a handrail and a wall or other surface shall be maintained in accordance with the applicable building code.

10. Change Section 1014.8 to read:

~~(N)1014.8~~ 1014.8 Projections. Projections into the required width of aisles, stairways, and ramps at each side shall [ ~~not exceed the requirements of~~ be maintained as approved and in accordance with ] the applicable building code.

11. Change Section 1014.9 to read:

~~(N)1014.9~~ 1014.9 Intermediate handrails. Where provided, intermediate handrails shall be maintained in accordance with the applicable building code.

N. The following changes shall be made to Section 1015, Guards:

1. Change Section 1015.1 to read:

~~(N)1015.1~~ 1015.1 General. Guards shall be maintained in accordance with the applicable building code.

2. Delete Section 1015.2.

3. Delete Section 1015.2.1.

4. Change Section 1015.3 to read:

~~(N)1015.3~~ 1015.3 Height. Guard height shall be maintained in accordance with the applicable building code.

5. Change Section 1015.4 to read:

~~(N)1015.4~~ 1015.4 Opening limitations. Openings in guards shall be maintained in accordance with the applicable building code.

6. Change Section 1015.5 to read:

~~(N)1015.5~~ 1015.5 Screen porches. Guards provided for screen porches shall be maintained in accordance with the applicable building code.

7. Change Section 1015.6 to read:

~~(N)1015.6~~ 1015.6 Mechanical equipment, systems and devices. Guards provided for mechanical equipment shall be maintained in accordance with the applicable building code.

8. Change Section 1015.7 to read:

~~(N)1015.7~~ 1015.7 Roof access. Guards provided for roof access shall be maintained in accordance with the applicable building code.

9. Change Section 1015.8 to read:

~~(N)1015.8~~ 1015.8 Window openings. Windows shall be maintained in accordance with the applicable building code.

10. [ ~~Delete Change~~ ] Section 1015.8.1 [ - to read:

1015.8.1 Window opening control devices. Window opening control devices shall be maintained as approved in accordance with the applicable building code. ]

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O. The following changes shall be made to Section 1016, Exit Access:

1. Change Section 1016.1 to read:  
~~(N)1016.1~~ 1016.1 General. The exit access shall be maintained in accordance with the applicable building code.
2. Change Section 1016.2 to read:  
~~(N)1016.2~~ 1016.2 Egress through intervening spaces. Egress through intervening spaces shall be maintained in accordance with the applicable building code.
3. [ ~~Delete Change~~ ] Section 1016.2.1 [ ~~to read~~:  
1016.2.1 Multiple tenants. Where more than one tenant occupies any one floor of a building or structure, each tenant space, dwelling unit, and sleeping unit means of egress shall maintain access to the required exits without passing through adjacent tenant spaces, dwelling units, and sleeping units unless otherwise permitted by the applicable building code. ]

P. The following changes shall be made to Section 1017, Exit Access Travel Distance:

1. Change Section 1017.1 to read:  
~~(N)1017.1~~ 1017.1 General. Travel distance within the exit access portion of the means of egress system shall be maintained in accordance with the applicable building code.
2. Delete ~~Section Sections~~ 1017.2 through 1017.3.1 and Table 1017.2.
3. ~~Delete Section 1017.2.1.~~
4. ~~Delete Section 1017.2.2.~~
5. ~~Delete Section 1017.3.~~
6. ~~Delete Section 1017.3.1.~~

Q. The following changes shall be made to Section 1018, Aisles:

1. Change Section 1018.1 to read:  
~~(N)1018.1~~ 1018.1 General. Aisles and aisle accessways serving as a portion of the exit access in the means of egress system shall be maintained in accordance with the applicable building code.
2. Change Section 1018.2 to read:  
~~(N)1018.2~~ 1018.2 Aisles in assembly spaces. Aisles and aisle accessways serving a room or space used for assembly purposes shall be maintained in accordance with the applicable building code.
3. Change Section 1018.3 to read:

~~(N)1018.3~~ 1018.3 Aisles in Groups B and M. In Groups B and M occupancies, the aisle width shall be maintained in accordance with the applicable building code.

4. Change Section 1018.4 to read:  
~~(N)1018.4~~ 1018.4 Aisle accessways in Group M. Aisle accessways in Group M shall be maintained in accordance with the applicable building code.
5. Change Section 1018.5 to read:  
~~(N)1018.5~~ 1018.5 Aisles in other than assembly spaces and Groups B and M. Aisles in other than assembly spaces and Groups B and M shall be maintained in accordance with the applicable building code.

R. The following changes shall be made to Section 1019, Exit Access Stairways and Ramps.

1. Change Section 1019.1 to read:  
~~(N)1019.1~~ 1019.1 General. Exit access stairways and ramps serving as an exit access component in a means of egress system shall be maintained in accordance with the applicable building code.
2. Delete ~~Section Sections~~ 1019.2.
3. ~~Delete Section 1019.3.~~
4. ~~Delete Section through~~ 1019.4.

S. The following changes shall be made to Section 1020, Corridors:

1. Change Section 1020.1 to read:  
~~(N)1020.1~~ 1020.1 Maintenance. Corridors shall be maintained [ as approved ] in accordance with the applicable building code. [ Fire-resistance rated construction shall be maintained in accordance with Chapter 7. ]
2. Delete [ ~~Section 1020.1.1 and~~ ] Table 1020.1 [ ~~to read~~:  
1020.1.1 Hoistway openings. Elevator hoistway openings shall be maintained as approved in accordance with the applicable building code. ]
3. Change Section 1020.2 to read:  
~~(N)1020.2~~ 1020.2 Width and capacity. The width and capacity of corridors shall be maintained in accordance with the applicable building code.
4. Delete Table 1020.2.
5. Delete ~~Section [ Sections 1020.4 ]~~. ~~6. Delete Section 1020.5.~~ ~~7. Delete Section [ through 1020.5.1.~~ Section 1020.5 and change Sections 1020.4 and 1020.5.1 to read:  
1020.4 Dead ends. Where more than one exit or exit access doorway is required by the applicable building code, the exit access, including any dead end conditions, shall be

maintained as approved in accordance with the applicable building code.

1020.5.1 Corridor ceiling. When the space between the corridor ceiling and the floor or roof structure above is used as a return air plenum, the space and any contents shall be maintained as approved in accordance with the applicable building code. ]

8- 6. Change Section 1020.6 to read:

~~(N)1020.6~~ 1020.6 Corridor continuity. The continuity of fire-resistance-rated corridors shall be maintained in accordance with the applicable building code.

T. The following changes shall be made to Section 1021, Egress Balconies:

1. Change Section 1021.1 to read:

~~(N)1021.1~~ 1021.1 General. Balconies used for egress purposes shall be maintained in accordance with the applicable building code.

2. Change Section 1021.2 to read:

~~(N)1021.2~~ 1021.2 Wall separation. Wall separation for egress balconies shall be maintained in accordance with the applicable building code.

3. [ ~~Delete Change~~ ] Section 1021.3 [ - to read:

1021.3 Openness. The required openness of egress balconies shall be maintained as approved in accordance with the applicable building code. ]

4. Change Section 1021.4 to read:

~~(N)1021.4~~ 1021.4 Location. The fire separation distance for exterior egress balconies shall be maintained in accordance with the applicable building code.

U. The following changes shall be made to Section 1022, Exits:

1. Change Section 1022.1 to read:

~~(N)1022.1~~ 1022.1 General. An exit shall not be used for any purpose that interferes with its function as a means of egress. Once a given level of exit protection is achieved, such level of protection shall not be reduced until arrival at the exit discharge. Exits shall be continuous from the point of entry into the exit to the exit discharge. Exits shall be maintained in accordance with the applicable building code.

2. Change Section 1022.2 to read:

~~(N)1022.2~~ 1022.2 Exterior exit doors. Exterior exit doors shall be maintained in accordance with the applicable building code.

3. Delete ~~Section~~ Sections 1022.2.1-

4. ~~Delete Section and~~ 1022.2.2.

V. The following changes shall be made to Section 1023, Interior Exit Stairways and Ramps:

1. Change Section 1023.1 to read:

~~(N)1023.1~~ 1023.1 General. Interior exit stairways and ramps serving as an exit component in a means of egress system shall be maintained in accordance with the applicable building code.

2. [ ~~Delete Change~~ ] Section 1023.2 [ - to read:

1023.2 Maintenance. Enclosures for interior exit stairways and ramps shall be maintained as approved in accordance with the applicable building code. Fire-resistance rated construction shall be maintained in accordance with Chapter 7. ]

3. [ ~~Delete Change~~ ] Section 1023.3 [ - to read:

1023.3 Termination. Interior exit stairways and ramps shall terminate as approved in accordance with the applicable building code. ]

4. [ ~~Delete Change~~ ] Section 1023.3.1 [ - to read:

1023.3.1 Connections. Where interior exit stairways and ramps connect to an exit discharge or a public way by an exit passageway, the interior exit stairway and ramp shall be maintained as approved in accordance with the applicable building code. Fire-resistance rated construction shall be maintained in accordance with Chapter 7. ]

5. Change Section 1023.4 to read:

~~(N)1023.4~~ 1023.4 Openings. Interior exit stairway and ramp opening protectives shall be maintained in accordance with the applicable building code.

6. [ ~~Delete Change~~ ] Section 1023.5 [ - to read:

1023.5 Penetrations. Penetrations into or through interior exit stairways shall be maintained as approved in accordance with the applicable building code. Fire-resistance rated construction shall be maintained in accordance with Chapter 7. ]

7. Change Section 1023.6 to read:

~~(N)1023.6~~ 1023.6 Ventilation. Equipment and ductwork for interior exit stairway and ramp ventilation shall be maintained [ as approved and remain operational ] in accordance with the applicable building code.

8. Change Section 1023.7 to read:

~~(N)1023.7~~ 1032.7 Interior exit stairway and ramp exterior walls. Exterior walls of the interior exit stairway or ramp shall be maintained in accordance with the applicable building code.

9. Change Section 1023.8 to read:

~~(N)1023.8~~ 1023.8 Discharge identification. [ ~~An interior exit stairway and ramp shall not continue below its level~~

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~~of exit discharge unless an approved barrier is provided at the level of exit discharge to prevent persons from unintentionally continuing into levels below. Where the applicable building code requires a barrier to prevent persons from unintentionally continuing into levels below the level of exit discharge for an interior exit stairway or ramp, the barrier shall be maintained as approved in accordance with the applicable building code. ]~~ Directional exit signs shall be [ ~~provided and~~ ] maintained in accordance with the applicable building code.

10. Change Section 1023.9.1 to read:

~~(N)1023.9.1~~ 1023.9.1 Signage requirements. Stairway identification signs shall comply with all of the following requirements:

1. The signs shall be a minimum size of 18 inches (457 mm) by 12 inches (305 mm).
2. The letters designating the identification of the interior exit stairway and ramp shall be not less than 1-1/2 inches (38 mm) in height.
3. The number designating the floor level shall be not less than of 5 inches (127 mm) in height and located in the center of the sign.
4. Other lettering and numbers shall be not less than 1 inch (25 mm) in height.
5. Characters and their background shall have a nonglare finish. Characters shall contrast with their background with either light characters on a dark background or dark characters on a light background.

11. Change Section 1023.10 to read:

~~(N)1023.10~~ 1023.10 Elevator lobby identification signs. At landings in interior exit stairways where two or more doors lead to the floor level, any door with direct access to an enclosed elevator lobby shall be identified by signage located on the door or directly adjacent to the door stating "Elevator Lobby." Signage shall be in accordance with Section 1023.9.1, Items 4 and 5.

12. Change Section 1023.11 to read:

~~(N)1023.11~~ 1023.11 Smokeproof enclosures. Smokeproof enclosures shall be maintained in accordance with the applicable building code.

13. Delete [ Section ~~Sections~~ ] 1023.11.1 [ ~~through 1023.12~~ and change Sections 1023.11.2 and 1023.12 to read:

1023.11.2 Enclosure access. Access to the stairway or ramp within a smokeproof enclosure shall be maintained as approved in accordance with the applicable building code.

1023.12 Standpipes. Standpipe and standpipe hose connections in smokeproof enclosures shall be maintained in accordance with Chapter 9. ]

14. Delete Section 1023.11.2.

W. The following changes shall be made to Section 1024, Exit Passageways:

1. Change Section 1024.1 to read:

~~(N)1024.1~~ 1024.1 Exit passageways. Exit passageways serving as an exit component in a means of egress system shall be maintained in accordance with the applicable building code.

2. Change Section 1024.2 to read:

~~(N)1024.2~~ 1024.2 Width. The minimum width or required capacity of exit passageways shall be maintained in accordance with the applicable building code.

3. [ ~~Delete Change~~ ] Section 1024.3 [ - to read:

1024.3 Maintenance. Exit passageway enclosures shall be maintained as approved in accordance with the applicable building code. Fire-resistance rated construction shall be maintained in accordance with Chapter 7. ]

4. [ ~~Delete Change~~ ] Section 1024.4 [ - to read:

1024.4 Termination. The termination of exit passageways shall be maintained as approved in accordance with the applicable building code. ]

5. Change Section 1024.5 to read:

~~(N)1024.5~~ 1024.5 Openings. Exit passageway opening protectives shall be maintained in accordance with the applicable building code.

6. Change Section 1024.6 to read:

~~(N)1024.6~~ 1024.6 Penetrations. Penetration protection shall be maintained in accordance with the applicable building code.

7. Change Section 1024.7 to read:

~~(N)1024.7~~ 1024.7 Ventilation. Equipment and ductwork for exit passageway ventilation shall be maintained in accordance with the applicable building code.

8. Delete Section 1024.8.

X. The following changes shall be made to Section 1025, Luminous Egress Path Markings:

1. Change Section 1025.1 to read:

~~(N)1025.1~~ 1025.1 General. Luminous egress path markings shall be maintained in accordance with the applicable building code.

2. Change Section 1025.2 to read:

~~(N)1025.2~~ 1025.2 Markings within exit components. Egress path markings provided in interior exit stairways, interior exit ramps, and exit passageways shall be maintained in accordance with the applicable building code.



3. Delete ~~Section~~ Sections 1025.2.1 through 1025.3 [ - except Sections 1025.2.5 and 1025.2.6 and change those to read:

1025.2.5 Obstacles. Where the applicable building code requires luminous egress path markings of obstacles projecting into the egress path, the markings shall be maintained as approved in accordance with the applicable building code.

1025.2.6 Doors within the exit path. Luminous egress path markings of doors through which occupants must pass in order to complete the exit path shall be maintained as approved in accordance with the applicable building code. ]

4. Delete Section 1025.2.2.

5. Delete Section 1025.2.3.

6. Delete Section 1025.2.4

7. Delete Section 1025.2.4.1.

8. Delete Section 1025.2.4.2.

9. Delete Section 1025.2.4.3.

10. Delete Section 1025.2.5.

11. Delete Section 1025.2.6.

12. Delete Section 1025.2.6.1.

13. Delete Section 1025.2.6.2.

14. Delete Section 1025.2.6.3.

15. Delete Section 1025.3.

16. 4. Change Section 1025.4 to read:

~~(N)1025.4~~ 1025.4 Self-luminous and photoluminescent. Self-luminous and photoluminescent egress path markings shall be maintained in accordance with the applicable building code.

17. 5. Change Section 1025.5 to read:

~~(N)1025.5~~ 1025.5 Illumination. Photoluminescent exit path markings shall be maintained in accordance with the applicable building code.

Y. The following changes shall be made to Section 1026, Horizontal Exits:

1. Change Section 1026.1 to read:

~~(N)1026.1~~ 1026.1 Horizontal exits. Horizontal exits serving as an exit in a means of egress system shall be maintained in accordance with the applicable building code.

2. Change Section 1026.2 to read:

~~(N)1026.2~~ 1026.2 Separation. The separation between buildings or refuge areas connected by a horizontal exit

shall be maintained in accordance with the applicable building code.

3. Change Section 1026.3 to read:

~~(N)1026.3~~ 1026.3 Opening protectives. Fire doors in horizontal exits shall be maintained in accordance with the applicable building code.

4. Change Section 1026.4 to read:

~~(N)1026.4~~ 1026.4 Refuge area. Where provided, the refuge area of a horizontal exit shall be maintained in accordance with the applicable building code.

5. Delete ~~Section~~ Sections 1026.4.1 through 1026.5.

6. Delete Section 1026.4.2.

Z. The following changes shall be made to Section 1027, Exterior Exit Stairways and Ramps:

1. Change Section 1027.1 to read:

~~(N)1027.1~~ 1027.1 Exterior exit stairways and ramps. Exterior exit stairways and ramps serving as an element of a required means of egress shall be maintained in accordance with the applicable building code.

2. Change Section 1027.2 to read:

~~(N)1027.2~~ 1027.2 Use in a means of egress. Exterior exit stairways [ ~~shall not be used as an element of a required means of egress and ramps approved as an element of a required means of egress in accordance with the applicable building code shall be maintained~~ ].

3. [ ~~Delete~~ Change ] ~~Section~~ Sections 1027.3 through 1027.6 [ - to read:

1027.3 Open side. Required open side area for exterior exit stairways and ramps serving as an element of a required means of egress shall be maintained as approved in accordance with the applicable building code.

1027.4 Side yards. The open areas adjoining exterior exit stairways or ramps required by the applicable building code to be yards, courts, or public ways shall be maintained as approved in accordance with the applicable building code.

1027.5 Location. The minimum fire separation distance from the exterior edge of the stairway or ramps, including landings, for exterior exit stairways and ramps shall be maintained as approved in accordance with the applicable building code.

1027.6 Exterior exit stairway and ramp protection. Separation or fire-resistance rated protection of exterior exit stairways and ramps from the interior of the building shall be maintained as approved in accordance with the applicable building code. ]

4. Delete Section 1027.4.

5. Delete Section 1027.5.

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## ~~6. Delete Section 1027.6.~~

AA. The following changes shall be made to Section 1028, Exit Discharge:

1. Change Section 1028.1 to read:

~~(N)1028.1~~ 1028.1 General. The exit discharge shall be maintained in accordance with the applicable building code.

2. Change Section 1028.2 to read:

~~(N)1028.2~~ 1028.2 Exit discharge width or capacity. The minimum width or required capacity of the exit discharge shall be maintained in accordance with the applicable building code.

3. Change Section 1028.3 to read:

~~(N)1028.3~~ 1028.3 Exit discharge components. Exit discharge components shall be maintained in accordance with the applicable building code.

4. Change Section 1028.4 to read:

~~(N)1028.4~~ 1028.4 Egress courts. Egress courts serving as a portion of the exit discharge in the means of egress system shall be maintained in accordance with the applicable building code.

5. Change Section 1028.4.1 to read:

~~(N)1028.4.1~~ 1028.4.1 Width or capacity. The required capacity of egress courts shall be maintained in accordance with the applicable building code.

6. [ ~~Delete Change~~ ] Section 1028.4.2 [ - to read:

1028.4.2 Egress court protection. Separation or fire-resistance rated construction required by the applicable building code for an egress court serving a building or portion thereof shall be maintained as approved in accordance with the applicable building code. ]

7. Change Section 1028.5 to read:

~~(N)1028.5~~ 1028.5 Access to a public way. Where provided, access to a public way shall be maintained in accordance with the applicable building code.

Exception: Where access to a public way cannot be provided, a safe dispersal area shall be provided where all of the following are met:

1. The area shall be of a size to accommodate not less than 5 square feet (0.46 m<sup>2</sup>) for each person.
2. The area shall be located on the same lot not less than 50 feet ~~(15-240~~ (15,240 mm) away from the building requiring egress.
3. The area shall be permanently maintained and identified as a safe dispersal area.
4. The area shall be provided with a safe and unobstructed path of travel from the building.

BB. The following changes shall be made to Section 1029, Assembly:

1. Change Section 1029.1 to read:

~~(N)1029.1~~ 1029.1 General. The means of egress serving a room or space used for assembly purposes that contains seats, tables, displays, equipment or other material shall be maintained in accordance with the applicable building code.

2. [ ~~Delete Change~~ ] Section 1029.1.1 [ - to read:

1029.1.1 Bleachers. Bleachers, grandstands, and folding and telescopic seating shall be maintained in accordance with the applicable building code. ]

3. [ ~~Delete Change~~ ] Section 1029.1.1.1 [ - to read:

1029.1.1.1 Spaces under grandstands and bleachers. Fire-resistance rated construction for spaces under grandstands and bleacher shall be maintained in accordance with Chapter 7. ]

4. Change Section 1029.2 to read:

~~(N)1029.2~~ 1029.2 Assembly main exit. The assembly main exit shall be maintained in accordance with the applicable building code.

5. Change Section 1029.3 to read:

~~(N)1029.3~~ 1029.3 Assembly other exits. Other assembly exits shall be maintained in accordance with the applicable building code.

6. [ ~~Delete Change~~ ] Section 1029.4 [ - to read:

1029.4 Foyers and lobbies. In Group A-1 occupancies, where persons are admitted to the building at times when seats are not available, such persons shall be allowed to wait in a lobby or similar space, provided such lobby or similar space shall not encroach upon the minimum width or required capacity of the means of egress. Such foyer, if not directly connected to a public street by all the main entrances or exits, shall be maintained with a straight and unobstructed path of travel to every such main entrance or exit in accordance with the applicable building code. ]

7. Change Section 1029.5 to read:

~~(N)1029.5~~ 1029.5 Interior balcony and gallery means of egress. Interior balcony and gallery means of egress shall be maintained in accordance with the applicable building code.

8. Change Section 1029.6 to read:

~~(N)1029.6~~ 1029.6 Capacity of aisle for assembly. The required capacity of aisles shall be maintained in accordance with the applicable building code.

9. Delete ~~Section~~ Sections 1029.6.1-

~~10. Delete Section~~ 1029.6.2 through 1029.6.3 and Table 1029.6.2.

11. ~~Delete Section 1029.6.2.1.~~
12. ~~Delete Section 1029.6.2.2.~~
13. ~~Delete Section 1029.6.2.3.~~
14. ~~Delete Section 1029.6.3.~~
15. 10. Change Section 1029.7 to read:  
~~(N)1029.7~~ 1029.7 Travel distance. ~~[ Travel~~ The exit access travel ] distance shall be maintained ~~[ as approved ]~~ in accordance with the applicable building code.
16. 11. Change Section 1029.8 to read:  
~~(N)1029.8~~ 1029.8 Common path of egress travel. The common path of egress travel shall be maintained ~~[ as approved ]~~ in accordance with the applicable building code.
17. 12. ~~[ Delete Change ]~~ Section 1029.8.1 ~~[ - to read:~~  
1029.8.1 Path through adjacent row. Paths through adjacent rows shall be maintained as approved in accordance with the applicable building code. ]
18. 13. Change Section 1029.9 to read:  
~~(N)1029.9~~ 1029.9 Assembly aisles are required. ~~[ Assembly aisles shall be maintained in accordance with~~ Aisles leading to exits for every occupied portion of any building, room, or space used for assembly purposes that contains seats, tables, displays, similar fixtures, or equipment shall be maintained as approved in accordance with ] the applicable building code.
19. 14. Change Section 1029.9.1 to read:  
~~(N)1029.9.1~~ 1029.9.1 Minimum aisle width. The minimum clear width for aisles shall be maintained in accordance with the applicable building code.
20. 15. ~~Delete Section Sections~~ [ 1029.9.2 1029.9.6.1 ] through 1029.9.8 ~~[ - and change Sections 1029.9.2 through 1029.9.6 to read:~~  
1029.9.2 Aisle catchment area. Aisle capacity and catchment areas shall be maintained as approved in accordance with the applicable building code.  
1029.9.3 Converging aisles. Where aisles converge to form a single path of egress travel, the required capacity of that path shall be maintained to not less than that approved in accordance with the applicable building code.  
1029.9.4 Uniform width and capacity. Where required by the applicable building code for aisles where egress is possible in either of two directions, uniform width and required capacity shall be maintained.  
1029.9.5 Dead-end aisles. Dead-end aisles shall be maintained as approved by the applicable building code. Each end of an aisle shall remain unobstructed to a cross aisle, foyer, doorway, vomitory, concourse, or stairway  
having access to an exit where required by the applicable building code.  
1029.9.6 Aisle measurement. The clear width for aisles shall be measured in accordance with the applicable building code. ]
21. ~~Delete Section 1029.9.3.~~
22. ~~Delete Section 1029.9.4.~~
23. ~~Delete Section 1029.9.5.~~
24. ~~Delete Section 1029.9.6.~~
25. ~~Delete Section 1029.9.7.~~
26. ~~Delete Section 1029.9.8.~~
27. 16. Change Section 1029.10 to read:  
~~(N)1029.10~~ 1029.10 Transitions. Transitions between stairways and stepped aisles shall be maintained in accordance with the applicable building code.
28. 17. ~~Delete Section Sections~~ Sections 1029.10.1 through 1029.12.2.2 ~~[ - except Sections 1029.10.3, 1029.12.1, and 1029.12.2. Change those sections to read:~~  
1029.10.3 Transition marking. Distinctive marking stripes at each nosing or leading edge adjacent to the transition shall be maintained as approved in accordance with the applicable building code.  
1029.12.1 Walking surface. Surface of aisles, stepped aisles, and ramped aisles required by the applicable building code to be of slip-resistant materials that are securely attached shall be maintained.  
1029.12.2 Outdoor conditions. Outdoor aisles, stepped aisles, and ramped aisles and outdoor approaches to aisles, stepped aisles, and ramped aisles required by the applicable building code to be designed to prevent the accumulation of water shall be maintained as approved so that water will not accumulate on the walking surface. Outdoor aisles, stepped aisles, and ramped aisles and outdoor approaches to aisles, stepped aisles, and ramped aisles not regulated by the USBC shall be maintained so that water will not accumulate on the walking surface. ]
29. ~~Delete Section 1029.10.2.~~
30. ~~Delete Section 1029.10.2.1.~~
31. ~~Delete Section 1029.10.2.2.~~
32. ~~Delete Section 1029.10.3.~~
33. ~~Delete Section 1029.11.~~
34. ~~Delete Section 1029.11.1.~~
35. ~~Delete Section 1029.11.2.~~
36. Change Section 1029.12 to read:

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- ~~(N)1029.12 Aisle accessways. Aisle accessways for seating at tables shall maintained in accordance with the applicable building code.~~
37. Delete Section 1029.12.1.
38. Delete Section 1029.12.1.1.
39. Delete Section 1029.12.1.2.
40. Delete Section 1029.12.2.
41. Delete Section 1029.12.2.1 and Table 1029.12.2.1.
42. Delete Section 1029.12.2.2.
43. 18. Change Section 1029.13 to read:  
~~(N)1029.13 Assembly aisle walking surfaces. Ramped and stepped aisles~~ 1029.13 Aisle accessways. Aisle accessways for seating at tables [ and seating in rows ] shall be maintained [ as approved ] in accordance with the applicable building code.
44. 19. Delete Section Sections 1029.13.1 through 1029.13.2.2 and Table 1029.13.2.1.
45. Delete Section 1029.13.1.1.
46. Delete Section 1029.13.1.2.
47. Delete Section 1029.13.1.3.
48. Delete Section 1029.13.2.
49. Delete Section 1029.13.2.1.
50. Delete Section 1029.13.2.2.
51. Delete Section 1029.13.2.2.1.
52. Delete Section 1029.13.2.3.
53. Delete Section 1029.13.2.4.
54. Delete 20. Change Section 1029.14. to read:  
1029.14 Assembly aisle walking surfaces. Ramped and stepped aisles shall be maintained in accordance with the applicable building code.
21. Delete Sections 1029.14.1 through [ ~~1029.15.1029.14.2.4~~ and change Section 1029.15 to read:  
1029.15 Seat stability. Where the applicable building code requires seats to be securely fastened to the floor or in groups, in a building, room, or space used for assembly purposes, seats shall be arranged and maintained as approved in accordance with the applicable building code. ]
55. 22. Change Section ~~1029.15~~ 1029.16 to read:  
~~(N)1029.15~~ 1029.16 Handrails. Handrails serving ramped aisles shall be maintained in accordance with the applicable building code.
56. Delete Section 1029.15.1.
57. Delete Section 1029.15.2.
58. Delete Section 1029.15.3.
59. Delete Section 1029.15.4.
60. Change Section 1029.16 to read:  
~~(N)1029.16 Assembly guards. Guards adjacent to seating in a building, room or space used for assembly purposes shall be maintained in accordance with the applicable building code.~~
61. Change Section 23. Delete Sections 1029.16.1 to read: through 1029.16.4.  
~~(N)1029.16.1 Perimeter guards. Perimeter guards shall be maintained in accordance with the applicable building code.~~
62. Delete Section 1029.16.2.
63. Delete Section 1029.16.3.
64. Delete Section 1029.16.4.
24. Change Sections 1029.17 and 1029.17.1 to read:  
1029.17 Assembly guards. Guards [ required by the applicable building code ] adjacent to seating in a building, room, or space used for assembly purposes shall be maintained [ as approved ] in accordance with the applicable building code.  
1029.17.1 Perimeter guards. Perimeter guards shall be maintained in accordance with the applicable building code.
25. Delete Sections 1029.17.2 through 1029.17.4.
- CC. The following changes shall be made to Section 1030, Emergency Escape and Rescue:
1. Change Section 1030.1 and delete Section 1030.1.1.  
Section 1030.1 to read:  
~~(N)1030.1~~ 1030.1 General. Emergency escape and rescue [ components of a building openings of a building, including those in R-2, R-3, R-4 and R-5 occupancies, ] shall be maintained in accordance with the applicable building code.
  2. Change Section 1030.2 to read:  
~~(N)1030.2~~ 1030.2 Minimum size. Emergency escape and rescue openings shall be maintained [ in accordance with the applicable building code, to provide the minimum net clear opening area, height, and width in accordance with the applicable building code when normally operated. ]
  3. Delete Section 1030.2.1.
  4. Change Section 1030.3 to read:  
~~(N)1030.3~~ 1030.3 Maximum height from floor. Emergency escape and rescue opening height [ shall be maintained in accordance with the applicable building

~~code~~ from the floor, as measured in accordance with the applicable building code, shall be maintained ] .

5. Change Section 1030.4 to read:

~~1030.4 Operational constraints. The operation of emergency escape and rescue openings shall be maintained in accordance with the applicable building code.~~

6. Change Section 1030.5 to read:

~~(N)1030.5 1030.4 Window wells. [ Window wells An emergency escape and rescue opening and associated window well ] shall be maintained in accordance with the applicable building code. [ Emergency escape and rescue openings shall remain able to be fully opened. Ladders or steps shall not be obstructed by the emergency escape and rescue opening or other objects. ]~~

7. ~~6.~~ Delete Section ~~1030.5.1~~ Sections 1030.4.1 and 1030.4.2.

8. ~~Delete 7.~~ Change Section ~~1030.5.2.~~ 1030.5 to read:

~~[ 1030.5 Operational constraints. The operation of emergency escape and rescue openings shall be maintained in accordance with the applicable building code.~~ 1030.5 Bars, grilles, covers, and screens. Bars, grilles, covers, screens, or similar devices are permitted to be placed over emergency escape and rescue openings, bulkhead enclosures, or window wells that serve such openings, provided that the minimum net clear opening size complies with the applicable building code and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the emergency escape and rescue opening. ]

DD. The following changes shall be made to Section 1031, Maintenance of the means of egress:

1. Change Sections 1031.2, 1031.2.1, [ ~~and~~ ] 1031.2.2 [ , 1031.4, and 1031.9 ] to read:

1031.2 Reliability. Unless otherwise permitted by the applicable building code, required exit accesses, exits, and exit discharges shall be continuously maintained free from obstructions or impediments to full instant use in the case of fire or other emergency where the building area served by the means of egress is occupied. An exit or exit passageway shall not be used for any purpose that interferes with a means of egress.

1031.2.1 Security devices and egress locks. Security devices and locking arrangements in the means of egress that restrict, control, or delay egress shall be maintained as required by this chapter.

1031.2.2 Locking arrangements in educational occupancies. In Group E occupancies, except Group E day care facilities, and Group B educational occupancies, exit access doors from classrooms, offices, and other occupied

rooms, except for exit doors and doors across corridors, shall be permitted to be provided with emergency supplemental hardware where all of the following conditions are met:

1. The door shall be capable of being opened from outside the room with a key, proprietary device provided by the manufacturer, or other approved means.

2. The door shall be openable from within the room in accordance with Section 1010.1.9, except emergency supplemental hardware is not required to comply with Chapter 11.

Note: School officials should consult with their legal counsel regarding provisions of the Americans with Disabilities Act of 1990 (42 USC § 12101 et seq.) and any other applicable requirements.

3. Installation of emergency supplemental hardware on fire door assemblies must comply with Section 716.2. Modifications shall not be made to listed panic hardware, fire door hardware, or door closures.

4. The emergency supplemental hardware shall not be capable of being used on other doors not intended to be used and shall have at least one component that requires modification to, or is permanently affixed to, the surrounding wall, floor, door, or frame assembly construction for it to properly function.

5. Employees shall engage in lockdown training procedures on how to deploy and remove the emergency supplemental hardware, and its use shall be incorporated in the approved lockdown plan complying with the SFPC.

6. The emergency supplemental hardware and its components shall be maintained in accordance with the SFPC.

7. Approved emergency supplemental hardware shall be of consistent type throughout a building.

Exception: The building official may approve alternate types of emergency supplemental hardware in accordance with Section 110.1 when a consistent device cannot be installed.

[ 1031.4 Exit signs. Exit signs shall be maintained in accordance with Sections 1013 and 1203 and the applicable building code. Decorations, furnishings, equipment or adjacent signage that impairs the visibility of exit signs, creates confusion or prevents identification of the exit shall not be allowed.

1031.9 Floor identification signs. The floor identification signs shall be maintained in accordance with Section 1023.9 and the applicable building code. ]

2. Add Section 1031.11 [ , 1031.12, and 1031.13 ] to read:

1031.11 [ ~~Maintenance of emergency~~ Emergency ] supplemental hardware. Emergency supplemental hardware shall be installed in accordance with the applicable building code and shall be maintained in

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accordance with this code and the manufacturer's instructions. The fire code official shall be authorized to [ ~~direct the practical application of any such hardware device to ensure the device operates as designed and is free from any defects, damage, or conditions that may restrict the deployment and removal of such hardware device~~ revoke the use and storage of emergency supplemental hardware within a building for due cause based on failure to comply with requirements in this code or the applicable building code. Revocations shall be rescinded upon achieving compliance with this code and the applicable building code ].

[ 1031.12 Area of refuge. Areas of refuge shall be maintained in accordance with Sections 1009.6 and 1031.8 and the applicable building code. Designated areas shall be free of obstructions at all times and any required signs, instructions or equipment shall be maintained.

1031.13 Door opening force. The force for pushing or pulling open interior swinging egress doors, other than fire doors, shall not exceed the maximum force permitted by the applicable building code. These forces do not apply to the force required to retract latch bolts or disengage other devices that hold the door in a closed position. ]

## [ ~~13VAC5-51-138.1. IFC Chapter 12 Energy Systems:~~

### ~~A. Make the following changes to Section 1201, General:~~

#### ~~1. Change Sections 1201.1 and 1201.2 to read:~~

~~1201.1 Scope. The provisions of this chapter shall apply to the operation and maintenance of energy systems used for generating or storing energy.~~

~~1201.2 Electrical wiring and equipment. Electrical wiring and equipment used in connection with energy systems shall be maintained in accordance with the applicable building code.~~

#### ~~2. Delete Section 1201.3.~~

### ~~B. Make the following changes to Section 1203, Emergency and Standby Power Systems:~~

#### ~~1. Change Sections 1203.1 and 1203.1.1 to read:~~

~~1203.1 General. Emergency power systems and standby power systems shall be maintained in accordance with the applicable building code.~~

~~1203.1.1 Generators. Emergency and standby power generators shall be listed.~~

#### ~~2. Delete Sections 1203.1.2 and 1203.1.3.~~

#### ~~3. Change Section 1203.1.4 to read:~~

~~1203.1.4 Load transfer. Emergency power systems shall automatically provide secondary power within 10 seconds after primary power is lost unless specified otherwise by the applicable building code. Standby power systems shall automatically provide secondary power within 60 seconds~~

~~after primary power is lost unless specified otherwise by the applicable building code.~~

#### ~~4. Change Section 1203.1.5 to read:~~

~~1203.1.5 Load duration. Emergency power systems and standby power systems shall require power for a minimum duration of hours without being refueled or recharged, unless otherwise specified by the applicable building code.~~

#### ~~5. Change Section 1203.1.6 to read:~~

~~1203.1.6 Uninterruptable power source. An uninterrupted source of power shall be provided for equipment where required by the manufacturer's instructions, the listing, the applicable building code, or the applicable referenced standards.~~

#### ~~6. Change Section 1203.1.7 to read:~~

~~1203.1.7 Interchangeability. Emergency power systems shall be an acceptable alternative for installations that require standby power systems when permitted by the applicable building code.~~

#### ~~7. Delete Section 1203.1.8.~~

#### ~~8. Change Section 1203.1.9 to read:~~

~~1203.1.9 Maintenance. Existing installations shall be maintained in accordance with the original approval and Section 1203.4.~~

#### ~~9. Change Section 1203.2 to read:~~

~~1203.2 Specific equipment requirements. Emergency and standby power systems shall be maintained in accordance with Sections 1203.2.1 through 1203.2.18.~~

#### ~~10. Change Section 1203.2.2 to read:~~

~~1203.2.2 Elevators and platform lifts. Standby power shall be maintained in accordance with NFPA 72 for elevators and platform lifts required by the applicable building code.~~

#### ~~11. Delete Section 1203.2.3.~~

#### ~~12. Change Section 1203.2.4 to read:~~

~~1203.2.4 Emergency voice or alarm communication systems. Emergency power shall be maintained for emergency voice or alarm communication systems as required by the applicable building code. The system shall be capable of powering the required load for a duration of not less than 24 hours, as required in NFPA 72.~~

#### ~~13. Change Section 1203.2.5 to read:~~

~~1203.2.5 Exit signs. Emergency power for exit signs shall be capable of powering the required load for a duration of not less than 90 minutes unless otherwise specified by the applicable building code.~~

#### ~~14. Change Section 1203.2.6 to read:~~

- ~~1203.2.6 Gas detection systems. Emergency power and standby power shall be maintained for gas detection systems in accordance with the applicable building code.~~
15. ~~Change Section 1203.2.7 to read:~~
- ~~1203.2.7 Group I-2 occupancies. Essential electrical systems for Group I-2 occupancies shall be maintained in accordance with NFPA 70 when required by the applicable building code.~~
16. ~~Change Section 1203.2.8 to read:~~
- ~~1203.2.8 Group I-3 occupancies. Power-operated sliding doors or power-operated locks for swinging doors in Group I-3 occupancies shall be operable by a manual release mechanism at the door, and emergency power provided for the doors and locks shall be maintained where required by the applicable building code.~~
17. ~~Change Section 1203.2.9 to read:~~
- ~~1203.2.9 Hazardous materials. Emergency and standby power shall be maintained in accordance with NFPA 70 in occupancies with hazardous materials when required by the applicable building code.~~
18. ~~Delete Section 1203.2.10.~~
19. ~~Change Section 1203.2.11 to read:~~
- ~~1203.2.11 Horizontal sliding doors. Standby power shall be maintained in accordance with NFPA 70 for horizontal sliding doors as required by the applicable building code. The standby power supply shall have a capacity to operate not fewer than 50 closing cycles of the door unless otherwise specified by the applicable building code.~~
20. ~~Change Section 1203.2.12 to read:~~
- ~~1203.2.12 Hydrogen fuel gas rooms. Standby power shall be maintained in accordance with NFPA 70 for hydrogen fuel gas rooms as required by the applicable building code.~~
21. ~~Change Section 1203.2.13 to read:~~
- ~~1203.2.13 Laboratory suites. Standby or emergency power for laboratory suites shall be maintained in accordance with the applicable building code.~~
22. ~~Change Section 1203.2.14 to read:~~
- ~~1203.2.14 Means of egress illumination. Emergency power shall be maintained for means of egress illumination in accordance with the applicable building code.~~
23. ~~Change Section 1203.2.15 to read:~~
- ~~1203.2.15 Membrane structures. Standby power shall be maintained for auxiliary inflation systems in permanent membrane structures in accordance with applicable building code. Auxiliary inflation systems shall be provided in temporary air supported and air-inflated membrane structures in accordance with Section 3103.10.4.~~
- ~~24. Change Section 1203.2.16 to read:~~
- ~~1203.2.16 Semiconductor fabrication facilities. Emergency power shall be maintained in accordance with NFPA 70 for semiconductor fabrication facilities as required by the applicable building code.~~
25. ~~Change Section 1203.2.17 to read:~~
- ~~1203.2.17 Smoke control systems. Standby power shall be maintained in accordance with NFPA 70 for smoke control as required by the applicable building code.~~
26. ~~Change Section 1203.2.18 to read:~~
- ~~1203.2.18 Underground buildings. Emergency and standby power shall be maintained in accordance with NFPA 70 in underground buildings as required by the applicable building code.~~
27. ~~Change Section 1203.3 to read:~~
- ~~1203.3 Critical circuits. Cables used for survivability of required critical circuits shall be listed. Electrical circuit protective systems shall be maintained in accordance with their listing requirements.~~
28. ~~Change Section 1203.4 to read:~~
- ~~1203.4 Maintenance. Emergency and standby power systems shall be maintained in accordance with NFPA 70, NFPA 110, and NFPA 111 so that the system is capable of supplying service within the time specified for the type and duration required in accordance with the applicable building code.~~
29. ~~Change Section 1203.5 to read:~~
- ~~1203.5 Operational inspection and testing. Emergency power systems, including all appurtenant components, shall be inspected and tested under load in accordance with NFPA 110, NFPA 70, and NFPA 111.~~
- ~~Exception: Where the emergency power system is used for standby power or peak load shaving, such use shall be recorded and shall be allowed to be substituted for scheduled testing of the generator set, provided that appropriate records are maintained.~~
30. ~~Add Section 1203.7 to read:~~
- ~~1203.7 Testing of battery powered emergency lights and exit signs. Required emergency lighting utilizing battery powered emergency lights, exit signs, or both shall be tested annually. The emergency lights and exit signs shall be tested for proper operation for the time period established in the building code in effect when the equipment was installed. Written records of tests shall be retained by the owner of the building for a minimum of two years after the test is conducted and shall be made available to the fire code official upon request.~~
- C. Make the following changes to Section 1204, Solar Photovoltaic Power Systems.

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1. ~~Change Section 1204.1 to read:  
1204.1 General. Solar photovoltaic power systems shall be maintained in accordance with Sections 1204.2 through 1204.5 and the applicable building code.~~
  2. ~~Change Section 1204.2 to read:  
1204.2 Access and pathways. Roof access, pathways, and spacing requirements shall be maintained in accordance with the applicable building code.~~
  3. ~~Delete Sections 1204.2.1 through 1204.3.3.~~
  4. ~~Change Section 1204.4 to read:  
1204.4 Ground mounted photovoltaic arrays. A clear, brush free area of 10 feet (3048 mm) shall be maintained for ground mounted photovoltaic arrays.~~
- ~~D. Make the following changes to Section 1205, Stationary Fuel Cell Power Systems:~~
1. ~~Change Section 1205.1 to read:  
1205.1 General. Stationary fuel cell power systems shall be maintained in accordance with the applicable building code.~~
  2. ~~Delete Sections 1205.2 and 1205.3.~~
  3. ~~Change Section 1205.4 to read:  
1205.4 Maintenance. Stationary fuel cell power systems shall be maintained in accordance with the applicable building code, NFPA 70 and NFPA 853, the manufacturer's instructions, and the listing. Stationary fuel cell power systems fueled by hydrogen shall be maintained in accordance with the applicable building code, NFPA 2 and NFPA 70, the manufacturer's installation instructions, and the listing.~~
  4. ~~Delete Sections 1205.5 through 1205.6.2 and Sections 1205.8 through 1205.13.1.~~
- ~~E. Make the following changes to Section 1206, Electric Storage Energy Systems:~~
1. ~~Change Section 1206.2 to read:  
1206.2 Stationary storage battery systems. Stationary storage battery systems shall be maintained in accordance with the applicable building code.~~
  2. ~~Delete Sections 1206.2.1 through 1206.2.4, including Table 1206.2, and change Section 1206.2.7 to read:  
1206.2.7 Testing, maintenance, and repair. Storage batteries and associated equipment and systems shall be tested and maintained in accordance with the manufacturer's instructions and the applicable building code.~~
  3. ~~Delete Sections 1206.2.8 through 1206.2.8.5.1.~~
  4. ~~Delete Sections 1206.2.8.7 through 1206.2.12.6, including Table 1206.2.9.~~
  5. ~~Change Section 1206.3 to read:  
1206.3 Capacitor energy storage systems. Capacitor energy storage systems shall be maintained in accordance with the applicable building code.~~
  6. ~~Delete Sections 1206.3.1 through 1206.3.2.3.~~
  7. ~~Delete Sections 1206.3.2.6 through 1206.3.5.4.~~
  8. ~~Change Section 1206.3.6 to read:  
1206.3.6 Testing, maintenance, and repair. Capacitors and associated equipment and systems shall be tested maintained and repaired in accordance with the manufacturer's instructions and the applicable building code. ]~~
- ~~A. Make the following changes to Section 1201, General:~~
1. ~~Change Sections 1201.1 and 1201.2 to read:  
1201.1 Scope. The provisions of this chapter shall apply to the operation and maintenance of energy systems used for generating or storing energy.  
1201.2 Electrical wiring and equipment. Electrical wiring and equipment used in connection with energy systems shall be maintained in accordance with the applicable building code.~~
  2. ~~Delete Section 1201.3.~~
- ~~B. Make the following changes to Section 1203, Emergency and Standby Power Systems:~~
1. ~~Change Sections 1203.1 and 1203.1.1 to read:  
1203.1 General. Emergency power systems and standby power systems shall be maintained in accordance with the applicable building code.  
1203.1.1 Generators. Emergency and standby power generators shall be listed.~~
  2. ~~Delete Sections 1203.1.2 and 1203.1.3.~~
  3. ~~Change Section 1203.1.4 to read:  
1203.1.4 Load transfer. Emergency power systems shall automatically provide secondary power within 10 seconds after primary power is lost unless specified otherwise by the applicable building code. Standby power systems shall automatically provide secondary power within 60 seconds after primary power is lost unless specified otherwise by the applicable building code.~~
  4. ~~Change Section 1203.1.5 to read:  
1203.1.5 Load duration. Emergency power systems and standby power systems shall require power for a minimum duration of hours without being refueled or recharged, unless otherwise specified by the applicable building code.~~
  5. ~~Change Section 1203.1.6 to read:~~



- ~~1203.1.6 Uninterruptable power source. An uninterrupted source of power shall be provided for equipment where required by the manufacturer's instructions, the listing, the applicable building code, or the applicable referenced standards.~~
6. Change Section 1203.1.7 to read:  
~~1203.1.7 Interchangeability. Emergency power systems shall be an acceptable alternative for installations that require standby power systems when permitted by the applicable building code.~~
7. Delete Section 1203.1.8.
8. Change Section 1203.1.9 to read:  
~~1203.1.9 Maintenance. Existing installations shall be maintained in accordance with the original approval and Section 1203.4.~~
9. Change Section 1203.2 to read:  
~~1203.2 Specific equipment requirements. Emergency and standby power systems shall be maintained in accordance with Sections 1203.2.1 through 1203.2.18.~~
10. Change Section 1203.2.2 to read:  
~~1203.2.2 Elevators and platform lifts. Standby power shall be maintained in accordance with NFPA 72 for elevators and platform lifts required by the applicable building code.~~
11. Delete Section 1203.2.3.
12. Change Section 1203.2.4 to read:  
~~1203.2.4 Emergency voice or alarm communication systems. Emergency power shall be maintained for emergency voice or alarm communication systems as required by the applicable building code. The system shall be capable of powering the required load for a duration of not less than 24 hours, as required in NFPA 72.~~
13. Change Section 1203.2.5 to read:  
~~1203.2.5 Exit signs. Emergency power for exit signs shall be capable of powering the required load for a duration of not less than 90 minutes unless otherwise specified by the applicable building code.~~
14. Change Section 1203.2.6 to read:  
~~1203.2.6 Gas detection systems. Emergency power and standby power shall be maintained for gas detection systems in accordance with the applicable building code.~~
15. Change Section 1203.2.7 to read:  
~~1203.2.7 Group I-2 occupancies. Essential electrical systems for Group I-2 occupancies shall be maintained in accordance with NFPA 70 when required by the applicable building code.~~
16. Change Section 1203.2.8 to read:  
~~1203.2.8 Group I-3 occupancies. Power operated sliding doors or power operated locks for swinging doors in Group I-3 occupancies shall be operable by a manual release mechanism at the door, and emergency power provided for the doors and locks shall be maintained where required by the applicable building code.~~
17. Change Section 1203.2.9 to read:  
~~1203.2.9 Hazardous materials. Emergency and standby power shall be maintained in accordance with NFPA 70 in occupancies with hazardous materials when required by the applicable building code.~~
18. Delete Section 1203.2.10.
19. Change Section 1203.2.11 to read:  
~~1203.2.11 Horizontal sliding doors. Standby power shall be maintained in accordance with NFPA 70 for horizontal sliding doors as required by the applicable building code. The standby power supply shall have a capacity to operate not fewer than 50 closing cycles of the door unless otherwise specified by the applicable building code.~~
20. Change Section 1203.2.12 to read:  
~~1203.2.12 Hydrogen fuel gas rooms. Standby power shall be maintained in accordance with NFPA 70 for hydrogen fuel gas rooms as required by the applicable building code.~~
21. Change Section 1203.2.13 to read:  
~~1203.2.13 Laboratory suites. Standby or emergency power for laboratory suites shall be maintained in accordance with the applicable building code.~~
22. Change Section 1203.2.14 to read:  
~~1203.2.14 Means of egress illumination. Emergency power shall be maintained for means of egress illumination in accordance with the applicable building code.~~
23. Change Section 1203.2.15 to read:  
~~1203.2.15 Membrane structures. Standby power shall be maintained for auxiliary inflation systems in permanent membrane structures in accordance with applicable building code. Auxiliary inflation systems shall be provided in temporary air supported and air-inflated membrane structures in accordance with Section 3103.10.4.~~
24. Change Section 1203.2.16 to read:  
~~1203.2.16 Semiconductor fabrication facilities. Emergency power shall be maintained in accordance with NFPA 70 for semiconductor fabrication facilities as required by the applicable building code.~~
25. Change Section 1203.2.17 to read:  
~~1203.2.17 Smoke control systems. Standby power shall be maintained in accordance with NFPA 70 for smoke control as required by the applicable building code.~~

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26. Change Section 1203.2.18 to read:

~~1203.2.18 Underground buildings. Emergency and standby power shall be maintained in accordance with NFPA 70 in underground buildings as required by the applicable building code.~~

27. Change Section 1203.3 to read:

~~1203.3 Critical circuits. Cables used for survivability of required critical circuits shall be listed. Electrical circuit protective systems shall be maintained in accordance with their listing requirements.~~

28. Change Section 1203.4 to read:

~~1203.4 Maintenance. Emergency and standby power systems shall be maintained in accordance with NFPA 70, NFPA 110, and NFPA 111 so that the system is capable of supplying service within the time specified for the type and duration required in accordance with the applicable building code.~~

29. Change Section 1203.5 to read:

~~1203.5 Operational inspection and testing. Emergency power systems, including all appurtenant components, shall be inspected and tested under load in accordance with NFPA 110, NFPA 70, and NFPA 111.~~

~~Exception: Where the emergency power system is used for standby power or peak load shaving, such use shall be recorded and shall be allowed to be substituted for scheduled testing of the generator set, provided that appropriate records are maintained.~~

30. Add Section 1203.7 to read:

~~1203.7 Testing of battery powered emergency lights and exit signs. Required emergency lighting utilizing battery powered emergency lights, exit signs, or both shall be tested annually. The emergency lights and exit signs shall be tested for proper operation for the time period established in the building code in effect when the equipment was installed. Written records of tests shall be retained by the owner of the building for a minimum of two years after the test is conducted and shall be made available to the fire code official upon request.~~

C. Make the following changes to Section 1204, Solar Photovoltaic Power Systems:

1. Change Section 1204.1 to read:

~~1204.1 General. Solar photovoltaic power systems shall be maintained in accordance with Sections 1204.2 through 1204.5 and the applicable building code.~~

2. Change Section 1204.2 to read:

~~1204.2 Access and pathways. Roof access, pathways, and spacing requirements shall be maintained in accordance with the applicable building code.~~

3. Delete Sections 1204.2.1 through 1204.3.3.

4. Change Section 1204.4 to read:

~~1204.4 Ground mounted photovoltaic arrays. A clear brush free area of 10 feet (3048 mm) shall be maintained for ground mounted photovoltaic arrays.~~

D. Make the following changes to Section 1205, Stationary Fuel Cell Power Systems:

1. Change Section 1205.1 to read:

~~1205.1 General. Stationary fuel cell power systems shall be maintained in accordance with the applicable building code.~~

2. Delete Sections 1205.2 and 1205.3.

3. Change Section 1205.4 to read:

~~1205.4 Maintenance. Stationary fuel cell power systems shall be maintained in accordance with the applicable building code, NFPA 70 and NFPA 853, the manufacturer's instructions, and the listing. Stationary fuel cell power systems fueled by hydrogen shall be maintained in accordance with the applicable building code, NFPA 2 and NFPA 70, the manufacturer's installation instructions, and the listing.~~

4. Delete Sections 1205.5 through 1205.6.2 and Sections 1205.8 through 1205.13.1.

E. Make the following changes to Section 1206, Electric Storage Energy Systems:

1. Change Section 1206.2 to read:

~~1206.2 Stationary storage battery systems. Stationary storage battery systems shall be maintained in accordance with the applicable building code.~~

2. Delete Sections 1206.2.1 through 1206.2.4, including Table 1206.2, and change Section 1206.2.7 to read:

~~1206.2.7 Testing, maintenance, and repair. Storage batteries and associated equipment and systems shall be tested and maintained in accordance with the manufacturer's instructions and the applicable building code.~~

3. Delete Sections 1206.2.8 through 1206.2.8.5.1.

4. Delete Sections 1206.2.8.7 through 1206.2.12.6, including Table 1206.2.9.

5. Change Section 1206.3 to read:

~~1206.3 Capacitor energy storage systems. Capacitor energy storage systems shall be maintained in accordance with the applicable building code.~~

6. Delete Sections 1206.3.1 through 1206.3.2.3.

7. Delete Sections 1206.3.2.6 through 1206.3.5.4.

8. Change Section 1206.3.6 to read:

~~1206.3.6 Testing, maintenance, and repair. Capacitors and associated equipment and systems shall be tested, maintained and repaired in accordance with the manufacturer's instructions and the applicable building code. ]~~

**13VAC5-51-138.4. IFC Chapter 20 Aviation Facilities.**

A. The following change shall be made to Section 2001, General:

Change Section 2001.3 to read:

2001.3 Permits. For permits to operate aircraft-refueling vehicles, application of flammable or combustible finishes and hot work, see Section 107.2.

B. The following changes shall be made to Section 2007, Helistops and Heliports:

1. Change Section 2007.1 to read:

[ (N)2007.1 ~~2007.1~~ ] General. Helistops and heliports shall be maintained in accordance with [ the applicable building code ~~Sections 2007.2 through 2007.8~~ ] .

2. Change Section 2007.4 to read:

2007.4 Exits. Exits and stairways shall be maintained in accordance with [ ~~Chapter 10 and~~ ] the applicable building code.

3. Change Section 2007.5 to read:

[ (N)2007.5 ~~2007.5~~ ] Standpipe systems. [ Where provided, ~~A building with a rooftop helistop or heliport provided with a Class I or III~~ ] standpipe [ systems ~~system~~ ] shall be maintained in accordance with Chapter 9 and the applicable code.

4. Change Section 2007.6 to read:

[ (N)2007.6 ~~2007.6~~ ] Foam protection. Where provided [ , foam fire-protection systems shall be maintained in accordance with ~~or required by~~ ] the applicable building code [ , ~~foam fire protection capabilities shall be maintained for rooftop heliports. Such systems shall be maintained in accordance with the applicable provisions of Chapter 9 and the applicable building code~~ ] .

**13VAC5-51-138.8. IFC Chapter 21 Dry Cleaning.**

A. The following change shall be made to Section 2101, General:

Change Section 2101.2 to read:

2101.2 Permit required. Permits shall be required as set forth in Section 107.2.

B. The following change shall be made to Section 2103, Classifications:

Change Section 2103.3 to read:

2103.3 Design. The occupancy classification, design and construction of dry cleaning plants shall be maintained in accordance with the applicable building code.

C. The following changes shall be made to Section 2104, General Requirements:

1. Change Section 2104.2.1 to read:

~~(N)2104.2.1~~ 2104.2.1 Ventilation. Ventilation shall be operated and maintained. Ventilation systems provided shall remain in accordance with the applicable building code.

2. Change Section 2104.2.3 to read as follows:

2104.2.3 Electrical wiring and equipment. Electrical wiring and equipment in dry cleaning rooms or other locations subject to flammable vapors shall be maintained in accordance with the applicable provisions of NFPA 70 and Chapter 6. Where provided, such systems and equipment shall comply with the applicable building code.

D. The following changes shall be made to Section 2105, Operating Requirements:

1. Change Section 2105.2.3 to read:

~~(N)2105.2.3~~ 2105.2.3 Ventilation. Ventilation shall be operated and maintained. Ventilation systems provided shall remain in accordance with the applicable building code.

2. Change Section 2105.3 to read:

~~(N)2105.3~~ 2105.3 Types IV and V systems. Types IV and V dry cleaning systems shall be maintained in accordance with the applicable building code.

E. The following change shall be made to Section 2106, Spotting and Pretreating:

Change Section 2106.3 to read as follows:

2106.3 Class II or III solvents. Scouring, brushing, and spotting and pretreating shall be permitted to be conducted with Class II or III solvents. The maximum quantity of Class II or III solvents permitted at any work station shall be 1 gallon (4 L). [ In other than Group H-2 occupancy, the aggregate quantities of solvents shall not exceed the maximum allowable quantity per control area for use-open system in accordance with the applicable building code. ]

F. The following changes shall be made to Section 2107, Dry Cleaning Systems:

1. Change Section 2107.1 to read as follows:

2107.1 General equipment requirements. Dry cleaning systems, including dry cleaning units, washing machines, stills, drying cabinets, tumblers and their appurtenances, including pumps, piping, valves, filters and solvent coolers, shall be maintained in accordance with NFPA 32.

2. ~~Delete~~ Change Section 2107.2: to read:

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2107.2 Type II systems. Unless otherwise approved by the applicable building code, Type II dry cleaning and solvent tank storage rooms shall not be operated below grade or above the lowest floor level of the building and shall be maintained in accordance with Sections 2107.2.1 through 2107.2.3.

Exception: Solvent storage tanks installed underground, in vaults, or in special enclosures in accordance with Chapter 57.

3. Change ~~Section~~ Sections 2107.2.1 and 2107.2.2 to read:  
2107.2.1 Firefighting access. Where required by the applicable building code, access shall be maintained from one side of Type II dry cleaning rooms for firefighting and fire control purposes in accordance with Section 503.

~~(N)2107.2.2~~ 2107.2.2 Number of means of egress. The number and means of egress for Type II dry cleaning rooms shall be maintained in accordance with the applicable building code.

4. Change Section 2107.2.3 to read as follows:  
2107.2.3 Spill control and secondary containment. Curbs, drains or other provisions for spill control and secondary containment shall be maintained in accordance with Section 5004.2 to collect solvent leakage and fire protection water as approved in accordance with the applicable building code.

5. Change Section 2107.3 to read as follows:  
2107.3 Solvent storage tanks. Solvent storage tanks for Classes II, IIIA and IIIB liquids shall be maintained in accordance with Chapter 57 and as approved in accordance with the applicable building code.

Exception: As provided in applicable provisions of NFPA 32 for inside storage or treatment tanks.

G. The following changes shall be made to Section 2108, Fire Protection:

1. Change Section 2108.1 to read as follows:  
2108.1 General. Fire protection systems, devices, and equipment shall be inspected, tested, and maintained in accordance with the applicable building code Chapter 9.

2. Change Section 2108.2 to read:  
~~(N)2108.2~~ 2108.2 Automatic sprinkler system. [ ~~Where installed, an automatic sprinkler system shall be maintained in accordance with the applicable building code~~ Automatic sprinkler systems required or provided for dry cleaning plants containing Type II, III-A, or III-B dry cleaning systems shall be maintained in accordance with Chapter 9. Where special conditions were required by the applicable building code, in order to not install an automatic sprinkler system, those conditions shall be maintained ].

3. Delete Section 2108.3.

## **13VAC5-51-139. IFC Chapter 22 Combustible Dust-Producing Operations.**

A. Change Section 2201.2 to read:

2201.2 Permits. Permits shall be required for combustible dust-producing operations as set forth in Section 107.2.

B. Delete Sections 2203.1 and 2203.2.

## **13VAC5-51-140. IFC Chapter 23 Motor Fuel-Dispensing Facilities and Repair Garages.**

A. The following changes shall be made to Section 2301, General:

1. Change Section 2301.1 to read:

2301.1 Scope. The operation and maintenance of automotive motor fuel-dispensing facilities, marine motor fuel-dispensing facilities, fleet vehicle motor fuel-dispensing facilities, aircraft ~~motor-vehicle~~ motor-vehicle fuel-dispensing facilities, and repair garages shall be in accordance with this chapter. Such operations shall include both those that are accessible to the public and private operations.

2. Change Section 2301.2 to read:

2301.2 Permits. Permits shall be required as set forth in Section 107.2.

3. Delete Section 2301.3.

4. Change Section 2301.4 to read:

~~(N)2301.4~~ 2301.4 Indoor motor fuel-dispensing facilities. Motor fuel-dispensing facilities located inside buildings shall be maintained in accordance with NFPA 30A and the applicable building code.

5. Change Section 2301.5 to read:

~~(N)2301.5~~ 2301.5 Electrical. Electrical wiring and equipment shall be suitable for the locations in which it is installed in accordance with the applicable building code and shall be maintained in accordance with Section 605, the applicable provisions of NFPA 30A, and the applicable building code NFPA 70.

6. Change Section 2301.6 to read:

2301.6 Heat-producing appliances. Heat-producing appliances shall be suitable for the locations in which they are ~~installed~~ located and shall comply with the applicable provisions of NFPA 30A and the applicable building code.

B. The following changes shall be made to Section 2303, Location of Dispensing Devices:

1. Change Section 2303.1 to read:

~~(N)2303.1~~ Location of dispensing devices 2303.1 Dispensing operations. Dispensing ~~devices~~ operations shall be maintained in accordance with the following unless otherwise approved in accordance with the

applicable building code. In no case should any of these provisions require demolition or relocation of existing equipment when approved in accordance with the applicable building code:

1. Ten feet (3048 mm) or more from lot lines.
  2. Ten feet (3048 mm) or more from buildings having combustible exterior wall surfaces or buildings having noncombustible exterior wall surfaces that are not part of a one-hour fire-resistance-rated assembly or buildings having combustible overhangs.
- Exception: Canopies constructed in accordance with the applicable building code providing weather protection for the fuel islands.
3. Such that all portions of the vehicle being fueled will be on the premises of the motor fuel-dispensing facility.
  4. Such that the nozzle, when the hose is fully extended, will not reach within 5 feet (1524 mm) of building openings.
  5. Twenty feet (6096 mm) or more from fixed sources of ignition.

2. Change Section 2303.2 and delete Section 2303.2.1.

Section 2303.2 to read:

~~(N)2303.2~~ 2303.2 Emergency disconnect switches. ~~Emergency disconnect switches~~ An approved, clearly identified, and readily accessible emergency disconnect switch shall be maintained at an approved location in accordance with the applicable building code to stop the transfer of fuel to the fuel dispensers in the event of a fuel spill or other emergency. Such devices shall be distinctly labeled: EMERGENCY FUEL SHUTOFF. Signs shall be provided in approved locations.

- C. The following changes shall be made to Section 2304, Dispensing Operations:

1. Change Section 2304.2.2 to read:

~~(N)2304.2.2~~ 2304.2.2 Emergency controls. ~~Approved emergency controls shall be provided in accordance with the applicable building code~~ Emergency disconnect switches shall be maintained in accordance with Section 2303.2.

2. Change Section 2304.3.2 to read:

~~(N)2304.3.2~~ 2304.3.2 Dispensers. Dispensing devices shall be maintained in accordance with Section 2306.7. Dispensing devices operated by the insertion of coins or currency shall not be used unless approved in accordance with the applicable building code.

3. Change Section 2304.3.3 to read:

2304.3.3 Emergency controls. ~~Approved emergency controls shall be maintained in accordance with the applicable building code~~ Emergency disconnect switches shall be maintained in accordance with Section 2303.2.

Emergency controls shall be of a type that is only manually resettable.

4. Change Section 2304.3.5 to read:

2304.3.5 Emergency procedures. An approved emergency procedures sign, in addition to the signs required by Section 2305.6, shall be posted and maintained in a conspicuous location and shall read:

IN CASE OF FIRE SPILL OR RELEASE

1. USE EMERGENCY PUMP SHUTOFF

2. REPORT THE ACCIDENT!

FIRE DEPARTMENT TELEPHONE NO. \_\_\_\_\_

FACILITY ADDRESS: \_\_\_\_\_

- D. The following changes shall be made to Section 2305, Operational Requirements:

1. Change Section 2305.2.4 to read:

2305.2.4 Emergency shutoff valves. Automatic emergency shutoff valves shall be checked not less than once each year by manually tripping the hold-open linkage.

2. Change Section 2305.2.5 to read:

2305.2.5 Leak detectors. Leak detection devices shall be checked and tested not less than annually in accordance with the manufacturer's specifications to ensure proper installation and operation.

3. Change Section 2305.4 to read:

2305.4 Sources of ignition. Smoking and open flames shall be prohibited within 20 feet (6096 mm) of a fuel dispensing device. The engines of vehicles being fueled shall be shut off during fueling. Electrical equipment shall be in accordance with NFPA 70.

- E. The following changes shall be made to Section 2306, Flammable and Combustible Liquid Motor Fuel-Dispensing Facilities:

1. Change Section 2306.1 to read:

2306.1 General. Operation and maintenance of flammable and combustible liquid motor fuel-dispensing facilities shall be in accordance with Chapter 57 and Sections 2306.2 through 2306.6.3 and other applicable provisions of this code.

2. Change [ ~~Section~~ Sections 2306.2.1, ] 2306.2.1.1 [ , and 2306.2.1.2 ] to read:

[ 2306.2.1 Underground tanks. Underground tanks for the storage of Classes I, II, and IIIA liquid fuels shall comply with Chapter 57. For tanks subject to 9VAC25-580, Underground Storage Tanks: Technical Standards and Corrective Action Requirements, see Section 5701.1.1. ]

2306.2.1.1 Inventory [ ~~control and leak detection records~~ ] for underground tanks. Accurate inventory records shall

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be maintained on underground fuel storage tanks for indication of possible leakage from tanks and piping. The records shall be kept at the premises or made available for inspection by the fire official within 24 hours of a written or verbal request and shall include records for each tank. Where there is more than one system consisting of tanks serving separate pumps or dispensers for a product, the inventory record shall be maintained separately for each tank system.

[ ~~Owners and operators of underground fuel storage tanks shall provide release detection for tanks and piping that routinely contain flammable and combustible liquids in accordance with one of the following methods:~~

- ~~1. Monthly inventory control to detect a release of at least 1.0% of flow through plus 130 gallons.~~
- ~~2. Manual tank gauging for tanks with 2,000 gallon capacity or less when measurements are taken at the beginning and ending of a 36 hour to 58 hour period during which no liquid is added to or removed from the tank.~~
- ~~3. Tank tightness testing capable of detecting a 0.1 gallon per hour leak rate.~~
- ~~4. Automatic tank gauging that tests for loss of liquid.~~
- ~~5. Vapor monitoring for vapors within the soil of the tank field.~~
- ~~6. Groundwater monitoring when the groundwater is never more than 20 feet from the ground surface.~~
- ~~7. Interstitial monitoring between the underground tank and a secondary barrier immediately around or beneath the tank.~~
- ~~8. Other approved methods that have been demonstrated to be as effective in detecting a leak as the methods listed above. ]~~

A consistent or accidental loss of product shall be immediately reported to the fire official.

[ 2306.2.1.2 Release detection for State Water Control Board regulated underground tanks. Underground storage tank systems subject to the 9VAC25-580, Underground Storage Tanks: Technical Standards and Corrective Action Requirements, shall comply with the release detection requirements of 9VAC25-580-130. ]

3. Change Section 2306.2.2 to read:

~~(N)2306.2.2~~ 2306.2.2 Aboveground tanks located inside buildings. Aboveground tanks for the storage of Classes I, II, and IIIA liquid fuels are allowed to be located in buildings shall be maintained in accordance with where permitted by the applicable building code. [ For tanks subject to 9VAC25-91, Facility and Aboveground Storage Tank (AST) Regulation, see Section 5701.1.1. ]

4. Change Section 2306.2.3 to read:

~~(N)2306.2.3~~ 2306.2.3 Aboveground tanks located ~~outside outdoors,~~ above grade. Aboveground tanks ~~located outside shall be maintained in accordance with~~ shall not be used for the storage of Class I, II, or III liquid motor fuels unless approved in accordance with the applicable building code. Tanks located at farms, construction projects, or rural areas shall comply with Section 5706.2. [ For tanks subject to 9VAC25-91, Facility and Aboveground Storage Tank (AST) Regulation, see Section 5701.1.1. ]

5. Delete Table 2306.2.3.

6. Change Section 2306.2.4 to read:

~~(N)2306.2.4~~ 2306.2.4 Aboveground tanks located in above-grade vaults or below-grade vaults. Aboveground tanks ~~located in above-grade vaults or below-grade vaults shall be maintained in accordance with~~ used for storage of Class I, II, or IIIA liquid motor fuels are allowed to be installed in vaults located above grade or below grade where permitted by the applicable building code. [ For tanks subject to 9VAC25-91, Facility and Aboveground Storage Tank (AST) Regulation, see Section 5701.1.1. ]

7. [ ~~Delete Change~~ ] Section 2306.2.4.1 [ - to read:

2306.2.4.1 Tank capacity limits. The individual and aggregate capacity of tanks storing Class I and Class II liquids at an individual site shall be limited to the quantities allowed in the applicable building code. ]

8. Change Section 2306.2.4.2 to read:

~~(N)2306.2.4.2~~ 2306.2.4.2 Fleet vehicle motor fuel-dispensing facilities. [ ~~Tanks storing liquids at a fleet vehicle motor fuel dispensing facility shall be maintained in accordance with~~ The individual capacity and aggregate capacity of tanks storing Class II and Class IIIA liquids at a fleet vehicle motor fuel-dispensing facility shall be limited to the quantities allowed in ] the applicable building code.

9. Change Section 2306.2.6 to read:

~~(N)2306.2.6~~ 2306.2.6 Special enclosures. Special enclosures [ , including concrete vaults, ] shall be maintained [ and remain ] in accordance with the applicable building code. [ Tanks for liquid motor fuels are allowed to be operated in approved special enclosures where maintained in accordance with the following:

1. The special enclosure shall be maintained liquid tight and vapor tight.
2. The special enclosure shall not contain backfill.
3. Sides, top, and bottom of the special enclosure shall be maintained as reinforced concrete, with openings for inspection through the top only.
4. Tank connections shall be maintained as piped or closed such that neither vapors nor liquid can escape into the

enclosed space between the special enclosure and any tanks inside the special enclosure.

5. Means shall be maintained whereby portable equipment can be employed to discharge to the outside any vapors that might accumulate inside the special enclosure should leakage occur.

6. The individual and aggregate capacity of tanks containing Class I, II, or IIIA liquids operated inside a special enclosure shall be maintained as approved in accordance with the applicable building code.

7. Unless otherwise approved, each tank within special enclosures shall maintain a clear space of not less than 3 feet (910 mm) to allow for maintenance and inspection. ]

10. Change Section 2306.5 to read:

~~(N)2306.5~~ 2306.5 Secondary containment. Aboveground tanks provided with drainage control or diking. Drainage control or diking for aboveground tanks shall be maintained in accordance with Chapter 57 and Secondary containment systems shall be monitored either visually or automatically. Emergency venting for enclosed secondary containment systems shall be maintained and remain in accordance with the applicable building code.

Note: Drainage control and diking is not required for listed secondary containment tanks.

11. Change Section 2306.6 to read:

~~(N)2306.6~~ 2306.6 Piping, valves, fittings and ancillary equipment for use with flammable or combustible liquids. The design, fabrication, and assembly, testing and inspection of piping, valves, fittings, and ancillary equipment for use with flammable or combustible liquids shall be maintained in accordance with the applicable building code. The testing and inspection of piping, valves, fittings, and ancillary equipment for use with flammable or combustible liquids shall be in accordance with Chapter 57 and Sections 2306.6.1 through 2606.6.3.

12. Change Section 2306.6.2 to read:

~~(N)2306.6.2~~ 2306.6.2 Piping, valves, fittings, and ancillary equipment for aboveground tanks for Classes I, II, and III liquids. Piping, valves, fittings, and ancillary equipment for aboveground tanks for storing Classes I, II, and III liquids shall be maintained in accordance with this section and in accordance with the applicable building code.

13. ~~Delete~~ Change Section 2306.6.2.1- to read:

2306.6.2.1 Tank openings. Tank openings for aboveground tanks shall be through the top only unless specifically approved in accordance with the applicable building code.

14. Change Section 2306.6.2.2 to read:

~~(N)2306.6.2.2~~ 2306.6.2.2 Fill-pipe connections. The fill pipe for aboveground tanks shall be maintained Unless

otherwise approved in accordance with the applicable building code, the fill pipe operation for aboveground tanks shall be provided with a means for making a direct connection to the tank vehicle's fuel-delivery hose so that the delivery of fuel is not exposed to the open air during the filling operation.

15. Change Section 2306.6.2.3 to read:

~~(N)2306.6.2.3~~ 2306.6.2.3 Overfill protection. Overfill protection for aboveground flammable and combustible liquid storage tanks shall be maintained in accordance with Chapter 57 and the applicable building code.

16. Change Section 2306.6.2.4 to read:

~~(N)2306.6.2.4~~ 2306.6.2.4 Siphon prevention. An approved antisiphon method. Antisiphon methods provided in the piping system to prevent flow of liquid by siphon action shall be maintained in accordance with the applicable building code.

17. Change Section 2306.6.2.5 to read:

~~(N)2306.6.2.5~~ 2306.6.2.5 Emergency relief venting. Aboveground Emergency relief venting for aboveground storage tanks, tank compartments, and enclosed secondary containment spaces shall be maintained in accordance with Chapter 57 and the applicable building code.

18. Change Section 2306.6.2.6 to read:

~~(N)2306.6.2.6~~ 2306.6.2.6 Spill containers. Spill containers shall be maintained. A spill container having a capacity of not less than 5 gallons (19 L) shall be provided for each fill connection. For tanks with a top fill connection, spill containers shall be noncombustible and shall be fixed to the tank and equipped with a manual drain valve that drains into the primary tank unless specifically approved otherwise in accordance with the applicable building code. For tanks with a remote fill connection, a portable spill container is allowed.

19. Change Section 2306.6.3 to read:

~~(N)2306.6.3~~ 2306.6.3 Piping, valves, fittings, and ancillary equipment for underground tanks. Piping, valves, fittings, and ancillary equipment for underground tanks shall be maintained in accordance with Chapter 57, the applicable provisions of NFPA 30A, and the applicable building code.

20. Change Section 2306.7 to read:

~~(N)2306.7~~ 2306.7 Fuel-dispensing systems for flammable or combustible liquids. Fuel-dispensing systems for flammable or combustible liquid fuels shall be maintained in accordance with Sections 2306.7.1 through 2306.7.9.2.4 and the applicable building code. Alcohol-blended fuel-dispensing systems shall also be maintained in accordance with Section 2306.8.

21. ~~Delete~~ Change Section 2306.7.1- to read:

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2306.7.1 Listed equipment. Electrical equipment, dispensers, hose, nozzles, and submersible or subsurface pumps used in fuel dispensing systems shall be listed unless otherwise approved in accordance with the applicable building code.

22. ~~Change Section 2306.7.2-~~ to read:

2306.7.2 Fixed pumps required. Unless otherwise approved in accordance with the applicable building code, Classes I and II liquids shall be transferred from tanks by means of fixed pumps that allow control of the flow and prevent leakage or accidental discharge.

23. Change Section 2306.7.3 to read:

~~(N)2306.7.3 2306.7.3 Mounting of dispensers. Dispensing devices~~ Unless otherwise approved in accordance with the applicable building code, dispensing devices, except those installed on top of a protected aboveground tank that qualifies as vehicle-impact resistant, shall be maintained as protected against physical damage by a concrete island 6 inches (152 mm) or more in height or shall maintain protection in accordance with Section 312. Dispensing devices shall be maintained securely fastened to their mounting surface in accordance with the dispenser manufacturer's instructions. Unless otherwise approved, dispensing devices installed indoors shall be located in a position where they cannot be struck by an out-of-control vehicle descending a ramp or other slope in accordance with the applicable building code.

24. Change Section 2306.7.4 to read:

~~(N)2306.7.4 2306.7.4 Dispenser emergency shutoff valve. Dispenser emergency shutoff valves~~ Unless otherwise approved in accordance with the applicable building code, an approved automatic emergency shutoff valve designed to close in the event of a fire or impact shall be maintained in the liquid supply line at the base of each dispenser supplied by a remote pump. Such valve shall be maintained in accordance with the applicable building code. Emergency shutoff valves shall be maintained in accordance with the manufacturer's instructions and tested at least yearly in accordance with Section 2305.2.4.

25. Change Section 2306.7.5 to read:

~~(N)2306.7.5 2306.7.5 Dispenser hose. Dispenser hoses shall be maintained a maximum of 18 feet (5486 mm) in length unless otherwise approved~~ in accordance with the applicable building code. Dispenser hoses shall be maintained as listed and approved. When not in use, hoses shall be reeled, racked, or otherwise protected from damage.

26. Change Section 2306.7.5.1 to read:

~~(N)2306.7.5.1 2306.7.5.1 Emergency breakaway devices. Emergency breakaway devices shall be maintained~~ Unless otherwise approved in accordance with the applicable building code, dispenser hoses for Classes I and II liquids

shall be maintained with a listed emergency breakaway device designed to retain liquid on both sides of a breakaway point. Such devices shall be maintained in accordance with the manufacturer's instruction. Where hoses are attached to hose-retrieving mechanisms, the emergency breakaway device shall remain between the hose nozzle and point of attachment of the hose-retrieval mechanism to the hose.

27. Change Section 2306.7.6 to read:

~~(N)2306.7.6 2306.7.6 Fuel delivery nozzles. Fuel delivery nozzles shall be maintained~~ Unless specifically approved otherwise in accordance with the applicable building code, island-type dispensers used for dispensing Class I, II or III liquids shall be maintained with a listed automatic-closing-type nozzle valve with or without a latch-open device, and overhead-type dispensing units shall be maintained with a listed automatic-closing-type nozzle valve without a latch-open device.

Exception: A listed automatic-closing-type hose nozzle valve with latch-open device is allowed to be used on overhead-type dispensing units where the design of the system is such that the hose nozzle valve will close automatically in the event the valve is released from a fill opening or upon impact with a driveway.

28. Delete Section 2306.7.6.1.

29. Change Section 2306.7.7 to read:

~~(N)2306.7.7 2306.7.7 Remote pumping systems. Remote pumping systems for liquid fuels shall be maintained in accordance with Sections 2306.7.7.1 and 2306.7.7.2 and the applicable building code.~~

30. Change Section 2306.7.7.1 to read:

~~(N)2306.7.7.1 2306.7.7.1 Leak detection. Leak detection devices shall be maintained in accordance with the applicable building code.~~ Unless otherwise approved by the applicable building code, where remote pumps are used to supply fuel dispensers, each pump shall maintain a listed leak detection device on the discharge side that will detect a leak in the piping or dispensers and provide an indication of the leak. A leak detection device is not required if the piping from the pump discharge to under the dispenser is above ground and visible.

31. ~~Change Section 2306.7.7.2-~~ to read:

2306.7.7.2 Location. Remote pumps installed above grade, outside of buildings, shall remain in approved locations in accordance with the applicable building code. Dispensing operations shall not be less than 10 feet (3048 mm) from lines of adjoining property that can be built upon and not less than 5 feet (1524 mm) from any building opening. Pumps shall be maintained substantially anchored and protected against physical damage. In no case should any of these provisions require demolition or



- relocation of existing equipment approved in accordance with the applicable building code.
32. Change Section 2306.7.9 to read:  
~~(N)2306.7.9~~ 2306.7.9 Vapor-recovery and vapor-processing systems. Vapor-recovery and vapor-processing systems shall be maintained in accordance with Sections 2306.7.9.1.1 through 2306.7.9.2.4 and the applicable building code.
33. Change Section 2306.7.9.1 to read:  
~~(N)2306.7.9.1~~ 2306.7.9.1 Vapor-balance systems. Vapor-balance systems shall be maintained in accordance with Sections 2306.7.9.1.1 through 2306.7.9.1.5 and the applicable building code.
34. Change Section 2306.7.9.1.1 to read:  
~~(N)2306.7.9.1.1~~ 2306.7.9.1.1 Dispensing devices. Dispensing devices ~~shall be maintained incorporating provisions for vapor recovery shall be listed and labeled, unless otherwise approved~~ in accordance with the applicable building code. Where dispensing devices are modified for vapor recovery, such modifications shall be approved in accordance with the applicable building code and a listing report by a nationally recognized testing laboratory made available to the fire official upon request. Means shall be maintained to shut down fuel dispensing in the event the vapor return line becomes blocked.
35. Change Section 2306.7.9.1.2 to read:  
~~(N)2306.7.9.1.2~~ 2306.7.9.1.2 Vapor-return line closeoff. ~~Vapor return line closeoffs shall be maintained An acceptable method, in accordance with the applicable building code, shall be maintained to close off the vapor return line from dispensers when the product is not being dispensed.~~
36. Change Section 2306.7.9.1.3 to read:  
~~(N)2306.7.9.1.3~~ 2306.7.9.1.3 Piping. Piping in vapor-balance systems shall be maintained in accordance with Sections 5703.6, 5704.2.9, and 5704.2.11. Unless otherwise approved in with the applicable building code, vapor return piping shall be maintained in a manner than drains back to the tank, without sags or traps in which the liquid can become trapped. Where provided, condensate tanks shall be maintained so that they can be drained without opening.
37. Change Section 2306.7.9.1.4 to read:  
~~(N)2306.7.9.1.4~~ 2306.7.9.1.4 Flexible joints and shear joints. Flexible joints and shear joints shall be maintained in accordance with Section 5703.6.9. Unless otherwise approved in accordance with the applicable building code, shear joints shall remain rigidly mounted and connected by a union in the vapor return piping at the base of each dispensing device and shall remain mounted flush with the top of the surface on which the dispenser is mounted.
38. ~~Delete~~ Change Section 2306.7.9.1.5- to read:  
2306.7.9.1.5 Testing. Existing vapor return lines and vent piping shall be tested in accordance with Section 5703.6.3 when the fire official has reasonable cause to believe that a leak exists.
39. Change Section 2306.7.9.2 to read:  
~~(N)2306.7.9.2~~ 2306.7.9.2 Vapor-processing systems. Vapor-processing systems shall be maintained in accordance with Sections 2306.7.9.2.1 through 2306.7.9.2.4 and the applicable building code.
40. Change Section 2306.7.9.2.1 to read:  
~~(N)2306.7.9.2.1~~ 2306.7.9.2.1 Equipment. ~~Equipment Unless otherwise approved in accordance with the applicable building code, equipment~~ in vapor-processing systems, including hose nozzle valves, vapor pumps, flame arresters, fire checks or systems for prevention of flame propagation, controls, and vapor-processing equipment; shall be individually maintained in accordance with the applicable building code as listed for the intended use in a specified manner. Equipment for prevention of flame or propagation that has been tested and listed as suitable for the intended use in vapor processing systems that introduce air into the underground piping or storage tanks shall be maintained.
41. ~~Delete~~ Change Section 2306.7.9.2.2- to read:  
2306.7.9.2.2 Location. Unless otherwise approved in accordance with the applicable building code, vapor-processing equipment shall remain located at grade or above grade and vapor processing units shall be operated not less than 10 feet (3048 mm) from the nearest building or lot line of a property that can be built upon. Sources of ignition shall be located not less than 50 feet (15,240 mm) from fuel-transfer areas and not less than 18 inches (457 mm) above tank fill openings and tops of dispenser islands.
42. ~~Delete~~ Change Section 2306.7.9.2.2.1- to read:  
2306.7.9.2.2.1 Distance from dispensing devices. Unless otherwise approved in accordance with the applicable building code, vapor-processing equipment functioning during dispensing operations shall maintain a minimum of 20 feet (6096 mm) from dispensing devices.
43. Change Section 2306.7.9.2.2.2 to read:  
~~(N)2306.7.9.2.2.2~~ 2306.7.9.2.2.2 Physical protection. Physical protection for vapor-processing equipment shall be maintained in accordance with Section 312 or the applicable building code. Where approved protective enclosures are used, approved means shall be maintained to ventilate the volume within the enclosure to prevent pocketing of flammable vapors.
44. Delete Section 2306.7.9.2.2.3.

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45. ~~Change~~ Section 2306.7.9.2.3- to read:  
2306.7.9.2.3 Mounting. Unless otherwise approved in accordance with the applicable building code, vapor-processing units shall be maintained securely mounted on concrete, masonry or structural steel supports on concrete, or other noncombustible foundations. Vapor-recover and vapor-processing equipment is allowed to be operated on roofs where approved in accordance with the applicable building code.
46. Change Section 2306.7.9.2.4 to read:  
~~(N)2306.7.9.2.4~~ 2306.7.9.2.4 Piping. Piping in a mechanical-assist system shall be maintained in accordance with Section 5703.6 and the applicable building code.
47. Change Section 2306.8 to read:  
~~(N)2306.8~~ 2306.8 Alcohol-blended fuel-dispensing operations. Alcohol-blended fuel-dispensing systems shall be maintained in accordance with Section 2306.7, Sections 2306.8.1 through 2306.8.5, and the applicable building code.
48. ~~Change~~ Section 2306.8.2- to read:  
2306.8.2 Compatibility. Dispensers shall only be used with the fuels for which they have been listed, which are marked on the product in accordance with § 59.1-167.1 of the Code of Virginia. Field installed components, including hose assemblies, breakaway couplings, swivel connectors, and hose nozzle valves, shall be maintained in accordance with the listing and marking on the unit.
49. ~~Change~~ Section 2306.8.3- to read:  
2306.8.3 Facility identification. Facilities dispensing alcohol-blended fuels shall be identified in accordance with § 59.1-167.1 of the Code of Virginia.
50. ~~Change~~ Section 2306.8.4- to read:  
2306.8.4 Marking. Dispensers shall be marked in an approved manner to identify the types of alcohol-blended fuels being dispensed.
- F. The following changes shall be made to Section 2307, Liquefied Petroleum Gas Motor Fuel-Dispensing Facilities:
1. Change Section 2307.1 to read:  
~~(N)2307.1~~ 2307.1 General. Operation and maintenance of motor fuel-dispensing facilities for liquefied petroleum gas (LP-gas) fuel shall be in accordance with this section and other applicable provisions of this code.
  2. ~~Change~~ Section 2307.2- to read:  
2307.2 Approvals. Unless otherwise approved in accordance with the applicable building code, storage vessels and equipment for the storage or dispensing of LP-gas shall be maintained as approved or listed in accordance with Sections 2307.2.1 and 2307.2.2 and the applicable building code.
  3. ~~Change~~ Section 2307.2.1- to read:  
2307.2.1 Approved equipment. Unless otherwise approved in accordance with the applicable building code, containers; pressure relief devices, including pressure relief valves; pressure regulators; and piping for LP-gas shall be approved in accordance with the applicable building code.
  4. ~~Change~~ Section 2307.2.2- to read:  
2307.2.2 Listed equipment. Unless specifically approved otherwise in accordance with the applicable building code, hoses, hose connections, vehicle fuel connections, dispensers, LP-gas pumps, and electrical equipment for LP-gas shall be listed in accordance with the applicable building code.
  5. Change Section 2307.3 to read:  
2307.3 Attendants. Motor fuel-dispensing operations for LP-gas shall be conducted by qualified attendants or in accordance with Section 2307.6 by persons trained in the proper handling of LP-gas.
  6. Change Section 2307.4 to read:  
~~(N)2307.4~~ 2307.4 Location of dispensing operations and equipment. LP-gas containers shall be located Unless specifically approved otherwise in accordance with the applicable building code, the point of transfer for LP-gas dispensing operations shall be 25 feet (7620 mm) or more from buildings having combustible exterior wall surfaces, buildings having noncombustible exterior wall surfaces that are not part of a one-hour fire-resistance-rated assembly, or buildings having combustible overhangs, lot lines of property that could be built on, public streets, or sidewalks and railroads and at least 10 feet (3048 mm) from driveways and buildings having noncombustible exterior wall surfaces that are part of a fire-resistance-rated assembly having a rating of one hour or more. In no case should any of these provisions require demolition or relocation of existing equipment approved in accordance with the applicable building code.  
Exception: The point of transfer for LP-gas dispensing operations need not be separated from canopies that are constructed in accordance with the applicable building code and that provide weather protection for the dispensing equipment. LP-gas containers shall remain located in accordance with Chapter 61 and the applicable building code. LP-gas storage and dispensing equipment shall be operated outdoors and in accordance with Section 2306.7 unless otherwise approved in accordance with the applicable building code.
  7. ~~Change~~ Section 2307.5- to read:

2307.5 Additional requirements for LP-gas dispensers and equipment. Unless specifically approved otherwise in accordance with the applicable building code, LP-gas dispensers and related equipment shall be maintained in accordance with the following provisions:

1. Pumps shall remain fixed in place and shall be maintained to allow control of the flow and to prevent leakage and accidental discharge.
2. Dispensing devices operated within 10 feet (3048 mm) of where vehicular traffic occurs shall be protected against physical damage by mounting on a concrete island 6 inches (152 mm) or more in height or shall be protected in accordance with Section 312.
3. Dispensing devices shall remain securely fastened to their mounting surface in accordance with the dispenser manufacturer's instructions.

8. ~~Delete~~ Change Section 2307.6- to read:

2307.6 Maintenance of LP-gas dispensing devices and equipment. LP-gas dispensing systems shall be maintained and remain in accordance with the applicable building code. The operation of LP-gas dispensing systems shall be in accordance with Sections 2307.6.1 through 2307.6.3 and Chapter 61. LP-gas dispensers and dispensing stations shall be maintained in accordance with the manufacturer's specifications and their listing.

9. ~~Delete~~ Change Section 2307.6.1- to read:

2307.6.1 Valves. Unless otherwise approved in accordance with the applicable building code, a manual shutoff valve and an excess flow-control check valve shall be maintained in the liquid line between the pump and the dispenser inlet where the dispensing device is installed at a remote location and is not part of a complete storage and dispensing unit mounted on a common base; an excess flow-control check valve or an emergency shutoff valve shall be maintained in or on the dispenser at the point at which the dispenser hose is connected to the liquid piping; a differential backpressure valve shall be considered equivalent protection; and a listed shutoff valve shall be maintained at the discharge end of the transfer hose.

10. Change Section 2307.6.2 to read:

~~(N)2307.6.2~~ 2307.6.2 Hoses. Hoses Unless otherwise approved in accordance with the applicable building code, hoses and piping for the dispensing of LP-gas shall be maintained in accordance with the applicable building code. maintain hydrostatic relief valves. Hose length for dispensing operations shall not exceed 18 feet (5486 mm). An approved method shall be maintained to protect the hose against mechanical damage.

11. ~~Delete Section~~ Change Sections 2307.6.3- and 2307.6.4 to read:

2307.6.3 Emergency breakaway devices. Unless otherwise approved in accordance with the applicable

building code, a listed emergency breakaway device to retain liquid on both sides of the breakaway point shall be maintained on dispensing hoses. Where hoses are attached to hose-retrieving mechanisms, the emergency breakaway device shall be maintained such that the breakaway device activates to protect the dispenser from being displaced.

2307.6.4 Vehicle impact protection. Where operated within 10 feet of vehicle traffic, LP-gas storage containers, pumps and dispensers shall maintain protection in accordance with Section 2307.5, Item 2, unless otherwise approved in accordance with the applicable building code.

12. Change Section 2307.7 to read:

~~(N)2307.7~~ 2307.7 Public fueling of motor vehicles. Self-service LP-gas dispensing systems, including key, code, and card lock dispensing systems, shall be limited to the filling of permanently mounted containers providing fuel to the LP-gas powered vehicle. The requirements for self-service LP-gas dispensing systems shall be in accordance with the following:

1. The arrangement and operation of the transfer of product into a vehicle shall be in accordance with this section and Chapter 61.
2. The system shall maintain an emergency shut-off switch located in accordance with the applicable building code.
3. The owner of the LP-gas motor fuel-dispensing facility or the owner's designee shall provide for the safe operation of the system and the training of users.
4. Unless otherwise approved in accordance with the applicable building code, the dispenser and hose-end valve shall release not more than 1/8 fluid ounce (4 cc) of liquid to the atmosphere upon breaking the connection with the fill valve on the vehicle.
- ~~3-~~ 5. Portable fire extinguishers shall be provided in accordance with Section 2305.5.
- ~~4-~~ 6. Warning signs shall be provided in accordance with Section 2305.6.
- ~~5-~~ 7. The area around the dispenser shall be maintained in accordance with Section 2305.7.

G. The following changes shall be made to Section 2308, Compressed Natural Gas Motor Fuel-Dispensing Facilities:

1. ~~Change Section~~ Sections 2308.1 through 2308.3.1 to read:  
2308.1 General. Motor fuel-dispensing facilities for compressed natural gas (CNG) fuel shall be maintained and remain in accordance with the applicable building code. Such facilities shall be operated and maintained in accordance with this section and Chapter 53.

2308.2 Approvals. Unless otherwise approved in accordance with the applicable building code, storage vessels and equipment used for the storage, compression, or dispensing of CNG shall be approved or listed in

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accordance with Sections 2308.2.1 and 2308.2.2 and the applicable building code.

2308.2.1 Approved equipment. Containers, compressors, pressure relief devices (including pressure relief valves), and pressure regulators and piping used for CNG shall be approved.

2308.2.2 Listed equipment. Hoses, hose connections, dispensers, gas detection systems, and electrical equipment used for CNG shall be maintained in accordance with their listing. Vehicle-fueling connections shall be listed and labeled in accordance with the applicable building code.

2308.3 Location of dispensing operations and equipment. Unless approved otherwise in accordance with the applicable building code and Chapter 53, compression, storage, and dispensing equipment shall be located above ground and outside.

2. Change Section 2308.2.2 to read:

~~(N)2308.2.2 Listed equipment. Hoses, hose connections, dispensers, gas detection systems, and electrical equipment used for CNG shall be listed. Vehicle-fueling connections shall be listed and labeled and maintained in accordance with the applicable building code.~~

3. Delete Section 2308.3.

4. Delete Section

~~2308.3.1. Location of operations on property. Unless otherwise approved in accordance with the applicable building code, compression, storage, and dispensing equipment not located in vaults complying with Chapter 53 shall be maintained and operated in accordance with Section 2303.1 and the following. In no case should any of these provisions require demolition or relocation of existing equipment when approved in accordance with the applicable building code.~~

~~1. Not beneath power lines.~~

~~2. Ten feet (3048 mm) or more from the nearest building or lot line that could be built on, public street, sidewalk, or source of ignition.~~

~~Exception: Dispensing equipment need not be separated from canopies that are constructed in accordance with the applicable building code and that provide weather protection for the dispensing equipment.~~

~~3. Twenty-five feet (7620 mm) or more from the nearest rail of any railroad track and 50 feet (15,240 mm) or more from the nearest rail of any railroad main track or any railroad or transit line where power for train propulsion is provided by an outside electrical source, such as third rail or overhead catenary.~~

~~4. Fifty feet (15,240 mm) or more from the vertical plane below the nearest overhead wire of a trolley bus line.~~

5. 2. Change Section 2308.5 to read:

~~(N)2308.5 2308.5 Pressure regulators. Pressure Unless otherwise approved in accordance with the applicable building code, pressure regulators shall be maintained in accordance with the applicable building code so that their operation will not be affected by the elements (freezing rain, sleet, snow, or ice), mud, or debris. The protection is allowed to be an integral part of the regulator.~~

6. 3. Change Section 2308.6 to read:

~~(N)2308.6 2308.6 Valves. Gas piping to equipment shutoff valves shall be maintained Unless otherwise approved in accordance with the applicable building code, the remote, readily accessible manual shutoff valve shall be maintained.~~

7. 4. Change Section 2308.7 to read:

~~(N)2308.7 2308.7 Emergency shutdown control. Emergency shutdown controls shall be maintained and remain within 75 feet (22,860 mm) of, but not less than 25 feet (7620 mm) from, dispensers as well as in the compressor area unless otherwise approved in accordance with the applicable building code. Where provided, and upon activation, the emergency shutdown system shall be maintained to automatically shut off the power supply to the compressor and close valves between the main gas supply and the compressor and between the storage containers and dispensers.~~

H. The following changes shall be made to Section 2309, Hydrogen Motor Fuel-Dispensing and Generation Facilities:

1. Change Section 2309.1 to read:

~~2309.1 General. Operation and maintenance of hydrogen motor fuel dispensing and generation facilities shall be in accordance with this section and other applicable provisions of this code. Hydrogen motor fuel-dispensing facilities shall be maintained and remain in accordance with the applicable building code. Such facilities shall be operated and maintained in accordance with this section and Chapter 58. Where a fuel-dispensing facility includes a repair garage, the repair operation shall comply with Section 2311.~~

2. Change Section 2309.2 to read:

~~(N)2309.2 2309.2 Equipment. Equipment Unless otherwise approved in accordance with the applicable building code, equipment used for the generation, compression, storage, or dispensing of hydrogen shall be maintained or the specific application in accordance with the applicable building code Sections 2309.2.1 through 2309.2.3.~~

3. Change Section 2309.2.1 to read:

~~(N)2309.2.1 2309.2.1 Approved equipment. Cylinders Unless otherwise approved in accordance with the applicable building code, cylinders, containers, and tanks; pressure relief devices, including pressure valves;~~

- hydrogen vaporizers; pressure regulators; and piping used for gaseous hydrogen systems shall be maintained in accordance with ~~the applicable building code~~ Chapters 53, 55, and 58.
4. Change Section 2309.2.2 to read:  
~~(N)2309.2.2~~ 2309.2.2 Listed or approved equipment. ~~Hoses~~ Unless otherwise approved in accordance with the applicable building code, hoses, hose connections, compressors, hydrogen generators, dispensers, detection systems, and electrical equipment used for hydrogen shall be maintained as listed and labeled or approved for use with hydrogen and maintained in accordance with the applicable building code.
  5. Change Section 2309.2.3 to read:  
~~(N)2309.2.3~~ 2309.2.3 Electrical equipment. Electrical installations shall be maintained and remain in accordance with the applicable building code. Portable or temporary electrical equipment shall be in accordance with NFPA 70.
  6. Change Section 2309.3 to read:  
~~(N)2309.3~~ 2309.3 Location on property. ~~Location of dispensing equipment shall be maintained in accordance with the applicable building code. Unless otherwise approved in accordance with the applicable building code, dispensing equipment operations shall remain located in accordance with the applicable building code and maintained in accordance with Section 2303.1 and Sections 2309.3.1 through 2309.3.2.~~
  7. Change Section ~~2309.1.1~~ 2309.3.1.1 to read:  
~~(N)2309.3.1.1~~ 2309.3.1.1 Outdoors. Generation, compression, or storage equipment shall be allowed outdoors where maintained in accordance with Chapter 58 and NFPA 2 or the applicable building code.
  8. Change Section 2309.3.1.2 to read:  
~~(N)2309.3.1.2~~ 2309.3.1.2 Indoors. Generation, compression, storage and dispensing equipment ~~shall be maintained in accordance with the applicable building code. operations located in indoor rooms or other approved areas shall remain in accordance with the requirements of the applicable building code and the maintenance provisions of NFPA 2, including ventilation.~~
  9. Change Section 2309.3.1.3 to read:  
~~(N)2309.3.1.3~~ 2309.3.1.3 Gaseous hydrogen storage. ~~Storage~~ Unless otherwise approved in accordance with the applicable building code, storage of gaseous hydrogen shall be maintained in accordance with the applicable building code Chapters 53 and 58.
  10. Change Section 2309.3.1.4 to read:  
~~(N)2309.3.1.4~~ 2309.3.1.4 Liquefied hydrogen storage. ~~Storage~~ Unless otherwise approved in accordance with the applicable building code, storage of liquefied hydrogen shall be maintained in accordance with the applicable building code Chapters 55 and 58.
  11. Change Section 2309.3.1.5 to read:  
~~(N)2309.3.1.5~~ 2309.3.1.5 Canopy tops. ~~Gaseous~~ Unless otherwise approved in accordance with the applicable building code, gaseous hydrogen compression and storage equipment operations located on top of motor fuel-dispensing facility canopies shall be maintained in accordance with the applicable building code. Sections 2309.3.1.5.1 through 2309.3.1.5.5, Chapters 53 and 58, and the applicable building code.  
Note: Canopy methods and materials require special conditions that must be maintained in accordance with the applicable building code.
  12. Delete Section 2309.3.1.5.1.
  13. Change Section 2309.3.1.5.2 to read:  
~~(N)2309.3.1.5.2~~ 2309.3.1.5.2 Fire-extinguishing systems. Fire-extinguishing systems provided for fuel-dispensing areas under canopies shall be maintained in accordance with Chapter 9 and remain in accordance with the applicable building code.
  14. ~~Delete~~ Change Section 2309.3.1.5.3- to read:  
2309.3.1.5.3 Emergency discharge. Where provided, operation of the fire-extinguishing system shall be maintained to activate an automatic emergency discharge system that will discharge the hydrogen gas from the equipment on the canopy top through the vent pipe system.
  15. ~~Delete~~ Change Section 2309.3.1.5.4- to read:  
2309.3.1.5.4 Emergency shutdown control. Where provided, operation of the fire extinguishing system shall be maintained to activate the emergency shutdown control required to be maintained by Section 2309.5.3.
  16. Delete Section 2309.3.2.
  17. Change Section 2309.4.1 to read:  
~~(N)2309.4.1~~ 2309.4.1 Dispensing systems. ~~Dispensing systems shall be maintained in accordance with the applicable building code. Unless otherwise approved in accordance with the applicable building code, dispensing systems with an overpressure protection device shall be maintained set at 140% of the service pressure of the fueling nozzle it supplies.~~
  18. Change Section 2309.5 to read:  
~~(N)2309.5~~ 2309.5 Safety precautions. Safety precautions at hydrogen motor fuel-dispensing and generation facilities shall be in accordance with Sections 2309.5.1 through ~~2309.5.3~~ 2309.5.3.1.
  19. Change Section 2309.5.2 to read:  
~~(N)2309.5.2~~ 2309.5.2 Emergency shutoff valves. ~~Manual emergency shutoff valves shall be maintained in~~

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~~accordance with the applicable building code. Unless otherwise approved in accordance with the applicable building code, a manual emergency shutoff valve to shut down the flow of gas from the hydrogen supply to the piping system shall be maintained.~~

20. Change Section 2309.5.3 to read:

~~(N)2309.5.3 2309.5.3 Emergency shutdown controls. Emergency shutdown controls shall be maintained Unless otherwise approved in accordance with the applicable building code, a remotely located, manually activated shutdown control shall be maintained in addition to the manual emergency shutoff valve referenced by Section 2309.5.2. This emergency shutdown control shall be maintained within 75 feet (22,860 mm) of, but not less than 25 feet (7620 mm) from, dispensers and hydrogen generators unless otherwise approved by the applicable building code.~~

21. ~~Delete Change Section 2309.5.3.1; to read:~~

~~2309.5.3.1 System requirements. Unless otherwise approved in accordance with the applicable building code, activation of the emergency shutdown control shall be maintained to automatically shut off the power supply to all hydrogen storage, compression, and dispensing equipment; shut off natural gas or other fuel supply to the hydrogen generator; and close valves between the main supply and the compressor and between the storage containers and dispensing equipment.~~

22. Change Section 2309.6 to read:

~~2309.6 Repairs, purging, defueling, and discharge. The purging, defueling, or discharge activities associated with hydrogen motor fuel supply systems and tanks shall be in accordance with Chapters 53 and 58 and NFPA 2.~~

~~Exception: The fuel supply piping from the fuel storage tank to the engine compartment on a motor vehicle or forklift.~~

Change Section 2309.6.1.2.1.2 to read:

~~(N)2309.6.1.2.1.2 Vent pipe maximum diameter. Vent pipe diameter shall be maintained in accordance with the applicable building code.~~

23. Change Section 2309.6.1.2.1.3 to read:

~~(N)2309.6.1.2.1.3 Maximum flow rate. The maximum rate of hydrogen flow through the vent pipe system shall be maintained in accordance with the applicable building code.~~

24. Delete Section 2309.6.1.2.2.

25. Delete Section 2309.6.1.2.3.

26. Change Section 2309.6.1.2.4 to read:

~~(N)2309.6.1.2.4 Grounding and bonding. Grounding and bonding of cylinders, containers or tanks, and piping shall~~

~~be maintained in accordance with the applicable building code.~~

27. Change Section 2309.6.2 to read:

~~(N)2309.6.2 Repair of hydrogen piping. Piping systems containing hydrogen shall not be opened to the atmosphere for repair without first purging the piping with an inert gas to achieve 1% hydrogen or less by volume.~~

I. The following changes shall be made to Section 2310, Marine Motor Fuel-Dispensing Facilities:

1. Change Section 2310.1 to read:

~~2310.1 General. The construction of marine motor fuel-dispensing facilities shall be in accordance with this section and other applicable provisions of this code. Marine motor fuel-dispensing facilities shall be maintained and remain in accordance with the applicable building code and the maintenance provisions of NFPA 30A. The storage of Class I, II, or IIIA liquids at marine motor fuel-dispensing facilities shall be maintained in accordance with this chapter and Chapter 57.~~

2. Change Section 2310.2 to read:

~~(N)2310.2 2310.2 Storage and handling. The storage and handling of Class I, II, or IIIA liquids at marine motor fuel-dispensing facilities shall be maintained in accordance with the applicable building code Sections 2310.2.1 through 2310.2.3.~~

3. Change Section 2310.2.1 to read:

~~(N)2310.2.1 2310.2.1 Class I, II, or IIIA liquid storage. Unless otherwise approved in accordance with the applicable building code, Class I, II, or IIIA liquids stored inside of buildings used for marine motor fuel-dispensing facilities shall be stored in accordance with the applicable building code approved containers or portable tanks. Storage of Class I liquids shall not exceed 10 gallons (38 L).~~

~~Exception: Storage in liquid storage rooms in accordance with the applicable building code.~~

4. Change Section 2310.2.2 to read:

~~(N)2310.2.2 2310.2.2 Class II or IIIA liquid storage and dispensing. Unless specifically approved otherwise in accordance with the applicable building code, Class II, or IIIA liquids stored or dispensed inside of buildings used for marine motor fuel-dispensing facilities shall be stored in and dispensed in accordance with the applicable building code from approved containers or portable tanks. Storage of Classes II and IIIA liquids shall be maintained to not exceed 120 gallons (454 L).~~

5. Change Section 2310.2.3 to read:

~~(N)2310.2.3 2310.2.3 Heating equipment. Heating equipment installed in Class I, II, or IIIA liquid storage or~~

dispensing areas shall ~~be maintained in accordance with the applicable building code~~ comply with Section 2301.6.

6. Change Section 2310.2.3.3 to read:

~~(N)2310.3.3~~ 2310.3.3 Hoses and nozzles. ~~Hoses and nozzles shall be maintained in accordance with the applicable building code. Unless otherwise approved in accordance with the applicable building code, dispensing of Class I, II, or IIIA liquids into the fuel tanks of marine craft shall be by means of an approved-type hose equipped with a listed automatic-closing nozzle without a latch-open device. Hoses used for dispensing or transferring Class I, II, or IIIA liquids, when not in use, shall be reeled, racked, or otherwise protected from mechanical damage.~~

7. Change Section 2310.3.5 to read:

~~(N)2310.3.5~~ 2310.3.5 Liquefied petroleum gas. Liquefied petroleum gas cylinders shall not be filled at marine motor fuel-dispensing facilities unless approved. Approved storage facilities for LP-gas cylinders shall be provided. See also Section 2307.

8. Change Section 2310.6 to read:

~~(N)2310.6~~ 2310.6 Fire protection. Fire protection features for marine motor fuel-dispensing facilities shall be maintained in accordance ~~with the applicable building code~~ with Sections 2310.6.1 through 2310.6.4 and remain in accordance with the applicable building code.

J. The following changes shall be made to Section 2311, Repair Garages:

1. Change Section 2311.1 to read:

2311.1 General. Operation and maintenance of repair garages shall ~~comply~~ be in accordance with this section and other applicable provisions of this code. Repair garages for vehicles that use more than one type of fuel shall comply with the applicable provisions of this section for each type of fuel used.

Where a repair garage includes a motor fuel-dispensing facility, the fuel-dispensing operation shall comply with the requirements of this chapter for motor fuel-dispensing facilities.

2. Change Section 2311.2 to read:

~~(N)2311.2~~ 2311.2 Storage and use of flammable and combustible liquids. The storage and use of flammable and combustible liquids in repair garages shall ~~be~~ maintained in accordance with Chapter 57 and Sections 2311.2.1 through 2311.2.4 and remain in accordance with the applicable building code.

3. Change Section 2311.2.3 to read:

~~(N)2311.2.3~~ 2311.2.3 Drainage and disposal of liquids and oil soaked waste. Contents of oil separators, traps and floor drainage systems shall be collected at sufficiently

frequent intervals and removed from the premises to prevent oil from being carried into the sewers.

4. Change Section 2311.3.1 to read:

~~(N)2311.3.1~~ 2311.3.1 Equipment. Appliances and equipment installed in a repair garage shall be maintained in accordance with Chapter 6, the applicable building code, and the maintenance provisions of NFPA 70.

5. Change Section 2311.4 to read:

~~(N)2311.4~~ 2311.4 Below-grade areas. Pits and below-grade work areas in repair garages shall ~~be maintained in accordance with the applicable building code~~ comply with Sections 2311.4.1 through 2311.4.3.

6. Delete Section 2311.4.1.

7. Change Section 2311.4.2 to read:

~~(N)2311.4.2~~ 2311.4.2 Means of egress. Means of egress for pits and below-grade work areas shall be maintained in accordance with Chapter 10 and in accordance with the applicable building code.

8. Change Section 2311.4.3 to read:

~~(N)2311.4.3~~ 2311.4.3 Ventilation. Where Class I liquids or LP-gas are stored or used within a building having a basement or pit wherein flammable vapors could accumulate, the basement or pit mechanical ventilation, ~~where provided,~~ shall be maintained in accordance with the applicable building code to prevent the accumulation of flammable vapors.

9. Change Section 2311.7.1 to read:

~~(N)2311.7.1~~ 2311.7.1 Ventilation. Ventilation required for repair garages used for the repair of ~~natural gas-fueled vehicles or~~ hydrogen-fueled vehicles shall be maintained in accordance with the applicable building code.

Exception: Repair garages with natural ventilation when approved.

~~10. Delete Section 2311.7.1.1.~~

~~11. Change Section 2311.7.1.2 to read:~~

~~(N)2311.7.1.2~~ Operation. The mechanical ventilation system shall be maintained in accordance with the applicable building code.

10. Change Section 2311.8 and Sections 2311.8.2 through 2311.8.8 and delete Section 2311.8.6.

Section 2311.8 and Sections 2311.8.2 through 2311.8.8 to read:

2311.8 Repair garages for vehicles fueled by lighter-than-air fuels. The room, motor vehicle repair booth, or motor vehicle repair space containing repair garage activities for the conversion or repair of vehicles that use CNG, LNG, hydrogen, or other lighter-than-air motor fuels shall be in accordance with the applicable building code and Sections

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2311.8 through 2311.8.11 in addition to the other requirements of Section 2311. Repair garages for the repair of vehicles that use hydrogen fuel shall be in accordance with this code, the applicable building code, and NFPA 2.

Exceptions:

1. Repair garages where work is conducted only on vehicles that have been defueled and their systems purged with nitrogen gas and where standard operating procedures to document and maintain the fueling status throughout repair operations are approved.

2. Repair garages where work is not performed on the fuel system and is limited to exchange of parts and maintenance not requiring open flame or welding on the CNG-fueled, LNG-fueled, hydrogen-fueled, or other lighter-than-air-fueled motor vehicle.

3. Repair garages for hydrogen-fueled vehicles where work is not performed on the hydrogen storage tank and is limited to the exchange of parts and maintenance not requiring open flame or welding on the hydrogen-fueled vehicle. During the work, the entire hydrogen fuel system shall contain less than 200 cubic feet (5.6 m<sup>3</sup>) of hydrogen.

4. Repair garages for natural-gas-fueled vehicles where work is not being performed on the fuel storage tank and is limited to the exchange of parts and maintenance not requiring open flame or welding on the natural-gas-fueled vehicle. During the work, the natural gas in the vehicle fuel tank shall contain a pressure of not more than 250 psi at 70°F (1724 kPa at 21°C).

2311.8.2 Repair garages used for the repair of hydrogen-fueled vehicles. Repair garages used for the repair of hydrogen-fueled vehicles are required to be provided with an approved exhaust ventilation system in accordance with the applicable building code and maintained in accordance with Chapter 6 of NFPA 2.

2311.8.3 Motor vehicle repair rooms. Motor vehicle repair rooms shall maintain fire-resistance-rated separation from adjacent areas in accordance with Chapter 7 and the applicable building code.

2311.8.4 Motor vehicle repair booths. The maintenance and operation of motor vehicle repair booths shall be in accordance with Sections 2311.8.4.1 through 2311.8.4.4.

2311.8.4.1 Construction. Motor vehicle repair booths shall be maintained with approved materials in accordance with the applicable building code. Structural sections of motor vehicle repair booths shall remain sealed in an approved manner.

2311.8.4.2 Surfaces. The interior surfaces of motor vehicle repair booths shall be maintained to permit the free passage of exhaust air from all parts of the interior.

2311.8.4.3 Means of egress. Means of egress shall be maintained in accordance with Chapter 10 and the applicable building code.

NOTE: Means of egress doors from premanufactured motor vehicle repair booths shall be in accordance with manufacturer's specifications.

2311.8.4.4 Clear space. Unless otherwise approved by the applicable building code, motor vehicle repair booths shall be maintained so that all parts of the booth provide ready access for cleaning. A clear area not less than 3 feet (914 mm) wide shall be maintained on all sides of the motor vehicle repair booth. This clear area shall be kept free of any storage or combustible construction.

Exceptions:

1. This requirement shall not prohibit locating a motor vehicle repair booth closer than 3 feet (914 mm) to or directly against an interior partition, wall, or floor and ceiling assembly that has a fire-resistance rating of not less than one hour in accordance with the applicable building code, provided that the motor vehicle repair booth can be adequately maintained and cleaned.

2. This requirement shall not prohibit locating a motor vehicle repair booth closer than 3 feet (914 mm) to an exterior wall or a roof assembly, provided that the wall or roof is maintained of noncombustible material in accordance with the applicable building code and the motor vehicle repair booth can be adequately maintained and cleaned.

2311.8.5 Motor vehicle repair spaces. Where such spaces are not separately enclosed, noncombustible spray curtains shall be maintained and used to restrict the spread of flammable gases in accordance with the applicable building code.

2311.8.7 Fire extinguishers. Portable fire extinguishers complying with Section 906 shall be provided and maintained for motor vehicle repair rooms, motor vehicle repair booths, or motor vehicle repair spaces.

2311.8.8 Ventilation. Exhaust ventilation system. Where required by the applicable building code, repair garages used for the repair of CNG, LNG, or other lighter-than-air motor fuels other than hydrogen shall be maintained and operated with an approved mechanical ventilation system. The mechanical exhaust ventilation system shall be in accordance with the applicable building code and Sections 2311.8.8.1 and 2311.8.8.2.

Where approved by the applicable building code, natural ventilation shall be permitted in lieu of mechanical exhaust ventilation.

11. Delete Section 2311.8.8.1.

12. Change Section ~~2311.7.2~~ 2311.8.8.2 to read:

2311.8.8.2 Operation. Where required by the applicable building code, the mechanical exhaust ventilation system shall operate continuously.

Exceptions:



1. Mechanical exhaust ventilation systems that are interlocked with a gas detection system designed in accordance with Sections 2311.8.9 through 2311.8.9.2.

2. Mechanical exhaust ventilation systems in repair garages that are used only for repair of vehicles fueled by liquid fuels or odorized gases, such as CNG, where the ventilation system is electrically interlocked with the lighting circuit.

13. Change Sections 2311.8.9, 2311.8.9.1, and 2311.8.9.2 to read:

~~(N)2311.7.2~~ 2311.8.9 Gas detection system. Gas detection systems required for Where required by the applicable building code, repair garages used for repair of vehicles fueled by nonodorized gases, including hydrogen and nonodorized liquefied natural gas, shall be maintained in accordance with the applicable building code (LNG) the gas detection system shall be maintained. Where lubrication or chassis service pits are provided in garages used for repairing nonodorized LNG-fueled vehicles, gas sensors shall be maintained and operated in such pits.

2311.8.9.1 System activation. Required systems shall be maintained and operated as approved to result in all of the following if required by the applicable building code:

1. Initiation of local audible and visual alarms in approved locations.

2. Deactivation of heating systems located in the repair garage.

3. Activation of the mechanical exhaust ventilation system where the ventilation system is interlocked with gas detection.

2311.8.9.2 Failure of the gas detection system. Unless otherwise permitted by the applicable building code, failure of the gas detection system shall automatically deactivate the heating system, activate the mechanical exhaust ventilation system where the system is interlocked with the gas detection system, and cause a trouble signal to sound in an approved location.

~~13. Delete Section 2311.7.2.1.~~

~~14. Delete Section 2311.7.2.1.1.~~

~~15. Delete Section 2311.7.2.2.~~

~~16. Delete Section 2311.7.2.3.~~

14. Change Sections 2311.8.10 and 2311.8.11 to read:

2311.8.10 Classified electrical area. Classified electrical areas within 18 inches (450 mm) of a ceiling shall be maintained in accordance with the applicable building code and free of electrical hazards.

2311.8.11 Defueling equipment required at vehicle maintenance and repair facilities. Facilities for repairing or replacing hydrogen fuel tanks on hydrogen-fueled vehicles shall have equipment to defuel vehicle storage

tanks. Where work must be performed on a vehicle's fuel storage tank for the purpose of maintenance, repair or cylinder certification, defueling, and purging shall be conducted in accordance with Section 2309.6 and NFPA 2.

## **13VAC5-51-140.5. IFC Chapter 24 Flammable Finishes.**

A. The following change shall be made to Section 2401, General:

Change Section 2401.3 to read:

2401.3 Permits. Permits shall be required as set forth in Section 107.2.

B. The following changes shall be made to Section 2403, Protection of Operations:

1. Change Section 2403.2.1 to read:

~~(N)2403.2.1~~ 2403.2.1 Electrical wiring and equipment. Electrical wiring and equipment shall be maintained in accordance with this chapter, the applicable building code, the applicable provisions of NFPA 70, and Chapter 6.

2. Change Section 2403.2.1.1 to read:

~~(N)2403.2.1.1~~ 2403.2.1.1 Flammable vapor areas. Electrical wiring and equipment in flammable vapor areas shall be of an explosion proof type approved for use in such hazardous locations and maintained in accordance with the applicable building code as classified by the applicable building code and shall be maintained in accordance with the applicable provisions of NFPA 70 and Chapter 6.

3. Change Section 2403.2.1.2 to read:

~~(N)2403.2.1.2~~ 2403.2.1.2 Areas subject to deposits of residues. Flammable Electrical equipment, flammable vapor areas, or drying operations that are subject to splashing or dripping of liquids shall be specifically approved for locations containing deposits of readily ignitable residue and explosive vapors.

Exceptions:

1. The provision shall not apply to wiring in rigid conduit, threaded boxes, or fittings not containing taps, splices, or terminal connections.

2. This provision shall not apply to electrostatic equipment allowed by Section 2407.

In resin application areas, electrical wiring and equipment that is subject to deposits of combustible residues shall be listed for such exposure and shall be installed as required for hazardous (classified) locations. Electrical wiring and equipment not subject to deposits of combustible residues shall be installed as required for ordinary hazard locations.

4. Change Section 2403.2.1.3 to read:

~~(N)2403.2.1.3~~ 2403.2.1.3 Areas adjacent to spray booths. Electrical Unless otherwise approved by the applicable

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building code, electrical wiring and equipment located outside of, but within [ 5 feet (1524 mm) 3 feet (915 mm) ] horizontally and 3 feet [ (914 mm) (915 mm) ] vertically of, openings in a spray booth or a spray room shall be maintained in accordance with the applicable building code.

5. Change Section 2403.2.5 to read:

~~(N)2403.2.5 2403.2.5~~ Grounding. The grounding of metal Metal parts of spray booths, exhaust ducts, and piping systems conveying Class I or II liquids shall be maintained in accordance with the applicable building code electrically grounded in accordance with NFPA 70. Metallic parts located in resin application areas, including exhaust ducts, ventilation fans, spray application equipment, workpieces, and piping, shall be electrically grounded.

C. The following changes shall be made to Section 2404, Spray Finishing:

1. Change Section 2404.1 to read:

~~(N)2404.1 2404.1~~ General. The application of flammable or combustible liquids by means of spray apparatus in continuous or intermittent processes shall be in accordance with the requirements of Sections 2403 and 2404.

2. ~~Delete~~ Change Section 2404.2- to read:

2404.2 Location of spray-finishing operations. Unless otherwise approved by the applicable building code, spray finishing operations shall not be conducted in buildings used for Group A, E, I, or R occupancies except where approved in accordance with the applicable building code. In other occupancies, spray-finishing operations shall be conducted in a spray room, spray booth, or spraying space approved for such use where required by the applicable building code.

Exceptions:

1. Automobile undercoating spray operations and spray-on automotive lining operations conducted in areas with approved natural or mechanical ventilation shall be exempt from the provisions of Section 2404 when approved and where utilizing Class IIIA or IIIB combustible liquids.

2. In buildings other than Group A, E, I, or R occupancies, approved limited spraying space in accordance with Section 2404.9.

3. Resin application areas used for manufacturing of reinforced plastics complying with Section 2409 shall not be required to be located in a spray room, spray booth, or spraying space.

3. ~~Delete~~ Change Section 2404.3- to read:

2404.3 Design and construction. Design and construction of spray rooms, spray booths, and spray spaces shall be in

accordance with the applicable building code. These areas shall be maintained in accordance with Sections 2404.3 through 2404.3.3.

4. Change Section 2404.3.1 to read:

~~(N)2404.3.1 2404.3.1~~ Spray rooms. Spray rooms shall be maintained in accordance with this section and remain in accordance with the applicable building code.

5. Change Section ~~2404.3.1.1~~ 2404.3.2 to read:

~~(N)2404.3.1.1 2404.3.2~~ Floor. Combustible floor construction in spray rooms shall be maintained in accordance with the applicable building code. covered by approved, noncombustible, nonsparking material, except where combustible coverings, including thin paper or plastic and strippable coatings, are utilized over noncombustible materials to facilitate cleaning operations in spray rooms.

6. Change Section ~~2404.3.2~~ 2404.3.3 to read:

~~(N)2404.3.2 2404.3.3~~ Spray booths. Spray booths shall be maintained in accordance with the applicable building code. The design and construction of spray booths shall be in accordance with the applicable building code and maintained in accordance with Sections 2404.3.3.1 through 2403.3.6 and Sections 2404.4 through 2404.8 and the applicable sections of NFPA 33.

7. Delete Section ~~2404.3.2.1~~ 2404.3.3.1.

8. Change Section 2404.3.2.2 to read:

~~(N)2404.3.2.2 2404.3.2.2~~ Surfaces. The interior surfaces of spray booths shall be maintained in accordance with the applicable building code smooth; shall be maintained so as to permit the free passage of exhaust air from all parts of the interior and to facilitate washing and cleaning; and shall be maintained to confine residues within the booth. Aluminum shall not be used unless approved by the applicable building code.

9. Change Section ~~2404.3.2.3~~ 2404.3.3.3 to read:

~~(N)2404.3.2.3 2404.3.3.3~~ Floor covering. Combustible floor construction in spray booths shall be maintained in accordance with the applicable building code covered by approved, noncombustible, nonsparking material, except where combustible coverings, including thin paper or plastic and strippable coatings, are utilized over noncombustible materials to facilitate cleaning operations in spray booths

10. Change Section ~~2404.3.2.4~~ 2404.3.3.4 to read:

~~(N)2404.3.2.4 2404.3.3.4~~ Means of egress. Means of egress shall be maintained in accordance with the applicable building code and Chapter 10.

11. Change Section ~~2404.3.2.5~~ 2404.3.3.5 to read:

~~(N)2404.3.2.5 2404.3.3.5~~ Clear space. A Spray booths shall be maintained so that all parts of the booth are readily

- accessible for cleaning. Unless otherwise approved by the applicable building code, a clear space of not less than 3 feet (914 mm) shall be maintained on all sides of the spray booth. This clear space shall be kept free of any storage or combustible construction. If approved in accordance with the applicable building code, the following exceptions may apply:
1. This requirement shall not prohibit locating a spray booth closer than 3 feet (914 mm) to or directly against an interior partition, wall, or floor and ceiling assembly that has a fire-resistance rating of not less than one hour, provided the spray booth can be adequately maintained and cleaned.
  2. This requirement shall not prohibit locating a spray booth closer than 3 feet (914 mm) to an exterior wall or a roof assembly, provided the wall or roof is constructed of noncombustible material and the spray booth can be adequately maintained and cleaned.
12. Delete Section ~~2404.3.2.6~~ 2404.3.3.6.
13. Change Section ~~2404.3.3~~ 2404.3.4 to read:  
~~(N)2404.3.3~~ 2404.3.4 Spraying spaces. ~~Spraying spaces shall be maintained~~ The design and construction of spray booths shall be in accordance with the applicable building code and maintained in accordance with Section 2404.3.3.1 and Sections 2404.4 through 2404.8.
14. Change Section ~~2404.3.3.1~~ 2404.3.4.1 to read:  
~~(N)2404.3.3.1~~ 2404.3.4.1 Floor covering. Combustible floor construction in spraying spaces shall be ~~maintained in accordance with the applicable building code~~ covered by approved, noncombustible, nonsparking material, except where combustible coverings, such as thin paper or plastic and strippable coatings, are utilized over noncombustible materials to facilitate cleaning operations in spraying spaces.
15. Change Section 2404.4 to read:  
~~(N)2404.4~~ 2404.4 Fire protection. ~~Automatic~~ Unless otherwise permitted by the applicable building code, spray booths and spray rooms shall be protected by an approved automatic fire-extinguishing systems provided for spray booths shall be maintained in accordance with the applicable building code system complying with the requirements of the applicable building code and maintained in accordance with Chapter 9.
16. Change Section 2404.6.2.1 to read:  
~~(N)2404.6.2.1~~ 2404.6.2.1 Glass panels. Panels for luminaires or for observation shall be ~~maintained in accordance with the applicable building code~~ maintain seals to confine vapors, mists, residues, dusts, and deposits to the flammable vapor area. Panels for luminaires shall be separated from the luminaire to prevent the surface temperature of the panel from exceeding 200°F (93°C).
17. Change Section 2404.6.2.2 to read:  
~~(N)2404.6.2.2~~ 2404.6.2.2 Exterior luminaires. Luminaires attached to the walls or ceilings of a flammable vapor area, but outside of any classified area and separated from the flammable vapor areas by vapor-tight glass panels, shall be ~~maintained in accordance with the applicable building code~~ suitable for use in ordinary hazard locations. Such luminaires shall be serviced from outside the flammable vapor areas.
18. Change Section 2404.6.2.3 to read:  
~~(N)2404.6.2.3~~ 2404.6.2.3 Integral luminaires. Luminaires that are an integral part of the walls or ceiling of a flammable vapor area are allowed to be separated from the flammable vapor area by glass panels that are an integral part of the luminaire. Such luminaires shall be ~~maintained in accordance with the applicable building code~~ used only if listed for use in hazardous locations in accordance with the applicable building code and also shall be suitable for accumulations of deposits of combustible residues. Such luminaires are allowed to be serviced from inside the flammable vapor area.
19. Change Section 2404.7 to read:  
~~(N)2404.7~~ 2404.7 Ventilation. Mechanical ventilation of flammable vapor areas shall be maintained and operated in accordance with the applicable building code.
20. Change Section 2404.7.1 to read:  
~~(N)2404.7.1~~ 2404.7.1 Operation. Where provided, mechanical ventilation shall be kept in operation at all times while spraying operations are being conducted and for a sufficient time thereafter to allow vapors from drying coated articles and finishing material residue to be exhausted.
21. ~~Delete Change~~ Section ~~2404.7.2~~ 2404.7.2 to read:  
2404.7.2 Recirculation. Air exhausted from spraying operations shall not be recirculated unless otherwise permitted by the applicable building code.
22. Change Section 2404.7.3 to read:  
~~(N)2404.7.3~~ 2404.7.3 Air velocity. The required air velocity for ventilation systems shall be maintained in accordance with the applicable building code.
23. Change Section 2404.7.3.1 to read:  
~~(N)2404.7.3.1~~ 2404.7.3.1 Open-face or open-front spray booth. For spray application operations conducted in an open-face or open-front spray booth, the ventilation system air velocity shall be maintained in accordance with the requirements of the applicable building code.
24. Change Section 2404.7.3.2 to read:  
~~(N)2404.7.3.2~~ 2404.7.3.2 Enclosed spray booth or spray room with openings for product conveyance. For spray application operations conducted in an enclosed spray

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booth or spray room with openings for product conveyance, the ventilation system shall be maintained in accordance with the applicable building code.

25. Delete Section 2404.7.5.

26. Change Section 2404.7.6 to read:

~~(N)2404.7.6~~ 2404.7.6 Termination point. The Unless otherwise permitted by the applicable building code, the termination point for exhaust ducts discharging to the atmosphere shall be maintained in accordance with the applicable building code, to be not less than the distances listed as follows. Termination locations at less than these distances shall be evaluated by the building official for compliance in accordance with the applicable building code.

1. Ducts conveying explosive or flammable vapors, fumes, or dusts: 30 feet (9144 mm) from the lot line; 10 feet (3048 mm) from openings into the building; 6 feet (1829 mm) from exterior walls and roofs; 30 feet (9144 mm) from combustible walls or openings into the building that are in the direction of the exhaust discharge; and 10 feet (3048 mm) above adjoining grade.

2. Other product-conveying outlets: 10 feet (3048 mm) from the lot line; 3 feet (914 mm) from exterior walls and roofs; 10 feet (3048 mm) from openings into the building; and 10 feet (3048 mm) above adjoining grade.

27. Change Section 2404.7.7 to read:

2404.7.7 Fan motors and belts. Electric motors driving exhaust fans shall not be placed inside booths or ducts, unless approved. Fan rotating elements shall be nonferrous or nonsparking or the casing shall consist of, or be lined with, such material. Belts shall not enter the duct or booth unless the belt and pulley within the duct are tightly enclosed.

28. Change Section 2404.7.8 to read:

~~(N)2404.7.8~~ 2404.7.8 Filters. Air intake filters that are part of a wall or ceiling assembly shall be maintained. Unless otherwise approved by the applicable building code, air intake filters that are part of a wall or ceiling assembly shall be listed as Class I or II in accordance with UL 900. Exhaust filters shall be provided where required by the applicable building code.

29. Change Section 2404.7.8.1 to read:

~~(N)2404.7.8.1~~ 2404.7.8.1 Supports. Supports and holders for filters shall be maintained as noncombustible materials unless otherwise approved by the applicable building code.

30. Change Section 2404.7.8.3 to read:

~~(N)2404.7.8.3~~ 2404.7.8.3 Maintaining air velocity. The required air velocity shall be maintained in accordance with the applicable building code. Where provided, visible gauges, audible alarms, or pressure-activated devices shall

be maintained to indicate or ensure that the required air velocity is maintained.

31. Change Section 2404.7.8.4 to read:

~~(N)2404.7.8.4~~ 2404.7.8.4 Filter rolls. Filter rolls for spray booths shall be maintained in accordance with applicable building code. Unless otherwise permitted by the applicable building code, where spray booths are equipped with a filter roll that is automatically advanced, it shall be arranged to shut down the spraying operation if the filter roll fails to advance automatically.

32. Change Section 2404.7.8.7 to read:

~~(N)2404.7.8.7~~ 2404.7.8.7 Waterwash spray booths. Waterwash spray booths shall be maintained in accordance with the applicable building code so as to prevent excessive accumulation of deposits in ducts and residue at duct outlets. Such booths shall be maintained so that air and overspray are drawn through a continuously flowing water curtain before entering an exhaust duct to the building exterior.

33. Change Section 2404.8 to read:

~~(N)2404.8~~ 2404.8 Interlocks. Interlocks for spray application finishes shall be maintained fully operational in accordance with the applicable building code.

34. ~~Delete~~ Change Section 2404.8.1- to read:

2404.8.1 Automated spray application operations. Unless otherwise permitted by the applicable building code, where protecting automated spray application operations, automatic fire-extinguishing systems with an approved interlock feature shall maintain that feature so that, upon discharge of the system, it will automatically stop the spraying operations and workpiece conveyors into and out of the flammable vapor areas. Where the building is equipped with a fire alarm system, discharge of the automatic fire-extinguishing system shall be maintained to activate the building alarm notification appliances in accordance with the applicable building code.

35. Change Section 2404.8.1.1 to read:

~~(N)2404.8.1.1~~ 2404.8.1.1 Alarm station. Where required, a manual fire alarm and emergency system shutdown station shall be maintained accessible and fully operational in accordance with the applicable building code.

36. Delete Section 2404.8.1.2.

37. ~~Delete~~ Change Section 2404.8.2- to read:

2404.8.2 Ventilation interlock prohibited. Unless otherwise permitted by the applicable building code, air makeup and flammable vapor area exhaust systems shall not be interlocked with the fire alarm system and shall remain in operation during a fire alarm condition.

Exception: Where the applicable building code requires such ventilation to be discontinued and dampers closed.

38. Change Section 2404.9.3 to read:

~~(N)2404.9.3~~ 2404.9.3 Ventilation. Positive mechanical ventilation providing a minimum of six complete air changes per hour shall be maintained in accordance with the applicable building code.

39. Change Section 2404.9.4 to read:

~~(N)2404.9.4~~ 2404.9.4 Electrical wiring. Electrical wiring within 10 feet (3048 mm) of the floor and 20 feet (6096 mm) horizontally of the limited spraying space shall be designed for Class I, Division 2 locations in accordance with the applicable building code.

D. The following changes shall be made to Section 2405, Dipping Operations:

1. ~~Delete~~ Change Section 2405.2- to read:

2405.2 Location of dip-tank operations. Where required by the applicable building code, dip-tank operations conducted in buildings used for Group A, I, or R occupancies shall be located in a room designed for that purpose, equipped with an approved automatic sprinkler system, and separated vertically and horizontally from other areas in accordance with the applicable building code.

2. ~~Delete~~ Change Section 2405.3- to read:

2405.3 Construction of dip tanks. Dip tanks shall be constructed in accordance with Sections 2405.3.1 through 2405.3.4.3 and NFPA 34. Dip tanks, including drain boards, shall be constructed of noncombustible material and their supports shall be of heavy metal, reinforced concrete, or masonry unless otherwise approved by the applicable building code.

3. Change Section 2405.3.1 to read:

~~(N)2405.3.1~~ 2405.3.1 Overflow. ~~Overflow piping required for dip tanks shall be maintained in accordance with the applicable building code. To operate dip tanks greater than 150 gallons (568 L) in capacity or 10 square feet (0.93 m<sup>2</sup>) in liquid surface area, they shall be equipped with a trapped overflow pipe leading to an approved location outside the building in accordance with the building code.~~

4. Change Section 2405.3.2 to read:

~~(N)2405.3.2~~ 2405.3.2 Bottom drains. ~~Bottom drains required for dip tanks shall be maintained in accordance with the applicable building code. Unless otherwise permitted by the applicable building code, dip tanks greater than 500 gallons (1893 L) in liquid capacity shall only be operated with bottom drains that are arranged to automatically and manually drain the tank quickly in the event of a fire unless the viscosity of the liquid at normal~~

~~atmospheric temperature makes this impractical. Manual operation shall continue to be from a safe, accessible location. Where gravity flow is not practicable, automatic pumps shall be provided. Such drains shall be trapped and discharged to a closed, vented salvage tank or to an approved outside location in accordance with the applicable building code.~~

Exception: Dip tanks containing Class IIIB combustible liquids where the liquids are not heated above room temperature and the process area is protected by automatic sprinklers.

5. Change Section 2405.4 to read:

~~(N)2405.4~~ 2405.4 Fire protection. Dip tank operations shall be protected with a fire protection system in accordance with the applicable building code and maintained in accordance with Chapter 9.

6. Change Section 2405.4.1 to read:

~~(N)2405.4.1~~ 2405.4.1 Fixed fire-extinguishing equipment. ~~Fixed fire-extinguishing equipment required for dip tanks shall be maintained in accordance with the applicable building code. Where required by the applicable building code, an automatic fire-extinguishing system or dip-tank cover shall be maintained.~~

7. Change Section 2405.4.1.1 to read:

~~(N)2405.4.1.1~~ 2405.4.1.1 Fire-extinguishing system. ~~Fire-extinguishing systems provided for dip tanks maintained in accordance with the applicable building code. Unless otherwise permitted by the applicable building code, an approved automatic fire-extinguishing system shall be provided for dip tanks with a 150 gallon (568 L) or more capacity or 10 square feet (0.93 m<sup>2</sup>) or larger liquid surface area.~~

8. Change Section 2405.7 to read:

~~(N)2405.7~~ 2405.7 Ventilation of flammable vapor areas. ~~Ventilation provided for flammable vapor areas shall be maintained in accordance with the applicable building code. Mechanical ventilation in flammable vapor areas shall be operated and maintained to prevent the dangerous accumulation of vapors. Where required by the applicable building code, the failure of any ventilating fan shall automatically stop the dipping conveyor system.~~

9. ~~Delete~~ Change Section 2405.9.1- to read:

2405.9.1 Location. Unless otherwise required by the applicable building code, tanks shall be located as far as practical from furnaces and shall not be located on or near combustible floors.

10. Change Section 2405.9.2 to read:

~~(N)2405.9.2~~ 2405.9.2 Hoods. ~~Hoods provided for tanks shall be maintained in accordance with the applicable building code. Unless otherwise required by the applicable building code, tanks shall be operated only with a~~

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noncombustible hood and vent or other approved venting means, terminating outside of the structure to serve as a vent in case of a fire. Such vent ducts shall be treated as flues and proper clearances shall be maintained from combustible materials.

11. ~~Change~~ Section 2405.9.3- to read:

2405.9.3 Alarms. Tanks shall be operated with a high-temperature-limit switch maintained to sound an alarm when the temperature of the quenching medium reaches 50°F (10°C) below the flash point or other approved level as required by the applicable building code.

12. Change Section 2405.9.4 to read:

~~(N)2405.9.4 2405.9.4 Fire protection. Fire protection provided hardening and tempering tanks shall be maintained in accordance with the applicable building code. Unless otherwise permitted by the applicable building code, hardening and tempering tanks greater than 500 gallons (1893 L) in capacity or 25 square feet (2.3 m<sup>2</sup>) in liquid surface area shall be protected by an approved automatic fire-extinguishing system maintained in accordance with Chapter 9.~~

13. ~~Change~~ Section 2405.10.1- to read:

2405.10.1 Paint supply. Unless otherwise permitted by the applicable building code, paint operations shall be supplied by a gravity tank not exceeding 10 gallons (38 L) in capacity or by direct low-pressure pumps arranged to shut down automatically in case of a fire by means of approved heat-actuated devices in accordance with the applicable building code.

14. Change Section 2405.11 to read:

~~(N)2405.11 2405.11 Roll-coating operations. Roll-coating operations shall be maintained in accordance with the applicable building code comply with Section 2405.10. In roll-coating operations utilizing flammable or combustible liquids, sparks from static electricity shall be prevented by electrically bonding and grounding all metallic rotating and other parts of machinery and equipment and by the installation of static collectors or by maintaining a conductive atmosphere such as a high relative humidity.~~

E. The following changes shall be made to Section 2406, Powder Coating:

1. Change Section 2406.2 to read:

~~(N)2406.2 2406.2 Location. Powder coating operations shall be conducted in enclosed powder coating rooms, enclosed powder coating facilities that are ventilated, or ventilated spray booths and in accordance with applicable building code.~~

2. ~~Change~~ Section 2406.3- to read:

2406.3 Construction of powder coating rooms and booths. The design and construction of powder coating rooms

shall be in accordance with the applicable building code. Spray booths shall be constructed in accordance with Section 2404.3.3.

Exception: Listed spray-booth assemblies that are constructed of other materials shall be allowed.

3. Change Section 2406.4 to read:

~~(N)2406.4 2406.4 Fire protection. Fire extinguishing systems provided for areas used for powder coating shall be maintained in accordance with the applicable building code. Where required by the applicable building code, automatic fire-extinguishing systems shall be maintained in accordance with Chapter 9.~~

4. Delete Section 2406.4.1.

5. Change Section 2406.6.4 to read:

~~(N)2406.6.4 2406.6.4 Grounding and bonding. Grounding and bonding provided for powder coating operations shall be maintained in accordance with the applicable building code. Precautions shall be taken to minimize the possibility of ignition by static electrical sparks through static bonding and grounding where possible of powder transport, application, and recovery equipment.~~

6. Change Section 2406.7 to read:

~~(N)2406.7 2406.7 Ventilation. Exhaust ventilation shall be maintained in accordance with the applicable building code sufficient to maintain the atmosphere below one-half the minimum explosive concentration for the material being applied. Nondeposited, air-suspended powders shall be removed through exhaust ducts to the powder recovery system.~~

F. The following changes shall be made to Section 2407, Electrostatic Apparatus:

1. Change Section 2407.2 to read:

~~(N)2407.2 2407.2 Location and clear space. A space of at least twice the sparking distance shall be maintained between goods being painted or deteared and electrodes, electrostatic atomizing heads, or conductors. A sign stating the sparking distance shall be conspicuously posted near the assembly. The location and clear space required for electrostatic apparatus and devices shall be maintained in accordance with the applicable building code and manufacturer's instructions.~~

Exception: Portable electrostatic paint-spraying apparatus listed for use in Class I, Division 1 locations.

2. ~~Change~~ Section 2407.3- to read:

2407.3 Construction of equipment. Electrodes and electrostatic atomizing heads shall be maintained in accordance with the applicable building code. Portable electrostatic paint-spraying apparatus shall be listed for use in Class I, Division 1 locations.

3. Change Section 2407.3.1 to read:

~~(N)2407.3.4~~ 2407.3.1 Barriers. Booths, fencing, railings, or guards shall be ~~in accordance with the applicable building code~~ maintained about the equipment so that either by their location or character, or both, isolation of the process is maintained from plant storage and personnel. Railings, fencing, and guards shall be of conductive material, adequately grounded, and at least 5 feet (1524 mm) from processing equipment in accordance with the applicable building code.

Exception: Portable electrostatic paint-spraying apparatus listed for use in Class I, Division 1 locations.

4. Change Section 2407.4 to read:

~~(N)2407.4~~ 2407.4 Fire protection. ~~Fire extinguishing systems provided for areas used for electrostatic spray finishing with fixed equipment shall be maintained in accordance with the applicable building code. Approved automatic fire-extinguishing systems shall be maintained in accordance with Chapter 9.~~

5. Change Section 2407.4.1 to read:

~~(N)2407.4.1~~ 2407.4.1 Protection for automated liquid electrostatic spray application equipment. ~~Flame detection apparatus required for automated liquid electrostatic spray application equipment shall be maintained in accordance with the applicable building code. Where required by the applicable building code, automated liquid electrostatic spray application equipment shall maintain an approved, supervised flame detection apparatus that shall, in the event of ignition, react to the presence of flame and shall accomplish all of the following if required by the applicable building code:~~

1. Activation of a local alarm in the vicinity of the spraying operation and activation of the building alarm system if such a system is provided.
2. Shutting down of the coating material delivery system.
3. Termination of all spray application operations.
4. Stopping of conveyors into and out of the flammable vapor areas.
5. Disconnection of power to the high-voltage elements in the flammable vapor areas and disconnection of power to the system.

6. Change Section 2407.7 to read:

~~(N)2407.7~~ 2407.7 Ventilation. Ventilation provided for flammable vapor areas shall be maintained in accordance with the applicable building code.

7. Change Section 2407.8 to read:

~~(N)2407.8~~ 2407.8 Emergency shutdown. ~~Emergency shutdown controls shall be maintained in accordance with the applicable building code. Where emergency shutdowns are required by the applicable building code, such devices shall be maintained with automatic controls operating without time delay to disconnect the power~~

supply to the high-voltage transformer and signal the operator under any of the following conditions unless otherwise permitted by the applicable building code:

1. Stoppage of ventilating fans or failure of ventilating equipment from any cause.
2. Stoppage of the conveyor carrying articles past the high-voltage grid.
3. Occurrence of a ground or an imminent ground at any point of the high-voltage system.
4. Reduction of clearance below that required in Section 2407.2.

8. Change Section 2407.9 to read:

~~(N)2407.9~~ 2407.9 Ventilation interlock. ~~Ventilation interlock required for electrostatic equipment shall be maintained in accordance with the applicable building code. Unless otherwise permitted by the applicable building code, hand electrostatic equipment shall be maintained as interlocked with the ventilation system for the spraying area so that the equipment cannot be operated unless the ventilating system is in operation.~~

G. The following change shall be made to Section 2408, Organic Peroxides and Dual-Component Coatings:

Delete Change Section 2408.2: to read:

2408.2 Use of organic peroxide coatings. Unless otherwise permitted by the applicable building code, spraying operations involving the use of organic peroxides and other dual-component coatings shall be conducted in approved, sprinklered spray booths complying with the applicable building code.

H. The following changes shall be made to Section 2409, Indoor Manufacturing of Reinforced Plastics:

1. Change Section 2409.3 to read:

~~(N)2409.3~~ 2409.3 Fire protection. ~~Automatic sprinkler systems provided for resin application areas shall be maintained in accordance with the applicable building code. Where required by the applicable building code, automatic fire-extinguishing systems shall be maintained in accordance with Chapter 9.~~

2. Change Section 2409.6 to read:

~~(N)2409.6~~ 2409.6 Ventilation. Mechanical ventilation shall be maintained ~~in accordance with the applicable building code~~ throughout resin application areas in accordance with 2404.7 and the applicable building code. The ventilation rate shall be adequate to maintain the concentration of flammable vapors in the resin application area at or below 25% of the LFL unless otherwise permitted by the applicable building code.

Exception: Mechanical ventilation is not required for buildings that have 75% of the perimeter unenclosed.

3. Change Section 2409.6.1 to read:

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~~(N)2409.6.1~~ 2409.6.1 Local ventilation. Local ventilation shall be ~~maintained in accordance with the applicable building code~~ provided inside of work-pieces where personnel will be under or inside of the work-piece.

## 13VAC5-51-141. IFC Chapter 25 Fruit and Crop Ripening.

A. The following changes shall be made to Section 2501, General:

1. Change Section 2501.2 to read:  
2501.2 Permits. Permits shall be required as set forth in Section 107.2.
2. Change Section 2501.3 to read:  
2501.3 Ethylene generators. Approved ethylene generators shall be operated and maintained in accordance with Section 2506 and the applicable building code.

B. The following change shall be made to Section 2503, Ethylene Gas:

- Change Section 2503.2 to read:
- ~~(N)2503.2~~ 2503.2 Dispensing. Valves controlling discharge of ethylene shall be maintained to limit the concentration of gas in accordance with this chapter and the applicable building code.

C. The following changes shall be made to Section 2504, Sources of Ignition:

1. Change Section 2504.1 to read:  
~~(N)2504.1~~ 2504.1 Ignition prevention. Sources of ignition shall be controlled or protected in accordance with ~~the applicable building code~~ this section and Chapter 3.
2. Change Section 2504.2 to read:  
~~(N)2504.2~~ 2504.2 Electrical wiring and equipment. Electrical wiring and equipment, including luminaires, shall be classified and maintained in accordance with Chapter 6, the applicable building code, and the maintenance provisions of NFPA 70.
3. Change Section 2504.3 to read:  
~~(N)2504.3~~ 2504.3 Static electricity. Bonding and grounding provided for permanent containers, piping, and equipment shall be maintained in accordance with the applicable building code. Portable containers, piping, and equipment shall be bonded and grounded in accordance with Chapter 57.
4. Change Section 2504.5 to read:  
~~(N)2504.5~~ 2504.5 Heating. Heating shall be maintained in accordance with Chapter 6 and the applicable building code.

D. The following changes shall be made to Section 2506, Ethylene Generators:

1. Change Section 2506.1 to read:

~~(N)2506.1~~ 2506.1 Ethylene generators. Ethylene generators shall be listed and labeled by an approved testing laboratory, approved, and used only in approved rooms in accordance with the ethylene generator manufacturer's instructions. The listing evaluation shall include documentation that the concentration of ethylene gas does not exceed 25% of the lower explosive limit (LEL).

2. Change Section 2506.2 to read:

~~(N)2506.2~~ 2506.2 Ethylene generator rooms. ~~Ethylene generator rooms shall be maintained in accordance with the applicable building code.~~ Portable ethylene generators shall be used in rooms having a volume of not less than 1,000 cubic feet (28 m<sup>3</sup>). Rooms shall have air circulation to ensure even distribution of ethylene gas and shall be free from sparks, open flames, or other ignition sources.

## 13VAC5-51-142. IFC Chapter 27 Semiconductor Fabrication Facilities.

A. Change Section 2701.1 to read:

2701.1 Scope. [~~Semiconductor~~ The operation and maintenance of semiconductor] fabrication facilities and comparable research and development areas classified as Group H-5 shall comply with this chapter [~~to the extent that the provisions of this chapter relate to operation and maintenance and not to the construction of Group H-5 buildings or structures.~~ The use, storage, and handling of hazardous materials in Group H-5 shall comply with this chapter, other applicable provisions of this code, and requirements of the applicable building code.]

B. Delete Section 2701.4.

C. Change Section 2701.5 to read:

2701.5 Permits. Permits shall be required as set forth in Section 107.2.

D. Change Section 2703.1.3 to read:

~~(N)2703.1.3~~ 2703.1.3 Signals. [~~Emergency~~ Unless otherwise permitted by the applicable building code, the emergency control station shall receive signals from emergency] equipment and alarm and detection systems [~~providing signals to emergency control stations shall be maintained in accordance with the applicable building code~~]. [Such emergency equipment and alarm and detections systems include the following where such equipment or systems are required by the applicable building code:

1. Automatic sprinkler system alarm and monitoring systems.
2. Manual fire alarm systems.
3. Emergency alarm systems.



4. Continuous gas detection systems.

5. Smoke detection systems.

6. Emergency power system.

7. Automatic detection and alarm systems for pyrophoric liquids and Class 3 water-reactive liquids required by Section 2705.2.3.4.

8. Exhaust ventilation flow alarm devices for pyrophoric liquids and Class 3 water-reactive liquids cabinet exhaust ventilation systems required by Section 2704.2.3.4. ]

E. Change Section 2703.2.2 to read:

2703.2.2 General requirements. In addition to the requirements in Section 2703.2, systems, equipment and [ other ] processes shall also comply with Section 5003.2, other applicable provisions of this code [ and the applicable building code ].

F. Delete Sections 2703.3 and 2703.3.1.

G. Change ~~Section~~ Sections 2703.3.2 through 2703.3.8 to read:

~~(N)2703.3.2~~ 2703.3.2 Pass-throughs in exit access corridors. Pass-throughs in exit access corridors shall [ ~~be in accordance~~ comply ] with the applicable building code.

~~(N)2703.3.3~~ 2703.3.3 Liquid storage rooms. Liquid storage rooms shall [ ~~be maintained in accordance with~~ comply with Chapter 57 and ] the applicable building code.

~~(N)2703.3.4~~ 2703.3.4 HPM rooms. Hazardous production materials (HPM) rooms shall ~~be maintained in accordance~~ comply with the applicable building code.

~~(N)2703.3.5~~ 2703.3.5 Gas cabinets. Gas cabinets shall [ ~~be maintained in accordance with the applicable building code.~~ comply with Section 5003.8.6. ]

~~(N)2703.3.6~~ 2703.3.6 Exhausted enclosures. Exhausted enclosures shall be maintained [ in accordance with Section 5003.8.5 and remain ] in accordance with the applicable building code.

~~(N)2703.3.7~~ 2703.3.7 Gas rooms. Gas rooms shall be maintained [ in accordance with Section 5003.8.4 and remain ] in accordance with the applicable building code.

~~(N)2703.3.8~~ 2703.3.8 Service corridors. Service corridors shall [ ~~be maintained~~ comply with Section 2705.3 and remain ] in accordance with the applicable building code.

H. Change Sections 2703.7 and 2703.7.1 to read:

~~(N)2703.7~~ 2703.7 Electrical wiring and equipment. Electrical wiring and equipment in HPM facilities shall [ ~~be maintained in accordance with the applicable building code~~ comply with Sections 2703.7.1 through 2703.7.3 ].

~~(N)2703.7.1~~ 2703.7.1 Fabrication areas. Electrical wiring and equipment in fabrication areas shall be maintained [ in accordance with the applicable provisions of NFPA 70 and remain ] in accordance with the applicable building code.

I. [ ~~Delete~~ Add ] Section 2703.7.2: [ to read:

2703.7.2 Workstations. Electrical equipment and devices within 5 feet (1524 mm) of workstations in which flammable or pyrophoric gases or flammable liquids are used shall be maintained in accordance with the applicable provisions of NFPA 70 for hazardous locations. Workstations shall not be energized without adequate exhaust ventilation in accordance with Section 2703.14.

Exception: Not required when the air removal from the workstation or dilution will prevent the accumulation of flammable vapors and fumes on a continuous basis. ]

J. Change Section 2703.7.3 to read:

~~(N)2703.7.3~~ 2703.7.3 [ HPM Hazardous production material (HPM) ] rooms, gas rooms, and liquid storage rooms. Electrical wiring and equipment in HPM rooms, gas rooms, and liquid storage rooms shall be maintained [ in accordance with the applicable provisions of NFPA 70 and remain ] in accordance with the applicable building code.

K. Change Section 2703.7.10 to read:

~~(N)2703.10~~ 2703.10 Automatic sprinkler system. [ ~~Automatic~~ Where required by the applicable building code automatic ] sprinkler systems shall be maintained in accordance with [ ~~the applicable building code~~ Chapter 9 ].

L. Delete Sections 2703.10.1 and 2703.10.1.1.

M. Delete Sections 2703.10.2 through 2703.10.4.4.1.

N. Change Sections 2703.10.4.4.2 and 2703.10.4.4.3 to read:

~~(N)2703.10.4.4.2~~ 2703.10.4.4.2 Control valve. Control valves provided for sprinklers installed in exhaust ducts shall be maintained in accordance with the applicable building code.

~~(N)2703.10.4.4.3~~ 2703.10.4.4.3 Drainage. Drainage provided to remove sprinkler water discharged in exhaust ducts shall be maintained.

O. Delete Section 2703.10.4.4.4.

P. Change Sections 2703.10.5 through 2703.12 to read:

~~(N)2703.10.5~~ 2703.10.5 Sprinkler alarms and supervision. Automatic sprinkler systems [ ~~shall be maintained in accordance with applicable building code.~~ associated electronic supervision, and alarms shall be maintained in accordance with Chapter 9. Where required by the applicable building code, automatic sprinkler system alarm and supervisory signals shall also remain transmitted to the emergency control station. ]

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~~(N)2703.11~~ 2703.11 Manual fire alarm system. [ Manual fire alarm systems shall be maintained in accordance with the applicable building code Where provided, a manual fire alarm system shall be maintained in accordance with Chapter 9 and remain throughout buildings containing a Group H-5 occupancy in accordance with the applicable building code. Where required by the applicable building code, activation of the alarm system shall also be maintained to transmit a signal to the emergency control station ].

~~(N)2703.12~~ 2703.12 Emergency alarm system. Emergency alarm systems shall be maintained [ in accordance with Chapter 9 and remain ] in accordance with the applicable building code. [ Where required by the applicable building code, emergency alarm systems shall also remain transmitted to the emergency control station. ]

Q. Delete Sections 2703.12.1 and 2703.12.1.1.

R. [ ~~Change Delete~~ ] Sections 2703.12.1.2 and 2703.12.1.3 [ ~~to read:~~ ]

~~(N)2703.12.1.2 [ 2703.12.1.2 Corridors and interior exit stairways and ramps. Emergency alarms for corridors, interior exit stairways and ramps, and exit passageways shall be maintained in accordance with the applicable building code. ]~~

~~(N)2703.12.1.3 [ 2703.12.1.3 Liquid storage rooms, HPM rooms, and gas rooms. Emergency alarms for liquid storage rooms, HPM rooms, and gas rooms shall be maintained in accordance with the applicable building code. ]~~

S. Delete Sections 2703.12.2 and 2703.12.3.

T. Change Section 2703.13 to read:

~~(N)2703.13 Continuous gas~~ 2703.13 [ Gas. Continuous gas ] detection systems. Continuous gas [ Gas detection systems shall be maintained in accordance with the applicable building code. Where required by the applicable building code, a continuous gas detection system shall be maintained for HPM gases. Such a system shall remain in accordance with the applicable building code where the physiological warning threshold level of the gas is at a higher level than the accepted permissible exposure limit (PEL) for the gas and for flammable gases. ]

U. Delete [ ~~Sections Section~~ ] 2703.13.1 [ ~~through~~ and add Section ] 2703.13.2.

[ 2703.13.2 Gas detection system operation. Where required by the applicable building code, a continuous gas detection system shall be maintained capable of monitoring the room, area, or equipment in which the gas is located at or below all the following gas concentrations:

1. Immediately dangerous to life and health (IDLH) values when the monitoring point is within an exhausted enclosure, ventilated enclosure or gas cabinet.

2. Permissible exposure limit (PEL) levels when the monitoring point is in an area outside an exhausted enclosure, ventilated enclosure or gas cabinet.

3. For flammable gases, the monitoring detection threshold level shall be vapor concentrations in excess of 25% of the lower flammable limit (LFL) when the monitoring is within or outside an exhausted enclosure, ventilated enclosure, or gas cabinet.

4. Except as noted in this section, monitoring for highly toxic and toxic gases shall also comply with Chapter 60. ]

V. Change Section 2703.14 to read:

~~(N)2703.14~~ 2703.14 Exhaust ventilation systems for HPM. Exhaust ventilation systems and materials for exhaust ducts utilized for the exhaust of HPM shall be maintained [ and operated in accordance with this chapter, other applicable provisions of this code, and remain ] in accordance with the applicable building code.

W. Delete [ ~~Sections 2703.14.1 and Section~~ ] 2703.14.2 [ - and add Section 2703.14.1 to read:

2703.14.1 Operations and maintenance of HPM areas. Exhaust ventilation systems shall be maintained in the following locations in accordance with the requirements of this section and the applicable building code:

1. Fabrication areas: Exhaust ventilation for fabrication areas shall comply with the applicable building code.

2. Workstations: A ventilation system shall be maintained to capture and exhaust gases, fumes, and vapors at workstations.

3. Liquid storage rooms: Exhaust ventilation for liquid storage rooms shall comply with Section 5004.3.1 and the applicable building code.

4. HPM rooms: Exhaust ventilation for HPM rooms shall comply with Section 5004.3.1 and the applicable building code.

5. Gas cabinets: Exhaust ventilation for gas cabinets shall comply with Section 5003.8.6.2. The gas cabinet ventilation system is allowed to connect to a workstation ventilation system. Exhaust ventilation for gas cabinets containing highly toxic or toxic gases shall also comply with Chapter 60.

6. Exhausted enclosures: Exhaust ventilation for exhausted enclosures shall comply with Section 5003.8.5.2. Exhaust ventilation for exhausted enclosures containing highly toxic or toxic gases shall also comply with Chapter 60.

7. Gas rooms: Exhaust ventilation for gas rooms shall comply with Section 5003.8.4.2 and the applicable building code. Exhaust ventilation for gas rooms containing highly toxic or toxic gases shall also comply with Chapter 60.

8. Cabinets containing pyrophoric liquids or Class 3 water-reactive liquids: Exhaust ventilation for cabinets in fabrication areas containing pyrophoric liquids or Class 3 water-reactive liquids shall be as required in Section 2705.2.3.4. ]

X. Change Section 2703.15 to read:

~~(N)2703.15~~ 2703.15 Emergency power system. [ Emergency Where required by the applicable building code, an emergency ] power [ system systems ] shall be maintained in accordance with [ ~~the applicable building code~~ Section 604 ].

Y. [ ~~Delete~~ Change ] Section 2703.15.1 [ - to read:

2703.15.1 Required electrical systems. Where provided or required by the applicable building code, emergency power shall be maintained for electrically operated equipment and connected control circuits including the following systems in accordance with the applicable building code:

1. HPM exhaust ventilation systems.
2. HPM gas cabinet ventilation systems.
3. HPM exhausted enclosure ventilation systems.
4. HPM gas room ventilation systems.
5. HPM gas detection systems.
6. Emergency alarm systems.
7. Manual fire alarm systems.
8. Automatic sprinkler system monitoring and alarm systems.
9. Automatic alarm and detection systems for pyrophoric liquids and Class 3 water-reactive liquids required in Section 2705.2.3.4.
10. Flow alarm switches for pyrophoric liquids and Class 3 water-reactive liquids cabinet exhaust ventilation systems required in Section 2705.2.3.4.
11. Electrically operated systems required elsewhere in this code or in the applicable building code that are applicable to the use, storage, or handling of HPM. ]

Z. Change Sections 2703.15.2 through [ ~~2704.1~~ 2704.2.1 ] to read:

~~(N)2703.15.2~~ 2703.15.2 Exhaust ventilation systems. [ ~~Exhaust ventilation systems shall be maintained in accordance with~~ Where permitted by ] the applicable building code [ ~~exhaust ventilation systems are allowed to be maintained to operate at not less than one-half the normal fan speed on the emergency power system when it is demonstrated that the level of exhaust will maintain a safe atmosphere~~ ].

~~(N)2703.16~~ 2703.16 Subatmospheric pressure gas systems. Subatmospheric pressure gas systems (SAGS) shall be maintained in accordance with [ ~~the applicable provisions of~~ NFPA 318 and ] the applicable building code.

~~(N)2704.1~~ 2704.1 General. Storage of hazardous materials shall comply with Section 2703 and this section and other applicable provisions of this code [ ~~to the extent that such requirements are operational in nature and do not affect how a building is constructed~~ ].

[ 2704.2.1 Location of HPM storage in fabrication areas. Storage of HPM in fabrication areas shall be maintained within approved or listed storage cabinets, gas cabinets, or exhausted enclosures or within a workstation as follows.

1. Flammable and combustible liquid storage cabinets shall comply with Section 5704.3.2.
2. Hazardous materials storage cabinets shall comply with Chapter 50.
3. Gas cabinets shall comply with Chapter 50. Gas cabinets for highly toxic or toxic gases shall also comply with Chapter 60.
4. Exhausted enclosures shall comply with Chapter 50. Exhausted enclosures for highly toxic or toxic gases shall also comply with Chapter 60.
5. Workstations shall comply with Section 2705.2.3. ]

AA. Change Section 2704.2.2.1 to read:

2704.2.2.1 Storage and use in fabrication areas. The maximum quantities of hazardous materials stored or used in a single fabrication area shall not exceed the quantities set forth [ in Table 2704.2.2.1 unless otherwise approved ] by the applicable building code.

[ ~~BB. Delete Table 2704.2.2.1. CC. BB.~~ ] Change Section 2704.3.1 to read:

2704.3.1 HPM storage. The indoor storage of HPM in quantities greater than those listed in Sections 5003.1.1 and [ ~~3404.3.4~~ 5704.3.4 ] shall be [ approved by the Building Official and located ] in a room complying with the requirements of [ the applicable building code and ] this code for a liquid storage room, HPM room, or gas room as appropriate for the materials stored.

[ ~~DD. CC.~~ ] Change Section 2705.1 to read:

2705.1 General. The use and handling of hazardous materials shall comply with this section, Section 2703, and other applicable provisions of this code to the extent that such requirements are operational in nature and do not affect how a building is constructed.

[ ~~EE. DD.~~ ] Change Section 2705.2.3.2 to read:

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~~(N)2705.2.3.2~~ 2705.2.3.2 Protection of vessels. Vessels containing hazardous materials located in or connected to a workstation shall be protected as follows:

1. HPM: Vessels containing HPM shall be protected from physical damage and shall not project from the workstation.
2. Compressed gases: Protection for compressed gas vessels shall also comply with Section 5303.5.
3. Cryogenic fluids: Protection for cryogenic fluid vessels shall also comply with Section 5503.5.

[ ~~FF~~, ~~EE~~. ] Change Section 2705.3.1 to read:

~~(N)2705.3.1~~ 2705.3.1 Corridors and enclosures for stairways and ramps. Corridors and enclosures for exit stairways and ramps in new fabrication areas shall not contain HPM, except as permitted in corridors by Section 2705.3.2 and the applicable building code.

[ ~~GG~~, ~~FF~~. ] Change [ ~~Section~~ Sections ] 2705.3.2.1 [ and 2705.3.3 ] to read:

2705.3.2.1 [ ~~Fabrication area alterations.~~ Existing fabrication area transportation. ] Where existing fabrication areas are [ ~~altered or modified in existing buildings,~~ HPM is allowed to be transported in existing corridors where such corridors comply with the applicable building code not required by the applicable building code to utilize approved service corridors, HPM is allowed to be handled and transported in accordance with Section 5003.10 ].

[ ~~HH. Delete Section 2705.3.3.~~ 2705.3.3 Service corridors. Where service corridors are required by the applicable building code and it is necessary to transport HPM from a liquid storage room, HPM room, or gas room or from the outside of a building to the perimeter wall of a fabrication area, such transport shall be through approved service corridors. ]

## **13VAC5-51-142.5. IFC Chapter 28 Lumber Yards and Agro-Industrial, Solid Biomass, and Woodworking Facilities.**

A. Change Section 2801.2 to read:

2801.2 Permit. Permits shall be required as set forth in Section 107.2.

B. Change Sections 2803.1 through 2803.3 to read:

~~(N)2803.1~~ 2803.1 Open yards. Open yards around structures required by the applicable building code shall be maintained. The space shall be maintained free of obstructions associated with the outdoor storage of the materials regulated by Chapter 28, which could interfere with the function of the open space, especially that of providing fire department access to the building.

~~(N)2803.2~~ 2803.2 Dust control. Equipment or machinery located inside buildings that generates or emits combustible

~~dust equipped with an approved dust collection and exhaust system shall be maintained in accordance with the applicable building code. Equipment or systems that are used to collect, process or convey combustible dusts shall be provided with an approved explosion control system shall be maintained in accordance with Chapter 22 and the applicable building code. Equipment or systems that are used to collect, process, or convey combustible dusts provided with an approved explosion control system in accordance with the applicable building code shall be maintained in accordance with Chapter 9.~~

~~(N)2803.2.1~~ 2803.2.1 Explosion venting. Explosion venting required for dust explosion hazards shall be maintained in accordance with the applicable building code. Where a dust explosion hazard exists in equipment rooms, buildings, or other enclosures, such areas shall be declared an unsafe condition in accordance with Section 110.1 and operations shall not be continued until the hazard is mitigated. Where explosion venting is provided it shall be maintained in accordance with Chapter 9 and the applicable building code.

~~(N)2803.3~~ 2803.3 Waste removal. Waste removal systems required for sawmills, planing mills and other woodworking plants shall be maintained in accordance with the applicable building code. Sawmills, planing mills, and other woodworking plants shall maintain waste removal systems that collect and remove sawdust and shavings. Such systems shall be maintained in accordance with Chapter 22 and comply with the applicable building code.

Exception: Manual waste removal ~~where~~ when approved.

C. Change Section 2803.4 to read:

~~(N)2803.4~~ 2803.4 Electrical equipment. Electrical wiring and equipment shall be maintained in accordance with Chapter 6, the applicable building code, and the maintenance provisions of NFPA 70.

D. Change ~~Sections~~ Section 2804.2; and delete Section 2804.2.1.

Section 2804.2 to read:

~~(N)2804.2~~ 2804.2 Fire alarms. Where provided, fire ~~alarms~~ alarm systems shall be maintained in accordance with the applicable building code Chapter 9.

~~(N)2804.2.1~~ Manual fire alarms. ~~Where installed, manual fire alarm systems shall be maintained in accordance with the applicable building code.~~

E. Change Section 2804.4 to read:

~~(N)2804.4~~ 2804.4 Automatic sprinkler systems. Automatic sprinkler systems shall be maintained in accordance with ~~the applicable building code~~ Chapter 9.

F. Change Section 2805.2 to read:

~~(N)2805.2~~ 2805.2 Dryer protection. Dryers shall be maintained in accordance with the applicable building code. Dryers protected by an approved, automatic deluge water-spray suppression system shall be maintained in accordance with Chapter 9. Deluge heads shall be inspected quarterly for pitch buildup. Deluge heads in dryers shall be flushed during regular maintenance for functional operation.

G. Change Section 2807.2 to read:

2807.2 Size of piles. Piles shall not exceed 60 feet (18,288 (18,288 mm) in height, 300 feet (91,440 (91,440 mm) in width, and 500 feet (152 m) in length. Piles shall be separated from adjacent piles or other exposures by approved fire apparatus access roads.

Exception: The fire code official is authorized to allow the pile size to be increased where additional approved fire protection is provided in accordance with Chapter 9.

H. Change Section 2807.3 to read:

~~(N)2807.3~~ Pile 2807.3 Outdoor pile fire protection. Automatic sprinkler protection provided in conveyor tunnels and combustible enclosures that pass under a pile shall be maintained in accordance with the applicable building code. Where conveyor tunnels and combustible enclosures that pass under an outdoor pile, automatic sprinkler protection shall be provided. Automatic sprinkler protection shall be maintained in accordance with Chapter 9.

I. Change Section 2808.7 to read:

~~(N)2808.7~~ 2808.7 Pile fire protection. Automatic sprinkler protection shall be provided in conveyor tunnels and combustible enclosures that pass under a pile shall be maintained in accordance with the applicable building code. Combustible conveyor systems and enclosed conveyor systems shall be equipped with an approved automatic sprinkler system. These systems shall be maintained in accordance with Chapter 9.

Note: Systems regulated by the USBC must comply with the applicable building code.

**13VAC5-51-143.5. IFC Chapter 29 Manufacture of Organic Coatings.**

A. Change Section 2901.2 to read:

2901.2 Permits. Permits shall be required as set forth in Section 107.2.

B. ~~Delete~~ Change Section 2903.1- to read:

2903.1 Building features. Unless approved by the applicable building code, manufacturing of organic coatings shall be done only in buildings that do not have pits or basements.

C. ~~Delete~~ Change Section 2903.2- to read:

2903.2 Location. Unless approved by the applicable building code, organic coating manufacturing operations and

operations incidental to or connected with organic coating manufacturing shall not be located in buildings having other occupancies.

D. Change Section 2903.4 to read:

2903.4 Fire protection systems. Fire protection systems shall be maintained, periodically inspected, and tested in accordance with Chapter 9.

E. Change Section 2903.10 to read:

2903.10 Drainage. Drainage facilities shall be maintained to direct flammable and combustible liquid leakage and fire protection water to an approved location away from the building, any other structure, any storage area, or adjoining premises.

F. Change Section 2903.11 to read:

~~(N)2903.11~~ 2903.11 Alarm system. Alarm systems shall be maintained in accordance with the applicable building code Chapter 9.

G. Change Section 2904.1 to read:

~~(N)2904.1~~ 2904.1 Wiring and equipment. Electrical wiring and equipment shall be maintained in accordance with Chapter 6, the applicable building code, and the maintenance provisions of NFPA 70.

H. Change Section 2904.3 to read:

~~(N)2904.3~~ 2904.3 Bonding. Bonding provided for equipment including tanks, machinery and piping shall be maintained in accordance with the applicable building code. Equipment, including tanks, machinery, and piping, shall not be operated where an ignitable mixture is capable of being present unless bonded and connected to a ground in accordance with the applicable building code.

I. Change Section 2904.3.1 to read:

~~(N)2904.3.1~~ 2904.3.1 Piping. Electrically isolated sections of metallic piping or equipment shall be maintained grounded or bonded to the other grounded portions of the system in accordance with the applicable building code.

J. Change Section 2904.4 to read:

~~(N)2904.4~~ 2904.4 Ground. Metal framing of buildings shall be grounded in accordance with the applicable building code.

K. ~~Delete~~ Change Section 2905.1- to read:

2905.1 Process location. Process operations shall be conducted in structures approved in accordance with the applicable building code.

L. Change Section 2905.4 to read:

~~(N)2905.4~~ 2905.4 Explosion control. Explosion control shall be maintained in accordance with the applicable building

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~~code and maintenance provisions of areas subject to potential deflagration hazards as indicated by the applicable building code. Explosion control shall be maintained in accordance with Section 911 and NFPA 35.~~

M. Change Section 2905.5 to read:

~~(N)2905.5~~ 2905.5 Ventilation. Enclosed structures in which Class I liquids are processed or handled shall be ventilated to a safe location outside of the structure in accordance with the applicable building code.

N. Change Section 2906.1 to read:

~~(N)2906.1~~ 2906.1 Mills. Mills operating with close clearances that process flammable and heat-sensitive materials, such as nitrocellulose, shall ~~be maintained in accordance with the applicable building code~~ maintain operations in a detached building or in a noncombustible structure without other occupancies unless otherwise approved by the applicable building code. The amount of nitrocellulose or other flammable material brought into the area shall not be more than the amount required for a batch.

O. Change Section 2909.2 to read:

~~(N)2909.2~~ 2909.2 Tank storage. Tank storage for flammable and combustible liquids located inside of structures shall be limited to storage areas at or above grade that are separated from the processing area in accordance with the applicable building code. Processing equipment containing flammable and combustible liquids and storage in quantities essential to the continuity of the operations shall not be prohibited in the processing area.

P. Change Section 2909.4 to read:

~~(N)2909.4~~ 2909.4 Nitrocellulose storage. Nitrocellulose storage shall be located on a detached pad or in a separate structure or a room enclosed in accordance with the applicable building code. When nitrocellulose storage is present, the area shall not be utilized for any other use in accordance with the applicable building code. Electrical wiring and equipment in storage areas adjacent to process areas shall be maintained in accordance with Section 2904.2.

Q. Change Section 2909.6 to read:

2909.6 Finished products. Finished products that are flammable or combustible liquids shall be stored outside of structures, in a separate structure, or in a room separated from the processing area where such storage is permitted under the applicable building code. The storage of finished products shall be in tanks or closed containers in accordance with Chapter 57.

## 13VAC5-51-144. IFC Chapter 30 Industrial Ovens.

A. Change Section 3001.1 to read:

~~(N)3001.1~~ 3001.1 Scope. This chapter shall apply to the maintenance and operation of industrial ovens and furnaces.

Industrial ovens and furnaces shall comply with the applicable maintenance provisions of NFPA 86, the applicable building code, and this chapter. The terms "ovens" and "furnaces" are used interchangeably in this chapter.

B. Change Section 3001.2 to read:

3001.2 Permits. Permits shall be required as set forth in Section 107.2.

C. Change Section 3003.1 to read:

~~(N)3003.1~~ 3003.1 Ventilation. ~~Enclosed rooms or basements containing~~ Ventilation or combustion air for industrial ovens or furnaces shall be maintained in accordance with the applicable building code.

D. ~~Delete~~ Change Section 3003.4: to read:

3003.4 Temperatures. Unless otherwise approved by the applicable building code, roofs and floors of ovens shall maintain insulation and ventilation to prevent temperatures at combustible ceilings and floors from exceeding 160°F (71°C).

E. Change Section 3004.1: to read:

~~(N)3004.1~~ 3004.1 Fuel-gas piping. Fuel-gas piping serving industrial ovens shall be maintained in accordance with this section and remain in accordance with the applicable building code.

F. ~~Delete~~ Change Section 3004.2: to read:

3004.2 Shutoff valves. Manual fuel shutoff valves for industrial ovens or furnaces shall be maintained in accordance with the applicable building code.

G. Change Section 3004.2.1 to read:

~~(N)3004.2.1~~ 3004.2.1 Fuel supply lines. Valves for fuel supply lines shall be ~~maintained in accordance with the applicable building code~~ located within 6 feet (1829 mm) of the appliance served.

Exception: When a valve located in the same general area as the appliance served has been approved in accordance with the applicable building code.

H. ~~Delete~~ Change Section 3004.3: to read:

3004.3 Valve position. Manual fuel shutoff valves shall be maintained to visually indicate the open or closed position of the valve. Manual fuel shutoff valves shall not be equipped with removable handles or wrenches unless the handle or wrench can only be installed parallel with the fuel line when the valve is in the open position.

I. Change Sections 3005.1, 3006.1, and 3006.2 to read:

~~(N)3005.1~~ 3005.1 Shut down. Interlocks shall be maintained ~~in accordance with the applicable building code~~ for Class A ovens so that conveyors or sources of flammable or

combustible materials shall shut down if either the exhaust or recirculation air supply fails.

~~(N)3006.1~~ 3006.1 Required protection. Fire-extinguishing systems provided for Classes A and B ovens that contain, or are utilized for the processing of, combustible materials shall be maintained in accordance with ~~the applicable building code~~ Chapter 9.

~~(N)3006.2~~ 3006.2 Fixed fire-extinguishing systems. Fixed fire-extinguishing systems shall be maintained in accordance with ~~the applicable building code~~ Chapter 9 for Class C or D ovens to protect against such hazards as overheating, spillage of molten salts or metals, quench tanks, ignition of hydraulic oil, and escape of fuel.

**13VAC5-51-144.2. IFC Chapter 31 Tents, Temporary Special Event Structures, and Other Membrane Structures.**

A. The following change shall be made to Section 3101, General:

Change Section 3101.1 to read:

3101.1 Scope. Tents, temporary ~~stage canopies~~ special event structures, and membrane structures shall comply with this chapter. The provisions of Section 3103 are applicable only to temporary tents and membrane structures. The provisions of Section 3104 are applicable to temporary and permanent tents and membrane structures. ~~Other temporary structures shall comply with the applicable building code~~ The provisions of Section 3104 are applicable to temporary and permanent tents and membrane structures.

B. The following changes shall be made to Section 3103, Temporary Tents and Membrane Structures:

1. Change Section 3103.1 to read:

~~(N)3103.1~~ 3103.1 General. ~~Tents and membrane structures used for temporary periods~~ All temporary tents and membrane structures shall comply with this section. ~~Other temporary structures erected for a period of 180 days or less shall comply with the applicable building code.~~

2. Change Section 3103.2 to read:

~~(N)3103.2~~ 3103.2 Approval required. Tents and membrane structures having an area in excess of 900 square feet (84 m<sup>2</sup>) shall not be erected, operated or maintained for any purpose without first obtaining a permit and approval from the fire code official in accordance with Table 107.2.

3. ~~Change~~ Add Section 3103.2.1 and delete Section 3103.3.1.

Section 3103.2.1 to read:

3103.2.1 Multiple tents. The aggregate area of multiple tents separated by less than 12 feet (3658 mm) shall not

exceed 900 square feet unless approved in accordance with Section 3103.2.

4. Change Section 3103.4 to read:

3103.4 Permits. Permits shall be required as set forth in Section 107.2.

5. Change ~~Section~~ Sections 3103.9.1 through 3103.9.3 to read:

3103.9.1 Tents and membrane structures exceeding one story. Tents and membrane structures exceeding one story shall be designed and constructed to comply with applicable building code.

3103.9.2 Tents and membrane structures greater than 7,500 square feet. Tents and membrane structures greater than 7,500 square feet shall be designed and constructed to comply with the applicable building code.

3103.9.3 Tents and membrane structures with an occupant load greater than 1,000. Tents and membrane structures with an occupant load greater than 1,000 shall be designed and constructed to comply with applicable building code.

C. The following changes shall be made to Section 3104, Temporary and Permanent Tents and Membrane:

1. Change Section 3104.1 to read:

3104.1 General. 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 applicable building code.

2. Change Section 3104.2 to read:

3104.2 Flame propagation performance treatment. Before a permit is granted, the owner or agent shall file 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 where used on floors or passageways, are composed of material meeting the flame propagation performance criteria of Test Method 1 or Test Method 2, as appropriate, of NFPA 701 or shall be treated with a flame retardant in an approved manner and meet the flame propagation performance criteria of Test Method 1 or Test Method 2, as appropriate, of NFPA 701, and that such flame propagation performance criteria are effective for the period specified by the permit.

3. Change Section 3104.4 to read:

3104.4 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 all of the following information relative to the flame propagation performance criteria of the fabric:

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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.
4. Change Section 3104.13 to read:
- 3104.13 Fire protection equipment. Fire hose lines, water supplies, and other auxiliary fire equipment shall be maintained at the site in such numbers and sizes as approved.
5. Change Section 3104.14 to read:
- 3104.14 Occupant load factors. The occupant load allowed in an assembly structure, or portion thereof, shall be determined in accordance with Chapter 10 or applicable building code.
6. Change Section 3104.15.1 to read:
- 3104.15.1 Installation. Heating or cooking equipment tanks, piping, hoses, fittings, valves, tubing, and other related components shall be installed as specified by the applicable building code and shall be approved.
7. Change Section 3104.15.2 to read:
- 3104.15.2 Venting. Gas, liquid and solid fuel burning equipment designed to be vented shall be vented to the outside air as specified by the applicable building code and shall be approved. Such vents shall be equipped with approved spark arresters where 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.
8. [ ~~4. Change Section 3104.16.1 to read: 3104.16.1 General. LP gas equipment such as tanks, piping, hoses, fittings, valves, tubing and other related components shall be approved and in accordance with Chapter 61 and with the applicable building code. ]~~
- D. The following changes shall be made to Section 3105, Temporary ~~State Canopies~~ Special Event Structures:
1. Change Section 3105.1 to read:  
~~(N)3105.1~~ 3105.1 General. Operation and maintenance of temporary [ stage canopies ~~special event structures~~ ] shall be in accordance with Section 3104, Sections 3105.2 through ~~3105.8~~ [ ~~3105.9~~ 3105.7 ] and ANSI E1.21.
  2. Change ~~Section~~ Sections 3105.2 and 3105.3 to read:  
~~(N)3105.2~~ 3105.2 Approval. Temporary [ stage canopies ~~special event structures~~ ] in excess of 400 square feet (37 m<sup>2</sup>) shall not be erected for any purpose without first obtaining approval and a permit from the building official.
- 3105.3 Permits. Permits shall be required as set forth in Section 107.2.
3. Change Section 3105.5 to read:  
~~(N)3105.5~~ 3105.5 Required documents. Documents shall be submitted to the building official where required by the USBC. [ ~~Where an operational permit is required, the following documents shall be submitted to the fire official for approval:~~
    - ~~1. Designation of responsible party: The owner of the temporary special event structure shall designate in writing a person to have responsibility for the temporary special event structure on the site. The designated person shall have sufficient knowledge of the construction documents, manufacturer's recommendations, and operations plan to make judgments regarding the structure's safety and to coordinate with the fire code official.~~
    - ~~2. Operations plan: The operations plan shall reflect manufacturer's operational guidelines, procedures for environmental monitoring and actions to be taken under specified conditions consistent with the construction documents.~~Note: Construction documents shall be submitted to the building official where required by the USBC. Documents shall be submitted to the building official where required by the USBC. ]
  4. Change [ ~~Section~~ Sections 3105.6 through ] 3105.6.2 to read:  
[ 3105.6 Inspections. Inspections shall comply with Section 106 and Sections 3105.6.1 and 3105.6.2.  
3105.6.1 Independent inspector. The owner of a temporary stage canopy shall employ a qualified, independent approved agency or individual to inspect the installation of a temporary stage canopy. ]  
~~(N)3105.6.2~~ 3105.6.2 Inspection report. The inspecting agency or individual shall furnish an inspection report to the building official and fire code official. The inspection report shall indicate that the temporary stage canopy was inspected and was or was not installed in accordance with the approved construction documents. Discrepancies shall be brought to the immediate attention of the installer for correction. Where any discrepancy is not corrected, it shall be brought to the attention of the building official and fire code official and the designated responsible party.
  5. Change Section 3105.7 to read:  
~~(N)3105.7~~ 3105.7 Means of egress. The means of egress for temporary stage canopies shall comply with Chapter 10 and the applicable building code.
  6. Delete Section 3105.8.
  7. Change Section 3106.2.2 to read:



3106.2.2 Permits. An operational permit shall be required as set forth in Section 107.2.

8. Change Section 3107.10 to read:

3107.10 Fire protection equipment. Fire hose lines, water supplies, and other auxiliary fire equipment shall be maintained at the site in such numbers and sizes as required by the fire code official.

9. Change Section 3107.11 to read:

3107.11 Occupant load factors. The occupant load allowed in an assembly structure, or portion thereof, erected for a period of 180 days or less shall be determined in accordance with Chapter 10 of the IFC.

10. Change Section 3107.12.1 to read:

3107.12.1 Installation. Heating or cooking equipment tanks, piping, hoses, fittings, valves, tubing, and other related components in assembly structures, or portions thereof, erected for 180 days or fewer shall be operated and maintained in accordance with manufacturer specifications and other provisions of this code.

11. Change Section 3107.12.2 to read:

3107.12.2 Venting. Gas, liquid, and solid fuel-burning equipment designed to be vented shall be vented to the outside air as specified by the applicable building code and shall be approved. Such vents shall be equipped with approved spark arresters where 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.

[12. Change Section 3107.12.5 to read:

3107.12.5 Cooking tents. Cooking tents shall be separated from other tents or membrane structures by not less than 20 feet (6096 mm).

13. Change Section 3107.13.1 to read:

3107.13.1 General. LP-gas equipment such as tanks, piping, hoses, fittings, valves, tubing and other related components shall be approved and in accordance with Chapter 61 and with the applicable building code. ]

**13VAC5-51-144.4. IFC Chapter 32 High-Piled Combustible Storage.**

A. The following changes shall be made to Section 3201, General:

1. Change Section 3201.1 to read:

~~(N)3201.1~~ 3201.1 Scope. Maintenance and operational aspects of high-piled combustible storage shall be in accordance with this chapter. In addition to the requirements of this chapter, the following material-specific requirements shall apply:

1. Aerosols shall be in accordance with Chapter 51.

2. Flammable and combustible liquids shall be in accordance with Chapter 57.

3. Hazardous materials shall be in accordance with Chapter 50.

4. Storage of combustible paper records shall be in accordance with the applicable NFPA 13 standard.

5. Storage of combustible fibers shall be in accordance with Chapter 37.

6. General storage of combustible material shall be in accordance with Chapter 3.

2. Change Section 3201.2 to read:

3201.2 Permits. A permit shall be required as set forth in Section 107.2.

3. Change Section 3201.3 and delete Sections 3201.3.1 and 3201.3.2.

Section 3201.3 to read:

~~(N)3201.3 Construction documents. 3201.3 High-piled storage operational plan. Prior to the use and operation of high-piled storage in new structures or buildings requesting a change of occupancy or use, plans and specifications shall be submitted to the building official for review and approval. Following approval of the plans, a copy of the approved plans shall be maintained on the premises in an approved location. The onsite plans shall include the following applicable items:~~

1. Floor plan of the building showing locations and dimensions of high-piled storage areas.

2. Usable storage height for each storage area.

3. Number of tiers within each rack if applicable.

4. Commodity clearance between top of storage and the sprinkler deflector for each storage arrangement.

5. Aisle dimensions between each storage array.

6. Maximum pile volume for each storage array.

7. Location and classification of commodities in accordance with Section 3203 or the applicable building code.

8. Location of commodities that are banded or encapsulated.

9. Location of required fire department access doors.

10. Type of fire suppression and fire detection systems.

11. Location of valves controlling the water supply of ceiling and in-rack sprinklers.

12. Type, location, and specifications of smoke removal and curtain board systems.

13. Dimension and location of transverse and longitudinal flue spaces.

14. Additional information regarding required design features, commodities, storage arrangement, and fire

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protection features within the high-piled storage area when required by the fire code official.

B. The following changes shall be made to Section 3204, Designation of High-Piled Storage Areas:

1. Change Section 3204.1 to read:

~~(N)3204.1~~ 3204.1 General. The ~~operational~~ operation and maintenance of high-piled storage areas, and portions of high-piled storage areas intended for storage, shall be maintained in accordance with the approved plan specified in Section 3201.3 and the applicable building code.

2. Delete Section 3204.2.

C. The following changes shall be made to Section 3206, General Fire Protection and Life Safety Features:

1. Change Section 3206.1 to read:

~~(N)3206.1~~ 3206.1 General. Fire protection and life safety features for high-piled storage areas shall be maintained in accordance with the applicable building code Sections 3206.3 through 3206.10.

2. Delete ~~Section~~ Sections 3206.2 and 3206.2.1 and Table 3206.2.

3. ~~Delete Change~~ Section 3206.3, 3206.3 to read:

3206.3 Separation of high-piled storage areas. High-piled storage areas shall be maintained as separated from other portions of the building where required by the storage plan in Section 3201.3 and the applicable building code.

4. ~~Delete Change~~ Section 3206.3.1, to read:

3206.3.1 Separation from other uses. Mixed occupancies shall be maintained as separated in accordance with the storage plan in Section 3201.3 and the applicable building code.

5. ~~Delete Change~~ Section 3206.3.2, to read:

3206.3.2 Multiple high-piled storage areas. Multiple high-piled storage areas shall be maintained in accordance with the storage plan in Section 3201.3 and the applicable building code.

6. Delete Section 3206.3.2.1.

7. ~~Delete Section~~ 3206.3.2.2.

8. 7. Change Section 3206.4 to read:

~~(N)3206.4~~ 3206.4 Automatic sprinklers. Automatic sprinkler systems shall be maintained in accordance with Chapter 9 and remain in accordance with the applicable building code.

~~(N)3206.4.1~~ 3206.4.1 Pallets. The requirements based on the presence of pallets shall be maintained in accordance with the storage plan in Section 3201.3 and the applicable building code.

9. 8. Change Section 3206.4.1.1 to read:

~~(N)3206.4.1.1~~ 3206.4.1.1 Plastic pallets. Plastic pallets listed and labeled in accordance with UL 2335 or FM 4996 shall be treated as wood pallets.

~~10. 9.~~ Change Section 3206.5 to read:

~~(N)3206.5~~ 3206.5 Fire detection. Fire detection provided for high-piled storage areas shall be maintained in accordance with Chapter 9 and remain in accordance with the approved storage plan in section 3201.3, and the applicable building code.

~~11. 10.~~ Change Section 3206.6 to read:

~~(N)3206.6~~ 3206.6 Building access. Where building access is required, ~~it shall be maintained in accordance with the applicable building code~~ by the applicable building code, fire apparatus access roads shall remain and be maintained in accordance with Section 503.

~~12. 11.~~ Change Section ~~3206.6.1~~ 3206.7 to read:

~~(N)3206.6.1~~ 3206.7 Access doors. Access doors shall be ~~maintained in accordance with~~ accessible, available at all times, and remain in accordance with the approved storage plan in Section 3201.3 and the applicable building code.

12. Delete Sections 3206.7.1 through 3206.7.3.

13. Change Section ~~3206.6.1.1~~ 3206.7.5 to read:

~~(N)3206.6.1.1~~ 3206.7.5 Number of doors required. The minimum number of doors shall be maintained in accordance with the approved storage plan in Section 3201.3 and remain in accordance with the applicable building code.

14. Change Section ~~3206.6.1.2~~ 3206.7.6 to read:

~~(N)3206.6.1.2~~ 3206.7.6 Door size and type. Access doors shall be maintained in accordance with the approved storage plan in Section 3201.3 and remain in accordance with the applicable building code. Roll-up doors shall not be used unless approved.

15. Delete ~~Section 3206.1.3~~ Sections 3206.7.7 and 3206.7.8.

16. Change Section ~~3206.7~~ 3206.8 to read:

~~(N)3206.7~~ 3206.8 Smoke and heat removal. Where smoke and heat removal ~~is~~ systems including draft curtains are required, it shall be maintained in accordance with Chapter 9 and the approved storage plan in Section 3201.3 and remain in accordance with the applicable building code.

17. Change Section ~~3206.8~~ 3206.9 to read:

~~(N)3206.8~~ 3206.9 Fire department hose connections. Where a standpipe system is ~~required for exit passageways provided,~~ it shall be maintained in accordance with Chapter 9 and remain in accordance with the applicable building code.

18. Change Section ~~3206.9~~ 3206.10 to read:

~~(N)3206.9~~ 3206.10 Aisles. Aisles separating storage piles or racks shall be maintained unobstructed and remain in accordance with the approved storage plan in Section 3201.3 and in accordance with the applicable building code.

19. Change Section ~~3206.9.1~~ 3206.10.1 to read:

~~(N)3206.9.1~~ 3206.10.1 Width. Aisle width shall be maintained to the approved storage plan in Section 3201.3 and remain in accordance with the applicable building code.

Exceptions:

1. Aisles crossing rack structures or storage piles, which are used only for employee access, shall be a minimum of 24 inches (610 mm) wide.

2. Aisles separating shelves classified as shelf storage shall be a minimum of 30 inches (762 mm) wide.

20. Change Section ~~3206.9.1.1~~ 3206.10.1.1 to read:

~~(N)3206.9.1.1~~ 3206.10.1.1 Sprinklered buildings. Aisles in sprinklered buildings shall be maintained in accordance with the applicable building code.

21. Change Section ~~3206.9.1.2~~ 3206.10.1.2 to read:

~~(N)3206.9.1.2~~ 3206.10.1.2 Nonsprinklered buildings. Aisles in nonsprinklered buildings shall be maintained in accordance with the applicable building code.

22. Change Section ~~3206.9.2~~ 3206.10.2 to read:

~~(N)3206.9.2~~ 3206.10.2 Clear height. The required aisle width shall be maintained from the floor to ceiling in accordance with the approved storage plan in Section 3201.3 and in accordance with the applicable building code. Rack structural supports and catwalks are allowed to cross aisles at a minimum height of 6 feet 8 inches (2032 mm) above the finished floor level, provided that such supports do not interfere with fire department hose stream trajectory.

23. ~~Delete Change Section 3206.9.3.~~ 3206.10.3 to read:

3206.10.3 Dead ends. Dead-end aisles shall not exceed the approved storage plan in section 3201.3.

D. The following changes shall be made to Section 3207, Solid-Piled and Shelf Storage:

1. Change Section 3207.2 to read:

~~(N)3207.2~~ 3207.2 Fire protection. Where automatic sprinklers are provided, they shall be maintained in accordance with the applicable building code.

2. Change Section 3207.2.1 to read:

~~(N)3207.2.1~~ 3207.2.1 Shelf storage. Shelf storage greater than 12 feet (3658 mm) but less than 15 feet (4572 mm) in height shall be in accordance with the fire protection requirements set forth in the applicable building code. Shelf storage 15 feet (4572 mm) or more in height shall be

protected in an approved manner as required by this code and the applicable building code.

3. Change Section 3207.3 to read:

~~(N)3207.3~~ 3207.3 Pile dimension and height limitations. Pile dimensions, the maximum permissible storage height and pile volume shall be maintained in accordance with the approved storage plan in Section 3201.3 and remain in accordance with the applicable building code.

4. Change Section 3207.4 to read:

~~(N)3207.4 Array~~ 3207.4 Arrays. Where an automatic sprinkler system design utilizes protection based on a closed array, array clearances shall be maintained as specified by the standard used and approved storage plan in Section 3201.3.

E. The following changes shall be made to Section 3208, Rack Storage:

1. Change Section 3208.2 to read:

~~(N)3208.2~~ 3208.2 Fire protection. Where automatic sprinklers are provided, they shall be maintained in accordance with ~~the applicable building code~~ Chapter 9.

2. Change Section 3208.2.2 to read:

~~(N)3208.2.2~~ 3208.2.2 Racks with solid shelving. Racks with solid shelving having an area greater than 20 square feet (1.9 m<sup>2</sup>), measured between approved flue spaces at all four edges of the shelf, shall be in accordance with this section.

Exceptions:

1. Racks with mesh, grated, slatted or similar shelves having uniform openings not more than 6 inches (152 mm) apart, comprising not less than 50% of the overall shelf area, and with approved flue spaces are allowed to be treated as racks without solid shelves.

2. Racks used for the storage of combustible paper records with solid shelving shall be in accordance with the applicable ~~building code~~ NFPA 13 standard.

3. Change Section 3208.2.2.1 to read:

~~(N)3208.2.2.1~~ 3208.2.2.1 Fire protection. Fire protection for racks with solid shelving shall be in accordance with the applicable building code.

4. ~~Delete Change Section 3208.3 and Table 3208.3.~~ to read:

3208.3 Flue spaces. Flue spaces shall be maintained in accordance with Table 3208.3 or the approved storage plan in Section 3201.3 and remain in accordance with the applicable building code.

5. Change Section 3208.3.1 to read:

~~(N)3208.3.1~~ 3208.3.1 Flue space protection. Where required by the fire code official, flue spaces required by the applicable building code, in single-row, double-row, or multiple-row rack storage installations shall be

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equipped with approved devices to protect the required flue spaces. Such devices shall not be removed or modified.

6. Change Section 3208.4 to read:

~~(N)3208.4~~ 3208.4 Column protection. Protection for steel building columns shall be maintained in accordance with approved storage plan in Section 3201.3 and Chapter 9 and remain in accordance with the applicable building code.

7. Change Section 3208.5 to read:

~~(N)3208.5~~ 3208.5 Extra-high-rack storage systems. Approval shall be obtained prior to installing extra high rack combustible storage.

8. Change Section 3208.5.1 to read:

~~(N)3208.5.1~~ 3208.5.1 Fire protection. Fire protection provided for buildings with extra high rack combustible storage shall be maintained in accordance with the applicable building code.

F. The following changes shall be made to Section 3209, Automated Storage:

1. Change Section 3209.2 to read:

~~(N)3209.2~~ 3209.2 Automatic sprinklers. Where automatic sprinklers are provided, they shall be maintained in accordance with the applicable ~~building code~~ NFPA 13 standard.

2. Change Section 3209.3 to read:

~~(N)3209.3~~ 3209.3 Carousel storage. High-piled storage areas having greater than 500 square feet (46 m<sup>2</sup>) of carousel storage, including automatic shutdown devices, shall be maintained in accordance with the approved storage plan in Section 3201.3 and shall be maintained in accordance with the applicable building code.

3. Change Section 3209.4 to read:

~~(N)3209.4~~ 3209.4 Automated rack storage. High-piled storage areas with automated rack storage shall be maintained in accordance with the ~~applicable building code. The switch shall be clearly identified and shall be in a location approved.~~ approved storage plan in Section 3201.3. A manually activated emergency shutdown switch for use by emergency personnel shall be clearly identified and shall be maintained and accessible in accordance with the applicable building code.

G. The following change shall be made to Section 3210, Specialty Storage:

Change Section 3210.1 to read:

~~(N)3210.1~~ 3210.1 General. Records storage facilities used for the rack or shelf storage of combustible paper records greater than 12 feet (3658 mm) in height shall be maintained in accordance with Sections 3206 and 3208, the approved storage plan in Section 3201.3, and remain

in accordance with the applicable building code. Palletized storage of records shall be in accordance with ~~the applicable building code~~ Section 3207.

## 13VAC5-51-144.5. IFC Chapter 33 Fire Safety During Construction and Demolition.

[ Make the following changes to Chapter 33:

1. Change Section 3308.9 to read:

3308.9 Fire safety for buildings of Types IV-A, IV-B, and IV-C construction. Buildings of Types IV-A, IV-B, and IV-C construction designed to be greater than six stories above grade plane shall comply with the following:

1. Standpipes provided in accordance with the applicable building code shall be maintained.

2. A water supply for fire department operations, as approved by the fire code official and the fire chief.

2. ] Change Section 3314.1 to read:

3314.1 Completion before occupancy. In buildings where an automatic sprinkler system is required by this code or the applicable building code, ~~it shall be unlawful to occupy any portion of a building or structure until the automatic sprinkler system installation has been tested and approved, except as provided in Section 106 the building, or portion thereof, shall not be occupied until the automatic sprinkler system has been tested and approved, except where approved by the building official.~~

## 13VAC5-51-144.6. IFC Chapter 34 Tire Rebuilding and Tire Storage.

A. Change Section 3401.1 to read:

3401.1 Scope. The maintenance and operation of tire rebuilding plants, tire storage, and tire byproduct facilities shall comply with this chapter, and other applicable requirements of this code, ~~and NFPA 13, as originally approved.~~ Tire storage in buildings shall also comply with Chapter 32.

B. Change Section 3401.2 to read:

3401.2 Permit required. Permits shall be required as set forth in Section 107.2.

C. Change Section 3403.1 to read:

~~(N)3403.1~~ 3403.1 Construction. Tire rebuilding plants shall ~~comply with~~ maintain the requirements of the applicable building code, as to construction, separation from other buildings or other portions of the same building, and protection.

D. ~~Delete~~ Change Section 3403.2: to read:

3403.2 Location. Unless otherwise approved by the applicable building code, buffing operations shall be located in a room separated from the remainder of the building

housing the tire rebuilding or tire recapping operations by a fire-resistance rated separation in accordance with the applicable building code.

E. Change Section 3406.1 to read:

3406.1 Required access. New and existing tire storage yards shall be provided with fire apparatus access roads in accordance with Section 503 and Section 3406.2.

**13VAC5-51-144.8. IFC Chapter 36 Marinas.**

A. Change Section [ 3603.5 ] to read:

~~(N)3603.5~~ 3603.5 Electrical equipment. Electrical equipment shall be maintained in accordance with its listing, Section 605 of this code, and NFPA 303 as required for wet, damp, and hazardous locations.

B. Change Section 3604.2 to read:

~~(N)3604.2~~ 3604.2 Standpipes. ~~Standpipes provided for marinas and boatyards shall be maintained in accordance with the applicable building code.~~ Marinas and boatyards equipped with standpipe systems shall be maintained in accordance with NFPA 303 and Chapter 9.

[ C. Change Section 3605.1 to read:

3605.1 Fuel dispensing. Marine motor fuel-dispensing facilities shall be in accordance with Chapter 23. For tanks subject to 9VAC25-91, Facility and Aboveground Storage Tank (AST) Regulation, or 9VAC25-580, Underground Storage Tanks: Technical Standards and Corrective Action Requirements, see Section 5701.1.1. ]

**13VAC5-51-144.9. IFC Chapter 37 Combustible Fibers.**

A. Change Section 3701.3 to read:

3701.3 Permits. Permits shall be required as set forth in Section 107.2.

B. Change Section 3703.5 to read:

~~(N)3703.5~~ 3703.5 Dust collection. ~~Dust collection and exhaust systems required or provided for~~ Where located within a building, equipment or machinery that generates or emits combustible fibers shall be maintained in accordance with the applicable building code operated with an approved dust-collecting and exhaust system in accordance with the applicable building code and maintained in accordance with Chapter 22.

C. Change Section 3704.3 to read:

~~(N)3704.3~~ 3704.3 Storage of more than 100 cubic feet to 500 cubic feet. Loose combustible fibers in quantities exceeding 100 cubic feet (3 m<sup>3</sup>) but not exceeding 500 cubic feet (14 m<sup>3</sup>) shall be stored in rooms in accordance with the applicable building code.

Note: These rooms are typically required to be fire resistance rated in accordance with the applicable building code.

D. Change Section 3704.4 to read:

~~(N)3704.4~~ 3704.4 Storage of more than 500 cubic feet to 1,000 cubic feet. Loose combustible fibers in quantities exceeding 500 cubic feet (14 m<sup>3</sup>) but not exceeding 1,000 cubic feet (28 m<sup>3</sup>) shall be stored in rooms in accordance with the applicable building code.

Note: These rooms are typically required to be fire resistance rated in accordance with the applicable building code.

E. Change Section 3704.5 to read:

~~(N)3704.5~~ 3704.5 Storage of more than 1,000 cubic feet. Loose combustible fibers in quantities exceeding 1,000 cubic feet (28 m<sup>3</sup>) shall be stored in rooms in accordance with the applicable building code.

Note: These rooms may be required to be fire resistance rated and protected by fire suppression systems in accordance with the applicable building code.

**[ 13VAC5-51-144.91. IFC Chapter 38 - Higher education labs.**

The following changes shall be made to Chapter 38 - Higher education laboratories.

1. Change Sections 3801.1 and 3801.2 to read:

3801.1 Scope. Higher education laboratories and laboratory suites complying with the requirements of this chapter and the applicable building code shall be permitted to exceed the maximum allowable quantities of hazardous materials in control areas without requiring classification as a Group H occupancy.

3801.2 Application. The provisions of this chapter shall be applied as exceptions or additions to applicable requirements of this code. Unless specifically modified by this chapter, the storage, use and handling of hazardous materials shall comply with the provisions in Chapters 50 through 67 and the applicable building code for quantities not exceeding the maximum allowable quantity.

2. Change Sections 3803.1, 3803.1.7, and 3803.2.1 to read:

3803.1 Scope. Higher education laboratories and laboratory suites shall be in accordance with the general safety provisions in Sections 3803.1.1 through 3803.2.2.

3803.1.7 Automatic fire-extinguishing systems. Where provided, an automatic sprinkler system shall be maintained in accordance with Chapter 9.

3803.2.1 Container size. The maximum container size for all hazardous materials shall be 5.3 gallons (20 L) for liquids, 50 pounds (22.7 kg) for solids, 100 cubic feet (2.83 m<sup>3</sup>) for health-hazard gases per the applicable building code, and 500 cubic feet (14.15 m<sup>3</sup>) for all other gases in accordance with the applicable building code.

Exception: Hazardous waste collection containers, for other than Class I flammable liquids and Class II

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combustible liquids, are permitted to exceed 5.3 gallons (20 L) where approved.

3. Delete Section 3804.1.1.3 and Table 3804.1.1 and change Sections 3804.1 through 3804.1.1.2, 3804.1.1.4, and 3804.1.1.6 through 3804.1.2 to read:

3804.1 General. Where laboratory suites are provided, they shall be constructed in accordance with the applicable building code and approved by the Building Official.

3804.1.1 Laboratory suites. The number of laboratory suites and percentage of maximum allowable quantities of hazardous materials in laboratory suites shall be in accordance with the applicable building code.

3804.1.1.1 Separation from other non-laboratory areas. Laboratory suites shall maintain separation from other portions of the building in accordance with Chapter 7 and the applicable building code.

3804.1.1.2 Separation from other laboratory suites. Laboratory suites shall be separated from other laboratory suites in accordance with Chapter 7 and the applicable building code.

3804.1.1.4 Maximum number. The maximum number of laboratory suites shall be in accordance with the applicable building code. Where a building contains both laboratory suites and control areas, the total number of laboratory suites and control areas within a building shall not exceed the maximum number of laboratory suites in accordance with the applicable building code.

3804.1.1.6 Standby or emergency power. Emergency or standby power for higher education laboratory suites shall be maintained in accordance with Section 1203.2.13.

3804.1.1.7 Ventilation. Ventilation shall be maintained in accordance with Chapter 7 of NFPA 45, and the applicable building code.

3804.1.1.8 Liquid-tight floor. Portions of laboratory suites where hazardous materials are present shall be maintained with a liquid-tight floor in accordance with the applicable building code.

3804.1.1.9 Automatic fire-extinguishing systems. Buildings containing laboratory suites shall be maintained throughout with an approved automatic sprinkler system in accordance with Chapter 9.

3804.1.2 Percentage of maximum allowable quantity in each laboratory suite. The percentage of maximum allowable quantities of hazardous materials in each laboratory suite shall be in accordance with the applicable building code.

4. Delete Table 3805.4 and change Sections 3805.1 through 3805.4 to read:

3805.1 Scope. Storage and use of hazardous materials in existing higher education laboratories located within existing buildings not equipped throughout with an automatic sprinkler system is permitted where such use

complies with the applicable building code, Section 3803, Chapters 50 through 67, as applicable, and Sections 3805.2 through 3805.4.

3805.2 Nonsprinklered laboratories. The maximum allowable quantities of hazardous materials in storage and use in control areas in higher education laboratories located in buildings not equipped throughout with an automatic sprinkler system in accordance with the applicable NFPA 13 standard, shall be in accordance with the applicable building code and Sections 3805.2.1 and 3805.2.2.

3805.2.1 Restricted materials storage. Where approved in accordance with the applicable building code, storage of the following hazardous materials in buildings not equipped throughout with an automatic sprinkler system to the applicable NFPA 13 standard are allowed within a higher education laboratory control area where maintained in accordance with this section:

1. Pyrophorics.
2. Class 4 Oxidizers.

Additional quantity increases shall be prohibited, and such materials shall be stored in accordance with all of the following:

1. Containers shall be completely sealed and stored in accordance with the manufacturers' recommendations.
2. Storage shall be within approved hazardous material storage cabinets in accordance with Section 5003.8.7 or shall be located in an inert atmosphere glove box in accordance with NFPA 45, Section 7.11.
3. The storage cabinet or glove box shall not contain any storage of incompatible materials.

3805.2.2 Restricted materials use. Where approved by the applicable building code, the use of the following hazardous materials in buildings not equipped throughout with an automatic sprinkler system in accordance with the applicable NFPA 13 standard, shall be allowed within a higher education laboratory control area where maintained in accordance with this section:

1. Pyrophorics.
2. Class 4 Oxidizers.

Additional quantity increases shall be prohibited, and such materials shall only be used in accordance with all of the following:

1. Use shall be within an approved chemical fume hood listed in accordance with UL 1805 or in an inert atmosphere glove box in accordance with NFPA 45, Section 7.11, or other approved equipment designed for the specific hazard of the material.
2. Combustible materials shall be kept not less than 2 feet (610 mm) away from the work area, except for those items directly related to the research.

3. A portable fire extinguisher appropriate for the specific material shall be provided within 20 feet (6096 mm) of the use in accordance with Section 906.

3805.3 Restricted materials automatic fire detection. Where provided in higher education laboratories in nonsprinklered buildings, an automatic fire detection system shall be maintained in accordance with Chapter 9.

3805.3.1 System supervision and monitoring. Where required or provided, automatic fire detection systems shall be electronically supervised and monitored by an approved supervising station or, where approved, shall initiate an audible and visual signal at a constantly attended, onsite location.

3805.4 Percentage of maximum allowable quantity per control area. The percentage of maximum allowable quantities per control area of hazardous materials in higher education laboratories in existing nonsprinklered buildings shall be permitted to be increased only in accordance with the applicable building code and approval from the Building Official.

5. Delete Table 3806.2.1 and change Sections 3806.1 through 3806.2.1 to read:

3806.1 Scope. Storage and use of hazardous materials in existing higher education laboratories within buildings equipped throughout with an automatic sprinkler system in accordance with the applicable NFPA 13 standard, shall be in accordance with Section 3803 and with Chapters 50 through 67, as applicable, except as modified by this section.

3806.2 Hazardous materials storage and use. Storage and use of hazardous materials within control areas in higher education laboratories equipped with an automatic sprinkler system shall be in accordance with this section and Chapters 50 through 67, as applicable.

Exception: Existing laboratories in buildings equipped throughout with an automatic sprinkler constructed and approved as laboratory suites in accordance the applicable building code are permitted to comply with Section 3804.

3806.2.1 Percentage of maximum allowable quantities per control area. The percentage of maximum allowable quantities per control area of hazardous materials in higher education laboratories equipped with an automatic sprinkler system shall be in accordance with the applicable building code.

## **13VAC5-51-144.92. IFC Chapter 39 Processing and extraction facilities.**

Change Sections 3901.1, 3901.3, 3903.1, 3903.4.1, 3904.1, 3905.1, and 3905.1.1 to read:

1. 3901.1 Scope. Plant processing or extraction facilities shall comply with this chapter and the applicable building code. The extraction process includes the act of extraction of the oils and fats by use of a solvent, desolventizing of the

raw material, production of the miscella, distillation of the solvent from the miscella and solvent recovery. The use, storage, transfilling, and handling of hazardous materials in these facilities shall comply with this chapter, other applicable provisions of this code, and the applicable building code.

2. 3901.3 Permits. Permits shall be required as set forth in Section 107.2.

3. 3903.1 Locations. Processing located in a building shall be maintained in accordance with the applicable building code.

4. 3903.4.1 Industrial ovens. The use of industrial ovens shall comply with the applicable building code and Chapter 30.

5. 3904.1 General requirements. Systems and equipment used with the processing and extraction of oils and products from plants shall comply with Sections 3904.2 through 3904.4, Chapter 50, other applicable provisions of this code and the applicable building code.

6. 3905.1 Gas detection. Continuous gas detection system provided in accordance with the applicable building code for extraction processes utilizing flammable gases as solvents shall be maintained as approved. The gas detection threshold shall be not greater than 25% of the lower explosive limit/lower flammability limit (LEL/LFL) of the materials, unless otherwise approved in accordance with the applicable building code.

7. 3905.1.1 System design. Flammable gas detection system provided in accordance with the applicable building code shall be calibrated to the types of fuels or gases used for the extraction process. The gas detection system shall be maintained. The gas detection threshold shall be not greater than 25% of the lower explosive limit/lower flammability limit (LEL/LFL) of the materials, unless otherwise approved in accordance with the applicable building code. ]

## **13VAC5-51-145. IFC Chapter 50 Hazardous Materials - General Provisions.**

A. The following changes shall be made to Section 5001, General:

1. Change Section 5001.1 to read:

5001.1 Scope. Prevention, control and mitigation of dangerous conditions related to storage, dispensing, use and handling of hazardous materials shall be in accordance with this chapter for operational usage. Quantities within buildings shall be maintained in accordance with the applicable building code.

This chapter shall apply to all hazardous materials, including those materials regulated elsewhere in this code, except that where specific requirements are provided in other chapters, those specific requirements shall apply in

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accordance with the applicable chapter. Where a material has multiple hazards, all hazards shall be addressed.

Exceptions:

1. In retail or wholesale sales occupancies, the quantities of medicines, foodstuff or consumer products, and cosmetics containing not more than 50% by volume of water-miscible liquids and with the remainder of the solutions not being flammable shall not be limited, provided such materials are packaged in individual containers not exceeding 1.3 gallons (5 L).
  2. Quantities of alcoholic beverages in retail or wholesale sales occupancies shall not be limited providing the liquids are packaged in individual containers not exceeding 1.3 gallons (5 L).
  3. Application and release of pesticide and agricultural products and materials intended for use in weed abatement, erosion control, soil amendment, or similar applications where applied in accordance with the manufacturer's instructions and label directions.
  4. The offsite transportation of hazardous materials where in accordance with U.S. Department of Transportation regulations.
  5. Building materials not otherwise regulated by this code.
  6. Refrigeration systems (see Section 606).
  7. Stationary storage battery systems regulated by Section 608.
  8. The display, storage, sale or use of fireworks and explosives in accordance with Chapter 56.
  9. Corrosives utilized in personal and household products in the manufacturer's original consumer packaging in Group M occupancies.
  10. The storage of distilled spirits and wines in wooden barrels and casks.
  11. The use of wall-mounted dispensers containing alcohol-based hand rubs classified as Class I or II liquids where in accordance with Section 5705.5.
2. Delete Section 5001.1.1.
  3. Change Section 5001.3.3.9 to read:  
~~(N)5001.3.3.9~~ 5001.3.3.9 Reliable power source. Where a power supply is relied upon to prevent or control an emergency condition that could endanger people or property, the power supply shall be maintained in accordance with the applicable building code.
  4. Change Section 5001.3.3.10 to read:  
~~(N)5001.3.3.10~~ 5001.3.3.10 Ventilation. Where ventilation is required by the applicable building code maintained.
  5. Change Section 5001.5 to read:  
5001.5 Permits. Permits shall be required as set forth in Section 107.2.

6. Add the following language to the end of Section 5001.5.1 to read:

The HMMP shall be maintained onsite for use by emergency responders and shall be updated not less than annually.

7. Add the following language to the end of Section 5001.5.2 to read:

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.

8. Add Sections 5001.5.3, 5001.5.3.1, and 5001.5.3.2 to read:

5001.5.3 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 5001.5.1 and 5001.5.2 so as to be readily available to emergency response personnel.

5001.5.3.1 Location and identification. The repository container (lock box) shall be located, installed and identified in an approved manner.

5001.5.3.2 Keying. All repository containers (lock boxes) shall be keyed as required by the fire code official.

9. Add Section 5001.7, including subsections, to read:

5001.7 Operational requirements for Group B teaching and research laboratories. Teaching and research laboratories in Group B educational occupancies above the 12th grade utilizing Section 430 of the USBC, Part I, Construction, or Section 306.1 of the USBC, Part II, Existing Buildings, shall comply with this section and other applicable requirements of this code. In the case of conflicts between the requirements of Section 430 of the USBC, Part I, Construction, or Section 306.1 of the USBC, Part II, Existing Buildings, and provisions of this code other than those set out in this section, Section 430 of the USBC, Part I, Construction, or Section 306.1 of the USBC, Part II, Existing Buildings, as applicable, shall govern.

5001.7.1 Chemical safety reviews. Operating and emergency procedures planning and documentation shall be as set out in Sections 5001.3.3.11 through 5001.3.3.17. Such documentation shall be prepared by laboratory safety personnel or special experts and shall be made available in the workplace for reference and review by employees. Copies of such documentation shall be furnished to the fire code official for review upon request.

5001.7.2 Hazardous materials handling. Receiving, transporting on site, unpacking, and dispensing of hazardous materials shall be carried out by persons trained in proper handling of such materials and shall be



performed in accordance with Chapters 50 through 67, as applicable.

5001.7.3 Hazard identification signage. Warning signs for other than building components shall be provided in accordance with Section 5003.5.

5001.7.4 Maintenance of equipment, machinery, and processes. Maintenance of equipment, machinery, and processes used with hazardous materials shall comply with Section 5003.2.6.

5001.7.5 Time sensitive materials. Containers of materials that have the potential to become hazardous during prolonged storage shall be dated when first opened and shall be managed in accordance with NFPA 45, Section 8.2.4.4.1.

5001.7.6 Maintenance of storage, dispensing, use, and handling requirements. Storage, dispensing, use, and handling requirements in the USBC, Part I, Construction, or the USBC, Part II, Existing Buildings, shall be maintained. Operational requirements not affecting the manner of construction shall comply with this chapter and Chapters 51 through 67, as applicable.

5001.7.7 Hazardous wastes. Storage, dispensing, use, and handling of hazardous waste shall comply with this chapter and Chapters 51 through 67, as applicable.

5001.7.8 Container size. The maximum container size for all hazardous materials shall be 5.3 gallons (20 L) for liquids, 50 pounds (23 kg) for solids, 100 cubic feet (2.8 m<sup>3</sup>) for health hazard gases per Table 5003.1.1(2), and 500 cubic feet (14 m<sup>3</sup>) for all other gases in accordance with Table 5003.1.1(1).

Exception: Hazardous waste collection containers, for other than Class I and Class II flammable liquids, are permitted to exceed 5.3 gallons (20 L) where approved.

5001.7.9 Density. Quantities of ~~Class~~ Classes I, II, and IIIA combustible or flammable liquids in storage and use within control areas or laboratory suites shall not exceed 8 gallons per 100 square feet (30 L/9.3 m<sup>2</sup>) of floor area, with not more than 4 gallons per 100 square feet (15 L/9.3 m<sup>2</sup>) being in use. Quantities of Class I flammable liquids in storage and use shall not exceed 4 gallons per 100 square feet (15 L/9.3 m<sup>2</sup>) of floor area with not more than 2 gallons (7.5 L) being in use. The maximum in use in open systems is limited to 10% of these quantities. Densities shall be reduced by 25% on the 4th-floor through 6th-floor levels above grade plane of the building and 50% above the 6th-floor level. The density is to be reduced to 50% of these values for buildings that are not protected throughout with an approved automatic fire sprinkler system. Regardless of the density, the maximum allowable quantity per control area or laboratory suite shall not be exceeded.

Exception: Density limits may be exceeded in designated hazardous waste collection areas or rooms within a control

area or laboratory suite, but stored quantities shall not exceed the maximum allowable quantity per laboratory suite or control area.

5001.7.10 Restricted materials in storage. Storage of pyrophorics and Class 4 oxidizers prohibited by Table 5003.1.1(1) in existing buildings not equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 of the USBC, Part I, Construction, shall be allowed within a control area at 25% of the limits in Table 5003.1.1(1) for a building equipped throughout with an automatic sprinkler system, with no additional increases allowed, provided that such materials are stored in accordance with all of the following:

1. Containers shall be completely sealed and stored according to the manufacturer's recommendations.
2. Storage shall be within approved hazardous materials storage cabinets in accordance with Section 5003.8.7 or shall be located in an inert atmosphere glove box in accordance with NFPA 45, Section 7.11.
3. The storage cabinet or glove box shall not contain any storage of incompatible materials.

5001.7.11 Restricted materials in use. Use of pyrophorics and Class 4 oxidizers prohibited by Table 5003.1.1(1) in existing buildings not equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 of the USBC, Part I, Construction, shall be allowed within a control area at 25% of the limits in Table 5003.1.1(1) for buildings equipped throughout with an automatic sprinkler system, with no additional increases allowed, provided that such materials are used in accordance with all of the following:

1. Use shall be within an approved chemical fume hood listed in accordance with UL 1805, or in an inert atmosphere glove box in accordance with NFPA 45, Section 7.11, or other approved equipment designed for the specific hazard of the material.
2. Combustible materials shall be kept at least 2 feet (610 mm) away from the work area, except for those items directly related to the research.
3. A portable fire extinguisher appropriate for the specific material shall be provided within 20 feet (6096 mm) of the use in accordance with Section 906.

B. The following changes shall be made to Section 5003, General Requirements:

1. ~~[ Add a new "Permissible fireworks" row to Table 5003.1.1(1) and change footnotes d and f to read: Change Section 5003.1.1 and delete Table 5003.1.1(1). ]~~

5003.1.1 Maximum allowable quantity per control area. The maximum allowable quantity per control area shall be maintained in accordance with the applicable building code or Table 5003.1.1(3) and Table 5003.1.1(4) for outdoor control areas.

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|                       |      |     |                    |     |     |     |     |     |     |     |
|-----------------------|------|-----|--------------------|-----|-----|-----|-----|-----|-----|-----|
| Permissible fireworks | 1.4G | H-3 | 125 <sup>***</sup> | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
|-----------------------|------|-----|--------------------|-----|-----|-----|-----|-----|-----|-----|

~~d. Maximum allowable quantities shall be increased 100% in buildings equipped throughout with an approved automatic sprinkler system in accordance with the applicable NFPA 13 standard. Where Note e applies, the increase for both Notes shall be applied accumulatively.~~

~~f. Quantities shall not be limited in a building equipped throughout with an approved automatic sprinkler system in accordance with the applicable NFPA 13 standard. ]~~

2. [ Delete Change footnote d of Table 5003.1.1(2) Table 5003.1.1(2) ] and [ change ] Sections 5003.1.3 and 5003.1.4 [ - to read:

Footnote d to read:

~~d. Maximum allowable quantities shall be increased 100% in buildings equipped throughout with an approved automatic sprinkler system in accordance with the applicable NFPA 13 standard. Where Note e applies, the increase for both Notes shall be applied accumulatively.~~

5003.1.3 Quantities not exceeding the maximum allowable quantity per control area. The storage, use, and handling of hazardous materials in quantities not exceeding the maximum allowable quantity per control area indicated in the applicable building code shall be in accordance with Sections 5001 and 5003. For outdoor control areas, quantities exceeding the maximum allowable quantity per control area indicated in Table 5003.1.1(3) or Table 5003.1.1(4) shall be in accordance with Sections 5001 and 5003.

5003.1.4 Quantities exceeding the maximum allowable quantity per control area. The storage, use, and handling of hazardous materials in quantities exceeding the maximum allowable quantity per control area indicated in the applicable building code shall be approved by the building official in accordance with the applicable building code and maintained in accordance with this Chapter. For outdoor control areas, quantities exceeding the maximum allowable quantity per control area indicated in Table 5003.1.1(3) or Table 5003.1.1(4) shall be in accordance with this chapter. ]

3. Change Section 5003.2 to read:

~~(N)5003.2 5003.2~~ Systems, equipment and processes. Systems, equipment and processes utilized for storage, dispensing, use or handling of hazardous materials shall be [ ~~maintained~~ ] in accordance with [ ~~the applicable building code~~ Sections 5003.2.1 through 5003.2.9 ].

4. Change Section 5003.2.1 to read:

~~(N)5003.2.1 5003.2.1~~ Design and construction of containers, cylinders and tanks. Portable containers and cylinders shall be designed and constructed in accordance with approved standards. Containers, cylinders, and other means used for containment of hazardous materials shall

be of an approved type. Pressure vessels not meeting U.S. Department of Transportation requirements for transportation shall comply with the ASME Boiler and Pressure Vessel Code.

Tanks shall be [ ~~maintained~~ installed ] in accordance with the applicable building code [ and shall be maintained ].

5. Change Section 5003.2.2 to read:

~~(N)5003.2.2 5003.2.2~~ Piping, tubing, valves and fittings. Piping, tubing, valves, and fittings conveying hazardous materials shall be maintained [ in accordance with ASMEB31 or other approved standards ] in accordance with the applicable building code.

6. Delete [ ~~Section Sections~~ ] 5003.2.2.1 [ and 5003.2.2.2 ].

- [ ~~7. Change Section 5003.2.2.2 to read:~~ ]

~~(N)5003.2.2.2 [ 5003.2.2.2~~ Additional regulations for supply piping for health hazard materials. Supply piping and tubing for gases and liquids shall be maintained in accordance with the applicable building code.

- ~~8. 7. ]~~ Change Section 5003.2.3 to read:

~~(N)5003.2.3 5003.2.3~~ Equipment, machinery and alarms. Equipment [ ~~and,~~ ] machinery [ , and detection and alarm systems ] associated with the use, storage or handling of hazardous materials shall be listed or approved.

- [ ~~9. 8. ]~~ Change Section 5003.2.4 to read:

~~(N)5003.2.4 5003.2.4~~ Installation of tanks. Installation of tanks shall be in accordance with Sections 5003.2.4.1 through 5003.2.4.2.1. [ For tanks subject to 9VAC25-91, Facility and Aboveground Storage Tank (AST) Regulation, or 9VAC25-580, Underground Storage Tanks: Technical Standards and Corrective Action Requirements, see Section 5701.1.1.

- ~~10. 9. ]~~ Change Section 5003.2.4.1 to read:

~~(N)5003.2.4.1 5003.2.4.1~~ Underground tanks. [ ~~Underground tanks used for the storage of liquid hazardous materials shall be maintained in accordance with~~ Where provided or required by ] the applicable building code [ , secondary containment for underground tanks shall be maintained. In lieu of secondary containment for an underground tank, an aboveground tank in an underground vault complying with the applicable building code and Section 5704.2.8 shall be permitted ].

- [ ~~11. 10. ]~~ Change Section 5003.2.4.2 to read:

~~(N)5003.2.4.2 5003.2.4.2~~ Aboveground tanks. Aboveground stationary tanks used for the storage of hazardous materials shall be maintained in accordance with the requirements for outdoor storage of the particular material involved.

[ Exception: Aboveground tanks that are installed in vaults complying with the applicable building code and

maintained in accordance with Section 5303.16 or 5704.2.8 shall not be required to comply with location and protection requirements for outdoor storage. ]

[ ~~12. Delete Section 5003.2.7. 13. 11.~~ ] Change [ Section Sections 5003.2.7 and ] 5003.2.8 to read:

[ 5003.2.7 Liquid-level limit control. Where provided or required by the applicable building code, liquid-level limit controls, or other approved means to prevent overfilling of atmospheric tanks having a capacity greater than 500 gallons (1893 L) and that contain hazardous material liquids shall be maintained. ]

~~(N)5003.2.8~~ 5003.2.8. Seismic protection. Where provided, bracing and anchoring for machinery and equipment utilizing hazardous materials shall be maintained in accordance with the applicable building code.

[ ~~14. 12.~~ ] 5003.2.9.1 Equipment, devices and systems requiring testing. The following equipment, systems, and devices shall be tested in accordance with Sections 5003.2.9 and 5003.2.9.2.

1. Gas detection systems, alarms, and automatic emergency shutoff valves required by Section 6004.2.2.10 for highly toxic and toxic gases.
2. Limit control systems for liquid level, temperature and pressure required by Sections 5004.8 and 5005.1.4.
3. Emergency alarm systems and supervision required by Sections 5004.9 and 5005.4.4.
4. Monitoring and supervisory systems required by the applicable building code.
5. Manually activated shutdown controls required by the applicable building code for compressed gas systems conveying pyrophoric gases.

[ ~~15. 13.~~ ] Change Section 5003.3.1.4 to read:

5003.3.1.4 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 the responsibility of the owner, operator, or other person responsible for the unauthorized discharge.

Note: Owners and operators of certain underground and aboveground petroleum storage tanks may have access to the Virginia Petroleum Storage Tank Fund for reimbursement of some cleanup costs associated with petroleum discharges from these tanks. See Article 10

(§ 62.1-44.34:10 et seq.) of Title 62.1of the Code of Virginia.

[ ~~16. Delete Section 5003.8. 17. 14.~~ ] Change [ Section Sections 5003.8 and ] 5003.8.1 to read:

[ 5003.8 Construction requirements.

Buildings, control areas, enclosures and cabinets for hazardous materials shall be in accordance with Sections 5003.8.1 through 5003.8.6.3. ]

~~(N)5003.8.1~~ 5003.8.1 Buildings. Buildings, or portions thereof, in which hazardous materials are stored, handled or used shall be maintained in accordance with the applicable building code.

[ ~~18. Delete 15. Change~~ ] Section 5003.8.2 and [ Change ] Table 5003.8.2 [ to Table 5003.12 Outdoor Separation and replace "a detached building" on the top row of the Table with "separation":

5003.8.2 Detached buildings. Group H occupancies containing quantities of hazardous materials in excess of those set forth in the applicable building code shall be approved by the building official and located in accordance with the applicable building code ].

[ ~~19. 16.~~ ] Change [ ~~Section Sections~~ ] 5003.8.3 [ through 5003.8.3.2 ] to read:

~~(N)5003.8.3~~ 5003.8.3 Control areas. Control areas shall comply with Sections [ 5003.8.3.2 through 5003.8.3.4 5003.8.3.1 through 5003.8.3.5.

Exception: Higher education laboratories in accordance with Chapter 38 and the applicable building code.

5003.8.3.1 Control area. Fire barriers separating control areas shall be maintained in accordance with Chapter 7 ].

[ ~~20. Delete Section 5003.8.3.1. 21. Change Section 5003.8.3.2 to read:~~ ]

~~(N)5003.8.3.2~~ 5003.8.3.2 Percentage of maximum allowable quantities. The percentage of maximum allowable quantities of hazardous materials per control area allowed at each floor level within a building shall be maintained in accordance with [ this chapter and ] the applicable building code.

[ ~~22. 17.~~ ] Delete Table 5003.8.3.2.

[ ~~23. 18.~~ ] Change Section 5003.8.3.3 to read:

~~(N)5003.8.3.3~~ 5003.8.3.3 Number. The maximum number of control areas per floor within a building shall be maintained in accordance with [ this chapter and ] the applicable building code.

[ ~~24. Change 19. Delete~~ ] Section 5003.8.3.4 [ ~~to read:~~ ]

~~(N)5003.8.3.4~~ [ ~~5003.8.3.4~~ Fire resistance rating requirements. The required fire resistance rating for control areas shall be maintained in accordance with the applicable building code.

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~~25- 20. ] Delete Section Sections [ 5003.8.3.5 5003.8.3.5.1 ] through 5003.8.3.5.3 [ and change Section 5003.8.3.5 to read:~~

5003.8.3.5 Hazardous material in Group M display and storage areas and in Group S storage areas. The aggregate quantity of nonflammable solid and nonflammable or noncombustible liquid hazardous materials allowed within a single control area of a Group M display and storage area or a Group S storage area shall comply with this chapter and the applicable building code. The aggregate quantity is allowed to exceed the maximum allowable quantities per control area specified in the applicable building code, without classifying the building or use as a Group H occupancy, provided that the materials are displayed and stored in accordance with Section 5003.11 and the applicable building code ].

~~[ 26- Delete Section 21. Change Sections ] 5003.8.4 [ -27. Delete Section 5003.8.4.1. 28. Change Section 5003.8.4.2 to read: through 5003.8.5.3 and 5003.8.6.2 to read:~~

5003.8.4 Gas rooms. Where a gas room is provided it shall be maintained in accordance with the provisions of Chapter 60, this chapter, and the applicable building code.

5003.8.4.1 Protection. Where provided or required by the applicable building code, fire protection systems, and fire-rated separation shall be maintained. ]

~~(N)5003.8.4.2 5003.8.4.2 Ventilation system. [ The ventilation system for gas rooms shall be maintained in accordance with Where provided or required by the applicable building code, ventilation systems for gas rooms shall be operated and maintained. Highly toxic and toxic gases shall comply with Section 6004.2.2.6 and ] the applicable building code.~~

~~[ 29. Change Section 5003.8.5 to read: ]~~

~~(N)5003.8.5 5003.8.5 Exhausted enclosures. Where an exhausted enclosure is used to increase maximum allowable quantity per control area, the exhausted enclosure shall be maintained in accordance with [ this chapter, Chapter 60, and ] the applicable building code.~~

~~[ 30. Delete Section 5003.8.5.1. 31. Change Section 5003.8.5.2 to read:~~

5003.8.5.1 Materials. Exhausted enclosures shall be maintained as approved by the applicable building code. Where noncombustible materials were required by the applicable building code, combustible materials are prohibited. ]

~~(N)5003.8.5.2 5003.8.5.2 Ventilation. [ The ventilation system for exhausted enclosures shall be maintained in accordance with Where provided or required by the applicable building code, the ventilation system for exhausted enclosures shall be operated and maintained. Ventilation systems used for highly toxic and toxic gases~~

shall comply with this chapter; items 1, 2, and 3 of Section 6004.1.3; and ] the applicable building code.

~~[ 32. Change Section 5003.8.5.3 to read: ]~~

~~(N)5003.8.5.3 5003.8.5.3 Fire-extinguishing system. [ Fire-extinguishing systems required for exhaust enclosures shall be maintained in accordance with Where provided or required by the applicable building code, fire-extinguishing systems for exhaust enclosures shall be maintained in accordance with Chapter 9 and ] the applicable building code.~~

~~[ 33. Change Section 5003.8.6.2 to read: ]~~

~~(N)5003.8.6.2 5003.8.6.2 Ventilation. [ The ventilation system for gas cabinets shall be maintained in accordance with Where provided or required by the applicable building code, the ventilation system for gas cabinets shall be operated and maintained. Ventilation systems used for highly toxic and toxic gases shall comply with this chapter; items 1, 2, and 3 of Section 6004.1.2; and ] the applicable building code.~~

~~[ 34- 22. ] Change Section 5003.9.9 to read:~~

~~(N)5003.9.9 5003.9.9 Shelf storage. Shelving shall be [ maintained in accordance with the applicable building code of substantial construction and shall comply with the requirements of this chapter and the applicable building code. Shelving shall be treated, coated, or constructed of materials that are compatible with the hazardous materials stored. Shelves shall be provided with a lip or guard when used for the storage of individual containers.~~

Exceptions:

1. Storage in hazardous material storage cabinets or laboratory furniture specifically designed for such use.

2. Storage of hazardous materials in amounts not requiring a permit in accordance with Section 5001.5.

Shelf storage of hazardous materials shall be maintained in an orderly manner ].

~~[ 35- 23. ] Change Section 5003.11 to read:~~

~~(N)5003.11 5003.11 Group M storage and display and Group S storage. The aggregate quantity of nonflammable solid and nonflammable or noncombustible liquid hazardous materials stored and displayed within a single control area of a Group M occupancy, or an outdoor control area, or stored in a single control area of a Group S occupancy [ shall be maintained in accordance with is allowed to exceed the maximum allowable control area indicated in Section 5003.1 and ] the applicable building code [ when maintained in accordance with Sections 5003.11.1 through 5003.11.3.10 ].~~

~~[ 36- 24. ] Change Section 5003.11.1 to read:~~

~~(N)5003.11.1 5003.11.1 Maximum allowable quantity per control area in Group M or S occupancies. The aggregate amount of nonflammable solid and nonflammable or~~

noncombustible liquid hazardous materials stored and displayed within a single control area of a Group M occupancy or stored in a single control area of a Group S occupancy shall not exceed the amounts set forth in the applicable building code.

[ ~~37. Delete 25. Rename~~ ] Table 5003.11.1 [ to Table 5003.11.1 MAXIMUM ALLOWABLE QUANTITY PER OUTDOOR CONTROL AREA IN GROUP M AND S OCCUPANCIES—NONFLAMMABLE SOLIDS, NONFLAMMABLE AND NONCOMBUSTIBLE LIQUIDS ].

38. ~~26.~~ ] Change Section 5003.11.2 to read:

~~(N)5003.11.2~~ 5003.11.2 Maximum allowable quantity per outdoor control area in Group M or S occupancies. The aggregate amount of nonflammable solid and nonflammable or noncombustible liquid hazardous materials stored and displayed within a single outdoor control area of a Group M occupancy shall not exceed the amounts set forth in [ ~~the applicable building code Table 5003.11.1~~ ].

[ ~~39. 27.~~ ] Change Section 5003.11.3 to read:

~~(N)5003.11.3~~ 5003.11.3 Storage and display. Storage and display shall be [ ~~maintained~~ ] in accordance with [ ~~the applicable building code Sections 5003.11.3.1 through 5003.11.3.10~~ ].

[ ~~40. Delete 28. Change~~ ] Section 5003.11.3.1 [ - to read:

5003.11.3.1 Density. Storage and display of solids shall not exceed the density of floor area allowed by the applicable building code. Storage and display of liquids shall not exceed the amount per square foot allowed by the applicable building code.

41. ~~29.~~ ] Change Section 5003.11.3.2 to read:

~~(N)5003.11.3.2~~ 5003.11.3.2 Storage and display height. [ ~~Display Unless otherwise approved in accordance with the applicable building code, display~~ ] height shall not exceed 6 feet (1829 mm) above the finished floor in display areas of Group M occupancies [ ~~unless approved by the applicable building code. Storage height shall not exceed 8 feet (2438 mm) above the finished floor in storage areas of Group M and Group S occupancies.~~ ]

Storage height shall not exceed 8 feet (2438 mm) above the finished floor in storage areas of Group M and Group S occupancies [ ~~unless approved by the applicable building code~~ ].

[ ~~42. 30.~~ ] Change Section 5003.11.3.4 to read:

~~(N)5003.11.3.4~~ 5003.11.3.4 Racks and shelves. Racks and shelves used for storage or display shall be maintained in accordance with [ ~~the applicable building code Section 5003.9.9~~ ].

[ ~~43. 31.~~ ] Change Section 5003.11.3.8 to read:

~~(N)5003.11.3.8~~ 5003.11.3.8 Floors. Floors shall be maintained in accordance with [ Section 5004.12 unless otherwise approved by ] the applicable building code.

C. The following changes shall be made to Section 5004, Storage:

1. Change Section 5004.1 to read:

~~(N)5004.1~~ 5004.1 Scope. Storage of hazardous materials [ ~~in amounts exceeding the maximum allowable quantity per control area~~ ] shall be maintained in accordance with [ Sections 5001, 5003, and 5004 and ] the applicable building code. [ Storage of hazardous materials in amounts not exceeding the maximum allowable quantity per control area shall be in accordance with Sections 5001 and 5003 and the applicable building code. ] Retail and wholesale storage and display of nonflammable solid and nonflammable and noncombustible liquid hazardous materials in Group M occupancies and Group S storage shall be maintained in accordance with [ Section 5003.11 and ] the applicable building code.

2. Change [ ~~Section Sections~~ ] 5004.2 [ through 5004.2.2.1 ] to read:

~~(N)5004.2~~ 5004.2 Spill control and secondary containment for liquid and solid hazardous materials. Spill control and secondary containment for rooms, buildings or areas used for the storage of liquid or solid hazardous materials shall be maintained in accordance with [ Sections 5004.2.1 through 5004.2.3 and ] the applicable building code.

Exception: Outdoor storage of containers on approved containment pallets in accordance with Section 5004.2.3.

[ 5004.2.1 Spill control for hazardous material liquids. Where provided or required by the applicable building code, spill control for hazardous materials shall be maintained. For individual vessels having a capacity of more than 55 gallons (208 L), or in which the aggregate capacity of multiple vessels exceeds 1,000 gallons (3785 L) spill control shall be maintained to prevent the flow of liquids to adjoining areas in accordance with the applicable building code.

5004.2.2 Secondary containment for hazardous material liquids and solids. Where provided or required by the applicable building code, secondary containment for hazardous materials shall be maintained.

5004.2.2.1 Containment and drainage methods. Facilities, equipment, and method used for containment and drainage of hazardous materials and fire protection water shall be maintained in accordance with this chapter and the applicable building code. ]

[ ~~3. Delete Section 5004.2.1.~~

4. Delete Section 5004.2.2 and Table 5004.2.2.

5. ~~Delete 3. Change~~ ] Section 5004.2.2.1 [ to read:

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5004.2.2.1 Containment and drainage methods. Facilities, equipment, and method used for containment and drainage of hazardous materials and fire protection water shall be maintained in accordance with this Chapter and the applicable building code ].

[ ~~6. 4.~~ ] Delete Section 5004.2.2.3.

[ ~~7. Delete Section 5004.2.2.5. 8. 5.~~ ] Change [ ~~Section Sections 5004.2.2.5 and~~ ] 5004.2.2.6 to read:

[ 5004.2.2.5 Monitoring. An approved monitoring method shall be provided to detect hazardous materials in the secondary containment system. The monitoring method is allowed to be visual inspection of the primary or secondary containment, or other approved means. Where secondary containment is subject to the intrusion of water, a monitoring method for detecting water shall be provided. Where monitoring devices are provided, they shall be maintained in accordance with the applicable building code. ]

~~(N)5004.2.2.6~~ 5004.2.2.6 Drainage system design. Drainage systems shall be [ in accordance with maintained in accordance with this chapter and ] the applicable building code.

[ ~~9. 6.~~ ] Change Section 5004.3 to read:

~~(N)5004.3~~ 5004.3 Ventilation. [ Ventilation required for indoor storage areas and storage buildings shall be maintained Indoor storage areas and storage buildings shall maintain ventilation ] in accordance with the applicable building code [ and shall be operated and maintained in accordance with this chapter. Storage areas for flammable solids shall comply with Chapter 59 ].

[ ~~10. 7.~~ ] Delete Section 5004.3.1.

[ ~~11. 8.~~ ] Change Section 5004.5 to read:

~~(N)5004.5~~ 5004.5 Automatic sprinkler systems. Automatic sprinkler systems for the storage of hazardous materials shall be maintained in accordance with [ this chapter, Chapter 9, and ] the applicable building code.

[ ~~12. 9.~~ ] Change Section 5004.6 to read:

~~(N)5004.6~~ 5004.6 Explosion control. Explosion control for storage rooms, areas and buildings shall be maintained in accordance with [ this chapter, Chapter 9, and ] the applicable building code.

[ ~~13. 10.~~ ] Change Section 5004.7 to read:

~~(N)5004.7~~ 5004.7 Standby or emergency power. [ Standby or emergency power shall be maintained in accordance with the applicable building code. Where mechanical ventilation, treatment systems, temperature control, alarm, detection, or other electrically operated systems are required to have emergency or standby power systems in accordance with the applicable building code,

those power systems shall be operated and maintained in accordance with NFPA 70, Section 1203, and this chapter.

~~14. 11.~~ ] Delete Section 5004.7.1.

[ ~~15. 12.~~ ] Delete Section 5004.7.2.

[ ~~16. 13.~~ ] Change [ ~~Section Sections~~ ] 5004.8 [ through 5004.8.2 ] to read:

~~(N)5004.8~~ 5004.8 Limit controls. Limit controls shall be maintained in accordance with [ the applicable building code Sections 5004.8.1 and 5004.8.2.

5004.8.1 Temperature control. Where provided or required by the applicable building code, temperature control devices for materials that must be kept at temperatures other than normal ambient temperatures to prevent a hazardous reaction shall be maintained to keep the temperature within a safe range.

5004.8.2 Pressure control. Where provided or required by the applicable building code, pressure control devices on stationary tanks and equipment containing hazardous material liquids that can generate pressures exceeding design limits because of exposure fires or internal reaction shall be maintained to relieve excessive internal pressure ].

[ ~~17. Delete Section 5004.8.1. 18. Delete Section 5004.8.2.~~

~~19. 14.~~ ] Change Section 5004.9 to read:

~~(N)5004.9~~ 5004.9 Emergency alarm. [ Emergency alarm systems shall be maintained in accordance with Where provided or required by the applicable building code, manual emergency alarm systems in rooms or areas used for storage of hazardous materials shall be maintained in accordance with Chapter 9 and ] the applicable building code.

[ ~~20. Delete 15. Change~~ ] Section 5004.10 [ to read:

5004.10 Supervision and monitoring. Where emergency alarm, detection and automatic fire-extinguishing systems are required by the applicable building code to be electrically supervised, they shall maintain monitoring by an approved supervising station, or when approved, sound an audible and visual signal at a constantly attended onsite location ].

[ ~~21. Delete 16. Change~~ ] Section 5004.12 [ to read:

5004.12 Noncombustible Floors. Except for surfacing, floors of storage areas shall remain noncombustible where required by the applicable building code ].

[ ~~22. 17.~~ ] Change Section 5004.13 to read:

~~(N)5004.13~~ 5004.13 Weather protection. Where overhead noncombustible construction is provided for sheltering outdoor hazardous material storage areas, such storage shall not be considered indoor storage where the area is constructed in accordance with the requirements for

weather protection as required by the applicable building code.

Exception: Storage of explosive materials shall be considered as indoor storage.

D. The following changes shall be made to Section 5005, Use, Dispensing and Handling:

1. Change [ ~~Section~~ Sections ] 5005.1 [ and 5005.1.2 through 5005.1.9 ] to read:

~~(N)5005.1~~ 5005.1 General. Use, dispensing and handling of hazardous materials [ ~~shall be maintained in accordance with~~ in amounts exceeding the maximum allowable quantity per control area shall be maintained in accordance with Sections 5001, 5003, and 5005 and the applicable building code. Use, dispensing, and handling of hazardous materials in amounts not exceeding the maximum allowable quantity per control area set forth in Section 5003.1 shall be maintained in accordance with Sections 5001 and 5003 and the applicable building code.

5005.1.2 Noncombustible floor. Except for surfacing, floors of areas where liquid or solid hazardous materials are dispensed or used in open systems shall be maintained as noncombustible, and liquid-tight where required by ] the applicable building code.

[ ~~2. Delete Section 5005.1.2.~~ ]

~~3. Change Section 5005.1.3 to read: ]~~

~~(N)5005.1.3~~ 5005.1.3 Spill control and secondary containment for hazardous material liquids. Where [ provided or ] required by the applicable building code, spill control and secondary containment [ for hazardous materials ] shall be maintained in accordance with [ Section 5004.2 and ] the applicable building code.

[ ~~4. Change Section 5005.1.4 to read: ]~~

~~(N)5005.1.4~~ 5005.1.4 Limit controls. Limit controls shall be maintained in accordance with [ ~~the applicable building code~~ Sections 5005.1.4.1 through 5005.1.4.4 ].

[ ~~5. Delete Section 5005.1.4.1.~~ ]

~~6. Delete Section 5005.1.4.2.~~

~~7. Delete Section 5005.1.4.3.~~

~~8. Delete Section 5005.1.4.4.~~

9. Change Section 5005.1.5 to read:

5005.1.4.1 High-liquid-level control. Where provided or required by the applicable building code, liquid-level limit controls or other approved means to prevent overfilling of open tanks shall be maintained.

5005.1.4.2 Low-liquid-level control. Where provided or required by the applicable building code, liquid-level limit controls or other approved means to prevent a low-liquid

level in a tank from creating a hazardous condition, including overheating of a tank or its contents.

5005.1.4.3 Temperature control. Where provided or required by the applicable building code, temperature controls shall be maintained in accordance with Section 5004.8.1.

5005.1.4.4 Pressure control. Where provided or required by the applicable building code, pressure controls shall be maintained in accordance with Section 5004.8.2. ]

[ ~~(N)5005.1.5~~ 5005.1.5 ] Standby or emergency power. [ ~~Standby or emergency power shall be maintained in accordance with the applicable building code.~~ Where mechanical ventilation, treatment systems, temperature control, alarm, detection, or other electrically operated systems are required to have emergency or standby power systems in accordance with the applicable building code, those power systems shall be operated and maintained in accordance with NFPA 70, Section 1203, and this chapter.

~~40. 2. ] Delete Section 5005.1.5.1.~~

[ ~~11. Delete Section 5005.1.6.~~ ]

~~12. Change Section 5005.1.7 to read: Change Sections 5005.1.6 through 5005.1.9 to read:~~

5005.1.6 Supervision and monitoring. Where emergency alarm, detection and automatic fire-extinguishing systems are required by the applicable building code to be electrically supervised they shall maintain monitoring by an approved supervising station, or when approved, sound an audible and visual signal at a constantly attended on-site location. ]

~~(N)5005.1.7~~ 5005.1.7 Lighting. [ ~~Lighting~~ Natural or artificial lighting ] provided for use, dispensing and handling of hazardous materials shall be maintained in accordance with [ this chapter, Chapter 6, and ] the applicable building code.

[ ~~13. Change Section 5005.1.8 to read: ]~~

~~(N)5005.1.8~~ 5005.1.8 Fire-extinguishing systems. [ Where ] Fire-extinguishing systems for rooms or areas in which hazardous materials are dispensed or used [ are required by the applicable building code they ] shall be maintained in accordance with [ this chapter, Chapter 9, and ] the applicable building code.

~~(N)5005.1.9~~ 5005.1.9 Ventilation. [ ~~Ventilation for indoor dispensing and use areas shall be maintained in accordance with the applicable building code~~ Where provided or required by the applicable building code, exhaust ventilation for indoor dispensing and use areas shall be operated and maintained in accordance with the applicable building code and Section 5004.3.

Exception: Ventilation is not required for dispensing and use of flammable solids other than finely divided particles ].

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[ ~~14. Change Section 5005.1.9 and delete 3. Delete~~ ]  
Sections 5005.1.11 and 5005.1.12.

[ ~~Section 5005.1.9 to read:~~

~~15. 4. ]~~ Change Section ~~5005.2.1~~ 5005.2 to read:

5005.2 Indoor dispensing and use. Indoor dispensing and use of hazardous materials shall be in buildings complying with the International Building Code and in accordance with Section 5005.1, Sections 5005.2.1 through 5005.2.1.4, and Sections 5005.2.2.1 through 5005.2.2.4.

[ ~~16. 5. ]~~ Change Section 5005.2.1.3 to read:

5005.2.1.3 Spill control for hazardous material liquids. [ ~~Buildings~~ Where spill control is provided in accordance with the applicable building code for buildings ], rooms, or areas where hazardous material liquids are dispensed into vessels exceeding a 1.3-gallon (5 L) capacity or used in open systems exceeding a 5.3-gallon (20 L) capacity [ ~~it~~ ] shall be [ ~~provided with spill control maintained~~ ] in accordance with [ ~~the applicable building code this chapter~~ ].

[ ~~17. 6. ]~~ Change Section 5005.2.1.4 to read:

~~(N)5005.2.1.4~~ 5005.2.1.4 Secondary containment for hazardous material liquids. Where [ ~~required by the applicable building code, secondary containment for buildings, rooms or areas where hazardous material liquids are dispensed or used in open systems shall be maintained~~ secondary containment is provided ] in accordance with the applicable building code [ ~~for hazardous material liquids it shall be maintained~~ ].

[ ~~18. 7. ]~~ Delete Table 5005.2.1.4.

[ ~~19. Delete 8. Change~~ ] Section 5005.2.2 [ ~~to read:~~

5005.2.2 Closed systems. Use of hazardous materials in closed containers or systems shall be in accordance with Sections 5005.2.2.1 through 5005.2.2.4 ].

[ ~~20. 9. ]~~ Change Section 5005.2.2.1 [ ~~through 5005.2.2.4~~ ] to read:

~~(N)5005.2.2.1~~ 5005.2.2.1 Ventilation. [ ~~Ventilation for closed systems shall be maintained in accordance with the applicable building code~~ Where closed systems are designed to be opened as part of normal operations, ventilation required by the applicable building code shall be operated and maintained in accordance with Section 5005.2.1.1 ].

[ ~~21. Change Section 5005.2.2.2 to read:~~ ]

~~(N)5005.2.2.2~~ 5005.2.2.2 Explosion control. [ ~~Explosion control shall be maintained in accordance with the applicable building code~~ Where provided or required by the applicable building code, explosion control shall be maintained in accordance with Section 5004.6 where an explosive environment exists because of the hazardous

materials dispensed or used, or as a result of the dispensing or use process.

Exception: Where process vessels are designed to contain fully the worst-case explosion anticipated within the vessel under process conditions based on the most likely failure ].

[ ~~22. Change Section 5005.2.2.3 to read:~~ ]

~~(N)5005.2.2.3~~ 5005.2.2.3 Spill control for hazardous material liquids. [ ~~Spill control for buildings, rooms or areas where hazardous material liquids are used shall be maintained in accordance with the applicable building code~~ Where provided in accordance with the applicable building code for buildings, rooms, or areas where hazardous material liquids are used in individual vessels exceeding a 55-gallon (208 L) capacity with the applicable building code, spill control shall be maintained in accordance with Section 5004.2 ].

[ ~~23. Change Section 5005.2.2.4 to read:~~ ]

~~(N)5005.2.2.4~~ 5005.2.2.4 Secondary containment for hazardous material liquids. [ ~~Secondary containment for buildings, rooms or areas where hazardous material liquids are used shall be maintained in accordance with the applicable building code~~ Where provided in accordance with the applicable building code, secondary containment for buildings, rooms, or areas where hazardous material liquids are used shall be maintained in accordance with Section 5004.2.2 ].

[ ~~24. 10. ]~~ Change Section 5005.3.4 to read:

5005.3.4 Spill control for hazardous material liquids in open systems. Outdoor areas where hazardous material liquids are dispensed in vessels exceeding a 1.3-gallon (5 L) capacity or used in open systems exceeding a 5.3-gallon (20 L) capacity shall be provided with spill control in accordance with the applicable building code.

[ ~~25. 11. ]~~ Change Section 5005.3.5 to read:

5005.3.5 Secondary containment for hazardous material liquids in open systems. Where required, outdoor areas where hazardous material liquids are dispensed or used in open systems shall be provided with secondary containment in accordance with the applicable building code where the capacity of an individual vessel or system or the capacity of multiple vessels or systems exceeds the following:

1. Individual vessel or system: greater than 1.3 gallons (5 L).
2. Multiple vessels or systems: greater than 5.3 gallons (20 L).

[ ~~26. 12. ]~~ Change Section 5005.3.6 to read:

5005.3.6 Spill control for hazardous material liquids in closed systems. Outdoor areas where hazardous material liquids are used in closed systems exceeding 55 gallons



(208 L) shall be provided with spill control in accordance with the applicable building code.

[ ~~27~~. 13. ] Change Section 5005.3.7 to read:

5005.3.7 Secondary containment for hazardous material liquids in closed systems. Where required, outdoor areas where hazardous material liquids are dispensed or used in closed systems shall be provided with secondary containment in accordance with the applicable building code where the capacity of an individual vessel or system or the capacity of multiple vessels or systems exceeds the following:

1. Individual vessel or system greater than 55 gallons (208 L).
2. Multiple vessels or systems greater than 1,000 gallons (3785 L).

[ ~~28~~. 14. ] Change Section 5005.3.9 to read:

5005.3.9 Weather protection. Where overhead noncombustible construction is provided for sheltering outdoor hazardous material use areas, such use shall not be considered indoor use where the area is constructed in accordance with the requirements for weather protection as required in the applicable building code.

Exception: Use of explosive materials shall be considered as indoor use.

[ ~~29~~. 15. ] Change Section 5005.4 to read:

~~(N)5005.4~~ 5005.4 Handling. Handling of hazardous materials shall be maintained in accordance with [ ~~the applicable building code~~ Sections 5005.4.1 through 5005.4.4 ].

[ ~~30~~. 16. ] Change Section 5005.4.1 to read:

~~(N)5005.4.1~~ 5005.4.1 Quantities exceeding the maximum allowable quantity per control area. Handling of hazardous materials in outdoor locations in amounts exceeding the maximum allowable quantity per the applicable building code shall be in accordance with Sections 5001, 5003, 5005.1 and 5005.4.

[ ~~31~~. 17. ] Change Section 5005.4.2 to read:

~~(N)5005.4.2~~ 5005.4.2 Quantities not exceeding the maximum allowable quantity per control area. Handling of hazardous materials in [ ~~outdoor~~ indoor ] locations in amounts not exceeding the maximum allowable quantity per the applicable building code shall be in accordance with Sections 5001 and 5003 [ ~~and 5005.1. Handling of hazardous materials in outdoor locations in amounts not exceeding the maximum allowable quantity per Table 5003.1.1(3) and Table 5003.1.1(4) shall be in accordance with Sections 5001 and 5003~~ ].

[ ~~32~~. 18. ] Change Section 5005.4.4 to read:

~~(N)5005.4.4~~ 5005.4.4 Dispensing, use and handling. [ ~~Where hazardous~~ Hazardous ] materials having a hazard

ranking of 3 or 4 [ ~~are being transported through corridors, interior exit stairways or ramps or exit passageways, such transportation shall be in accordance with the applicable building code~~ in accordance with NFPA 704 shall not be transported through corridors, interior exit stairways or ramps, or exit passageways, unless such areas maintain an emergency telephone system, a local manual alarm station or an approved alarm-initiating device throughout the transport route in accordance with the applicable building code. Where required by the applicable building code, the signal shall be relayed to an approved central, proprietary or remote station service or constantly attended onsite location and shall also initiate a local audible alarm ].

**13VAC5-51-145.5. IFC Chapter 51 Aerosols.**

A. Change Section 5101.1 to read:

5101.1 Scope. The provisions of this chapter and NFPA 30B shall apply to the manufacturing, storage and display of aerosol products. Manufacturing of aerosol products using hazardous materials shall also comply with Chapter 50.

B. Change Section 5101.2 to read:

5101.2 Permit required. Permits shall be required as set forth in Section 107.2.

C. Change Sections 5104.1 ~~and~~, 5104.1.1, 5104.1.2.1, 5104.2, and 5104.2.2 to read:

~~(N)5104.1~~ 5104.1 General. The inside storage of Levels 2 and 3 aerosol products shall be maintained in accordance with [ Section 5104.2 through 5104.7, the applicable provisions of NFPA 30B, and remain in accordance with ] the applicable building code.

5104.1.1 Plastic containers. Aerosol products in plastic containers larger than 4 fluid ounces (118 ml), but not to exceed 33.8 fluid ounces (1000 ml), shall be allowed only where in accordance with this section. The commodity classification shall be Class III commodities, as defined in the applicable NFPA 13 standard where any of the following conditions are met:

1. Base product has no fire point where tested in accordance with ASTM D 92, and nonflammable propellant.
2. Base product has no sustained combustion as tested in accordance with Appendix H, "Method of Testing for Sustained Combustibility," in U.S. Department of Transportation 49 CFR Part 173, and nonflammable propellant.
3. Base product contains up to ~~20 percent~~ 20% by volume ~~(15.8 percent (15.8% by weight))~~ of ethanol or isopropyl alcohol, or both, in an aqueous mix, and nonflammable propellant.
4. Base product contains ~~4 percent~~ 4.0% by weight or less of an emulsified flammable liquefied gas propellant within

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an aqueous base. The propellant shall remain emulsified for the life of the product. Where such propellant is not permanently emulsified, the propellant shall be nonflammable.

5104.1.2.1 Storage, use, or handling. The storage, use, or handling of plastic aerosol X products shall be prohibited unless otherwise specified by the applicable building code.

~~(N)5104.2~~ 5104.2 Storage in Groups A, B, E, F, I<sub>1</sub> and R. Storage [ quantities ] of [ Level 2 and 3 ] aerosol products in occupancies in Groups A, B, E, F, I<sub>1</sub> and R shall be [ limited and ] maintained in accordance with the applicable building code.

5104.2.2 Aerosol cooking spray products. Storage of aerosol cooking spray products in Groups A, B, E, F, and R occupancies shall not be more than 1,000 pounds (454 kg) net weight unless otherwise specified by the applicable building code.

D. Change ~~Section~~ Sections 5104.3 and 5104.3.1 to read:

~~(N)5104.3~~ 5104.3 Storage in general purpose warehouses. Aerosol storage in general purpose warehouses [ utilized only for warehousing-type operations involving mixed commodities ] shall be maintained in accordance with [ Section 5104.3.1 or 5104.3.2 and remain in accordance with ] the applicable building code.

~~(N)5104.3.1~~ 5104.3.1 Nonsegregated storage. Nonsegregated storage areas shall be maintained in accordance with the applicable building code.

E. Delete Table 5104.3.1.

F. Change Section 5104.3.2 to read:

~~(N)5104.3.2~~ 5104.3.2 Segregated storage. Segregated storage areas shall be maintained in accordance with the applicable building code.

G. Delete Table 5104.3.2.

H. Change Section 5104.3.2.1 and 5104.3.2.2 to read:

~~(N)5104.3.2.1~~ 5104.3.2.1 Chain link fence enclosures. Chain link fence enclosures shall be maintained in accordance with the applicable building code.

~~(N)5104.3.2.2~~ 5104.3.2.2 Aisles. The minimum aisle requirements for [ solid pile or palletized ] segregated storage in general purpose warehouses shall be maintained in accordance with [ Table 5104.3.2.2 and remain in accordance with ] the applicable building code.

I. Delete [ the bottom two rows of ] Table 5104.3.2.2.

J. Change ~~Section 5104.4~~ Sections 5104.3.3 through [ 5104.4.3 5104.5 ] to read:

5104.3.3 Aerosol cooking spray products. Solid pile, palletized, or rack storage of aerosol cooking spray products

in a general purpose warehouse shall not be more than 2,500 pounds (1135 kg) net weight, unless protected in accordance with NFPA 30B or otherwise specified by the applicable building code.

~~(N)5104.4~~ 5104.4 Storage in aerosol warehouses. The total quantity of Levels 2 and 3 aerosol products in a warehouse utilized for the storage, shipping and receiving of aerosol products shall [ maintained in accordance with the applicable building code not be restricted in structures complying with Sections 5104.4.1 through 5104.4.4 ].

~~(N)5104.4.1~~ 5104.4.1 Automatic sprinkler system [ capability ]. [ Where provided, automatic sprinkler systems protecting aerosol warehouses shall be maintained in accordance with the applicable building code Aerosol warehouses protected by an approved wet-pipe automatic sprinkler system in accordance with NFPA 30B and the applicable building code shall be maintained in accordance with Chapter 9. The highest classification level of aerosol product present shall not exceed the capability of the approved sprinkler system ].

~~(N)5104.4.2~~ 5104.4.2 Pile and palletized storage aisles. [ Travel distance and aisles serving pile and palletized storage shall be maintained in accordance with the applicable building code. Solid pile and palletized storage shall be arranged so the maximum travel distance to an aisle is 25 feet (7620 mm). Aisles shall have a minimum width of 4 feet (1219 mm). ]

~~(N)5104.4.3~~ 5104.4.3 Rack storage aisles. Rack storage shall be maintained in accordance with [ Chapter 32 and remain in accordance with ] the applicable building code.

[ 5104.4.4 Combustible commodities. Combustible commodities other than flammable and combustible liquids shall be permitted to be stored in an aerosol warehouse.

Exception: Flammable and combustible liquids in 1-quart (946 mL) metal containers and smaller shall be permitted to be stored in an aerosol warehouse. ]

[ ~~K. Delete Section 5104.4.4.~~

~~L. Change Section 5104.5 to read: ]~~

~~(N)5104.5~~ 5104.5 Storage in inside flammable liquid storage rooms. Inside flammable liquid storage rooms shall be maintained in accordance with [ Section 5704.3.7 unless otherwise approved by ] the applicable building code. [ The maximum quantities of aerosol products shall be maintained in accordance with the applicable code. ]

[ ~~M K.~~ ] Delete Sections 5104.5.1 and 5104.5.2.

[ ~~L.~~ ] Change Sections 5104.6 and 5104.6.1 to read:

~~(N)5104.6~~ 5104.6 Storage in liquid warehouses. The storage of [ Level 2 and 3 ] aerosol products in liquid warehouses shall be maintained in accordance with the applicable

[ ~~building code provisions of NFPA 30B~~ ]. [ ~~Unless otherwise approved by the applicable building code, the storage shall be maintained within segregated storage areas in accordance with Section 5104.3.2 and Sections 5104.6.1 through 5104.6.3.~~ ]

(N)~~5104.6.1~~ 5104.6.1 Containment. Spill control or drainage shall be maintained in accordance with the applicable building code.

[ 5104.6.2 Sprinkler system. Sprinkler protection shall be maintained in accordance with Chapter 9. ]

5104.6.3 Opening protection into segregated storage areas. Fire doors or gates opening into the segregated storage area shall be maintained in accordance with Chapter 7 and remain in accordance with the applicable building code. ]

[ ~~O. Delete Section 5104.6.2.~~ ]

~~P. M.~~ ] Change [ ~~Sections 5104.6.3 and Section~~ ] 5104.7 to read:

(N)~~5104.6.3~~ [ ~~5104.6.3 Opening protection into segregated storage areas. Fire doors or gates opening into the segregated storage area shall be maintained in accordance with the applicable building code.~~ ]

(N)~~5104.7~~ 5104.7 Storage in Group M occupancies. Storage of [ Level 2 and 3 ] aerosol products in occupancies in Group M shall be maintained in accordance with the applicable building code. [ Retail display shall be maintained in accordance with Section 5106. ]

~~Q. N.~~ ] Delete Table 5104.7 and Sections 5104.8.1 and 5104.8.2.

[ ~~R. O.~~ ] Change Sections 5104.8, 5106.1, and 5106.2.1 to read:

5104.8 Storage of aerosol cooking spray products. Aerosol cooking spray products shall be permitted to be stored in a general purpose warehouse in accordance with the applicable building code.

(N)~~5106.1~~ 5106.1 General. This section shall apply to the [ maintenance of ] retail display of [ 500 pounds (227 kg) or more of Level 2 and 3 ] aerosol products.

(N)~~5106.2.1~~ 5106.2.1 Maximum quantities in retail display areas. [ ~~Quantities of aerosol products in retail display areas shall be maintained in accordance with the applicable building code.~~ Aerosol products in retail display areas shall not exceed quantities needed for display and normal merchandising and shall not exceed the quantities in the applicable building code. ]

[ ~~S. P.~~ ] Delete Table 5106.2.1.

[ ~~T. Q.~~ ] Change ~~Section~~ Sections 5106.2.2 and 5106.2.3 to read:

5106.2.2 [ ~~Aerosol cooking spray storage. The storage of aerosol cooking spray products shall comply with the applicable building code.~~ Display of containers. Level 2 and 3 aerosol containers shall not be stacked more than 6 feet (1829 mm) high from the base of the aerosol array to the top of the aerosol array unless the containers are placed on fixed shelving or otherwise secured in an approved manner. When storage or retail display is on shelves, the height of such storage or retail display to the top of aerosol containers shall not exceed 8 feet (2438 mm). ]

(N)~~5106.2.2~~ 5106.2.3 [ ~~Display of~~ ] containers [ aerosol products Combustible cartons ]. Aerosol [ ~~containers shall be stacked in accordance with the applicable building code products located in retail display areas shall be removed from combustible cartons~~ ].

[ Exceptions:

1. Display areas that use a portion of combustible cartons that consist of only the bottom panel and not more than 2 inches (51 mm) of the side panel are allowed.

2. When the display area is protected in accordance with Tables 6.3.2.7(a) through 6.3.2.7(l) of NFPA 30B, storage of aerosol products in combustible cartons is allowed. ]

[ ~~U. Delete R.~~ ] Section ~~5106.2.3~~ 5106.2.4 [ - to read:

5106.2.4 Retail display automatic sprinkler system. When an automatic sprinkler system is required for the protected retail display of aerosol products, the wet-pipe automatic sprinkler system shall be maintained in accordance with Chapter 9. ]

[ ~~V. S.~~ ] Change Sections ~~5106.2.4~~ 5106.2.5 through 5106.4.1 to read:

(N)~~5106.2.4~~ 5106.2.5 Retail display automatic sprinkler system. Where an automatic sprinkler system is required for the protected retail display of aerosol products, the wet-pipe automatic sprinkler system shall be in accordance with the applicable ~~building code~~ NFPA 13 standard.

(N)~~5106.3~~ 5106.3 Aerosol display and normal merchandising exceeding 8 feet (2438 mm) high. Aerosol display and merchandising exceeding 8 feet in height shall be [ maintained ] in accordance with Sections 5106.3.1 through 5106.3.3.

(N)~~5106.3.1~~ 5106.3.1 Maximum quantities in retail display areas. Aerosol products in retail display areas shall not exceed quantities [ ~~approved under~~ needed for display and normal merchandising and shall not exceed the quantities in ] the applicable building code.

(N)~~5106.3.2~~ 5106.3.2 Automatic sprinkler protection. Where provided, automatic sprinkler protection for aerosol display and merchandising areas shall be maintained in accordance with the applicable building code.

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~~(N)5106.3.3~~ 5106.3.3 Separation of aerosol areas. Separation of aerosol areas shall be maintained in accordance with the applicable building code.

~~(N)5106.4~~ 5106.4 Maximum quantities in storage areas. Aerosol products in storage areas adjacent to retail display areas shall not exceed the quantities approved under the applicable building code.

[ ~~W. T.~~ ] Delete Table 5106.4.

[ ~~X. U.~~ ] Change Sections 5106.5 [ ~~and 5106.5.1 through 5106.5.2~~ ] to read:

~~(N)5106.5~~ 5106.5 Special protection design for Levels 2 and 3 aerosols adjacent to flammable and combustible liquids in double-row racks. The display and merchandising of [ Level 2 and 3 ] aerosols adjacent to flammable and combustible liquids in double-row racks shall be maintained in accordance with [ ~~the applicable building code Sections 5106.5.1 through 5106.5.8 or Section 5106.3.3~~ ].

~~(N)5106.5.1~~ 5106.5.1 Fire protection [ ~~. Where required, fire protection for the display and merchandising of~~ for the display and merchandising of Level 2 and 3 ] aerosols in double-row racks shall be maintained in accordance with [ ~~the applicable building code Chapter 9, and the applicable provisions of NFPA 30B~~ ].

[ 5106.5.2 Cartoned products. Level 2 and 3 aerosols displayed or merchandised more than 8 feet (2438 mm) above the finished floor shall be in cartons. ]

~~Y. Delete Section 5106.2.3.~~

~~Z. [ Y. Delete Section 5106.5.2. ]~~

~~AA. [ Z. V. ]~~ Change Sections 5106.5.3 through [ ~~5106.5.6 5106.5.8~~ ] to read:

~~(N)5106.5.3~~ 5106.5.3 Shelving. Shelving in racks shall be maintained in accordance with the applicable building code.

~~(N)5106.5.4~~ 5106.5.4 Aisles. Aisles shall be maintained between rows of racks and adjacent solidly piled or palletized merchandise in accordance with the applicable building code.

~~(N)5106.5.5~~ 5106.5.5 Flue spaces. Flue spaces in racks shall be maintained in accordance with the applicable building code.

~~(N)5106.5.6~~ 5106.5.6 Horizontal barriers. Horizontal barriers shall be maintained in accordance with the applicable building code.

[ 5106.5.7 Class I, II, III, IV and plastic commodities. Class I, II, III, IV and plastic commodities located adjacent to Level 2 and 3 aerosols shall maintain protection from an approved NFPA 13 sprinkler system where required in accordance with the applicable building code. ]

5106.5.8 Flammable and combustible liquids. Class I, II, III A and III B Liquids shall be allowed to be maintained adjacent to Level 2 and 3 aerosol products in accordance with the applicable building code. ]

~~BB. [ AA. Delete Sections 5106.5.7 and 5106.5.8. ]~~

~~CC. [ BB. W. ]~~ Change Section 5107.1 to read:

~~(N)5107.1~~ 5107.1 General. Manufacturing facilities shall be maintained in accordance with the [ applicable provisions of NFPA 30B and remain in accordance with the ] applicable building code.

## **13VAC5-51-146.5. IFC Chapter 53 Compressed Gases.**

A. Change Section 5301.1 to read:

5301.1 Scope. Storage, use and handling of compressed gases in compressed gas containers, cylinders, tanks and systems shall comply with the applicable building code, this chapter, and the use and handling provisions of NFPA 55, including those gases regulated elsewhere in this code. Partially full compressed gas containers, cylinders or tanks containing residual gases shall be considered as full for the purposes of the controls required.

Liquefied natural gas for use as a vehicular fuel shall also comply with NFPA 52 and NFPA 59A.

Compressed gases classified as hazardous materials shall also comply with Chapter 50 for general requirements and chapters addressing specific hazards, including Chapters 58 (Flammable Gases), 60 (Highly Toxic and Toxic Materials), 63 (Oxidizers, Oxidizing Gases and Oxidizing Cryogenic Fluids), and 64 (Pyrophoric Materials).

Compressed hydrogen (CH<sub>2</sub>) for use as a vehicular fuel shall also comply with Chapters 23 and 58 of this code and NFPA 2.

Cutting and welding gases shall also comply with Chapter 35.

LP-gas shall also comply with Chapter 61.

Exceptions:

1. Gases used as refrigerants in refrigeration systems (see Section 606).
2. Compressed natural gas (CNG) for use as a vehicular fuel shall comply with Chapter 23, NFPA 52, and the International Fuel Gas Code.
3. Cryogenic fluids shall comply with Chapter 55.

B. Change Section 5301.2 to read:

5301.2 Permits. Permits shall be required as set forth in Section 107.2.

C. Change Section 5303.16 to read:

~~(N)5303.16~~ 5303.16 Vaults. [ ~~Vaults shall be maintained in accordance with the applicable building code~~ Where approved by the applicable building code, generation, compression, storage, and dispensing equipment for compressed gases located in either above-grade or below-grade vaults shall be maintained in accordance with Sections 5303.16.1 through 5303.16.14 ].

D. Delete Sections 5303.16.1 through 5303.16.3.

E. Delete Section 5303.16.5.

F. Delete Sections 5303.16.7 through 5303.16.10.

G. Delete Sections 5303.16.12 and 5303.16.14.

H. Change Sections 5305.5 and 5306.2 to read:

~~(N)5305.5~~ 5305.5 Venting. Venting shall be [ ~~operated,~~ ] maintained [ ~~and directed to an approved location~~ ] in accordance with [ ~~this chapter and~~ ] the applicable building code.

~~(N)5306.2~~ 5306.2 Interior supply location. [ ~~Unless otherwise approved by the applicable building code, medical gases shall be stored in areas dedicated to the storage of such gases without other storage or uses.~~ ] Medical gases shall be stored in areas approved under the applicable building code.

I. Delete Sections 5306.2.1 and 5306.2.2.

J. Change ~~Section 5307.2~~ Sections 5307.1 through [ ~~5307.4.4~~ 5307.4.5 ] and delete Sections 5307.2.1 [ ~~5307.4.1, 5307.4.3.1,~~ ] and 5307.4.6 to read:

~~5307.2~~ Permits. ~~Permits shall be required as set forth in Section 107.2.~~

K. Delete Section 5307.5.

L. Change Sections 5307.5.1 and 5307.5.2 to read:

~~(N)5307.5.1~~ Ventilation. ~~Mechanical ventilation shall be maintained in accordance with the applicable building code.~~

~~(N)5307.5.2~~ Emergency alarm system. ~~Where required under the applicable building code, emergency alarm systems shall be maintained.~~

M. Delete Section 5308.1.

N. Change Section 5308.2 to read:

~~(N)5308.2~~ Ventilation. ~~Where mechanical ventilation is required, it shall be maintained in accordance with the applicable building code.~~

5307.1 General. Compressed gases in storage or use not regulated by the material-specific provisions of Chapters 6, 54, 55, and 60 through 67, including asphyxiant, irritant, and radioactive gases, shall comply with this section in addition to other requirements of this chapter.

5307.2 Ventilation. [ ~~Ventilation for indoor storage and use areas and storage buildings shall be maintained in accordance with the applicable building code.~~ Indoor storage and use areas and storage buildings shall be maintained with ventilation in accordance with Section 5004.3 and the applicable building code. Where mechanical ventilation is provided, the systems shall be operational during such time as the building or space is occupied.

5307.2.1 Gas detection system In rooms or areas not operating with ventilation in accordance with Section 5307.2, a gas detection system, complying with the applicable building code or, where approved by the building official, an oxygen depletion alarm system, either of which initiates audible and visible alarm signals in the room or area where sensors are installed, shall be maintained in accordance with Chapter 9. ]

5307.3 Insulated liquid carbon dioxide systems used in beverage dispensing applications. Insulated liquid carbon dioxide systems with more than 100 pounds (45.4 kg) of carbon dioxide used in beverage dispensing applications shall comply with Section 5307.3.1.

5307.3.1 Ventilation. [ ~~Mechanical ventilation for areas with carbon dioxide systems shall be maintained~~ Insulated liquid carbon dioxide storage tanks, cylinders, piping, and equipment located indoors, in rooms or areas containing storage tanks, cylinders, piping and equipment, and in other areas where a leak of carbon dioxide is expected to accumulate, shall maintain and operate ventilation in accordance with the applicable building code and Section 5004.3 and keep the room containing carbon dioxide at a negative pressure in relation to the surrounding area.

Exception: Where a gas detection system was approved ] in accordance with the applicable building code.

5307.3.2 Gas detection system. Gas detection systems for insulated carbon dioxide systems shall be maintained in accordance with the applicable building code.

5307.4 Carbon dioxide enrichment systems. The maintenance of carbon dioxide enrichment systems with more than 100 pounds (45.4 kg) of carbon dioxide and carbon dioxide enrichment systems with any quantity of carbon dioxide having a remote fill connection shall comply with Sections [ ~~5307.4.2~~ 5307.4.1 ] through 5307.4.7.

[ 5307.4.1 Documentation. Where required by the fire code official for an operational permit in accordance with Section 107.2, the following shall be provided:

Total aggregate quantity of liquid carbon dioxide in pounds or cubic feet at normal temperature and pressure.

Location and total volume of the room where the carbon dioxide enrichment operation will be conducted. Identify whether the room is at grade or below grade.

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Location of containers relative to equipment, building openings, and means of egress.

Manufacturer's specifications and pressure rating, including cut sheets, of all piping and tubing to be used.

A piping and instrumentation diagram that shows piping support and remote fill connections.

Details of container venting, including vent line size, material and termination location.

Alarm and detection system and equipment, if applicable.

Seismic support for containers. ]

5307.4.2 Equipment. Pressure relief, vent piping, fill indicators, fill connections, vent terminations, piping systems, and the storage, use, and handling of the carbon dioxide shall be [ maintained ] in accordance with [ Chapter 53, ] the applicable building code [ , and the applicable maintenance provisions of NFPA 55 ].

5307.4.3 Gas detection system. Gas detection systems for carbon dioxide enrichment systems shall be maintained in accordance with the applicable building code.

[ 5307.4.3.1 System activation. System activation shall be maintained in accordance with the applicable building code. ]

5307.4.4 Pressurization and ventilation. [ ~~Pressurization and ventilation of rooms or indoor areas in which carbon dioxide enrichment is provided shall be maintained in accordance with the applicable building code~~ Rooms or indoor areas in which carbon dioxide enrichment is provided shall be operated and maintained at a negative pressure in relation to the surrounding areas in the building in accordance with the applicable building code ].

[ 5307.4.5 Signage. Hazard identification signs shall be posted at the entrance to the room and indoor areas where the carbon dioxide enrichment process is located, and at the entrance to the room or indoor area where the carbon dioxide containers are located. The sign shall be not less than eight inches (200 mm) in width and six inches (150 mm) in height and indicate:

CAUTION - CARBON DIOXIDE GAS

VENTILATE THE AREA BEFORE ENTERING.

A HIGH CARBON DIOXIDE (CO<sub>2</sub>) GAS CONCENTRATION IN THIS AREA CAN CAUSE ASPHYXIATION. ]

## 13VAC5-51-147. IFC Chapter 54 Corrosive Materials.

A. Change Sections 5401.1 and 5401.2 to read:

5401.1 Scope. Maintenance and operational aspects of the storage and use of corrosive materials shall be in accordance

with this chapter. Compressed gases shall also comply with Chapter 53.

Exceptions:

1. Display and storage in Group M and storage in Group S occupancies complying with Section 5003.11.
2. Stationary storage battery systems in accordance with Section 608.
3. This chapter shall not apply to R-717 (ammonia) where used as a refrigerant in a refrigeration system (see Section 606).

5401.2 Permits. Permits shall be required as set forth in Section 107.2.

B. Change Sections 5403.1 and 5403.2 to read:

5403.1 Quantities not exceeding the maximum allowable quantity per control area. The storage and use of corrosive materials in amounts not exceeding the maximum allowable quantity per [ ~~control area shall be in accordance with the applicable building code~~ the applicable building code shall be maintained in accordance with Sections 5001, 5003, and 5401 ].

5403.2 Quantities exceeding the maximum allowable quantity per control area. The storage and use of corrosive materials in amounts exceeding the maximum allowable quantity per [ ~~control area shall be in accordance with the applicable building code~~ the applicable building code shall be maintained in accordance with this chapter and Chapter 50 ].

C. Change Sections 5404.1.1 and 5404.2.1 to read:

~~(N)5404.1.1~~ 5404.1.1 Liquid-tight floor. [ ~~Liquid-tight floors shall be maintained~~ In addition to the provisions of Section 5004.12, floors in storage areas for corrosive liquids shall be maintained as liquid-tight construction ] in accordance with the applicable building code.

~~(N)5404.2.1~~ 5404.2.1 Aboveground outside storage tanks. [ ~~Aboveground outside storage tanks shall be maintained in accordance with the applicable building code~~ Where secondary containment is provided for aboveground outside storage tanks of corrosive liquids, it shall be maintained in accordance with Section 5004.2.2 ].

D. Change Section 5405.1.2 to read:

~~(N)5405.1.2~~ 5405.1.2 Ventilation. Where required, mechanical exhaust ventilation shall be maintained [ and operated ] in accordance with the applicable building code.

## 13VAC5-51-147.5. IFC Chapter 55 Cryogenic Fluids.

A. Change Sections 5501.1 and 5501.2 to read:

5501.1 Scope. Maintenance and operational aspects of the storage, use and handling of cryogenic fluids shall comply with this chapter and NFPA 55. Cryogenic fluids classified

as hazardous materials shall also comply with the general requirements of Chapter 50. Partially full containers containing residual cryogenic fluids shall be considered as full for the purposes of the controls required.

Exceptions:

1. Fluids used as refrigerants in refrigeration systems (see Section 606).
2. Liquefied natural gas (LNG), which shall comply with NFPA 59A.

Oxidizing cryogenic fluids, including oxygen, shall comply with Chapter 63, as applicable.

Flammable cryogenic fluids, including hydrogen, methane and carbon monoxide, shall comply with Chapters 23 and 58, as applicable.

Inert cryogenic fluids, including argon, helium and nitrogen, shall comply with ANSI/CGA P-18.

5501.2 Permits. Permits shall be required as set forth in Section 107.2.

B. Change Section 5503.1.2 to read:

~~(N)5503.1.2~~ 5503.1.2 Concrete containers. Barrier materials and membranes used in connection with concrete, but not functioning structurally, shall be compatible with the materials contained.

C. Change Sections 5503.5.2 and 5503.6 to read:

~~(N)5503.5.2~~ 5503.5.2 Securing of containers. Stationary containers shall be secured to foundations in accordance with the applicable building code. Portable containers subject to shifting or upset shall be secured. Nesting shall be an acceptable means of securing containers.

~~(N)5503.6~~ 5503.6 Electrical wiring and equipment. Electrical wiring and equipment shall be maintained in accordance with the [ applicable provisions of NFPA 70, the ] applicable building code [ , and Sections 5503.6.1 and 5503.6.2 ].

D. Change Section 5504.2.1 to read:

~~(N)5504.2.1~~ 5504.2.1 Stationary containers. Stationary containers shall [ be maintained remain ] in accordance with the applicable building code [ and comply with the maintenance provisions of this section and those applicable to the type of fluid stored ].

E. [ ~~Delete Change~~ ] Section 5504.2.1.2 [ ~~to read~~:

5504.2.1.2 Indoor storage areas. Cryogenic fluids in stationary containers stored indoors shall be stored in buildings, rooms, or areas constructed for this use in accordance with the applicable building code. ]

F. Change Sections 5504.2.1.3, 5504.2.2.2, and 5504.2.2.3 to read:

~~(N)5504.2.1.3~~ 5504.2.1.3 Ventilation. [ ~~Ventilation required in storage areas for stationary containers shall be maintained~~ Storage areas for stationary containers shall be ventilated ] in accordance with the applicable building code.

~~(N)5504.2.2.2~~ 5504.2.2.2 [ ~~Construction of indoor areas~~ Indoor storage areas ]. [ ~~Rooms or areas used for the storage of cryogenic fluids in portable containers shall be maintained~~ Cryogenic fluids in portable containers stored indoors shall only be stored in buildings, rooms, or areas constructed for this use ] in accordance with the applicable building code.

~~(N)5504.2.2.3~~ 5504.2.2.3 Ventilation. [ ~~Ventilation shall be maintained~~ Storage areas for portable containers shall be ventilated ] in accordance with the applicable building code.

G. Change Sections 5505.4.1 and 5505.4.1.1 to read:

~~(N)5505.4.1~~ 5505.4.1 Dispensing areas. Dispensing of cryogenic fluids with physical or health hazards shall be conducted in approved locations.

~~(N)5505.4.1.1~~ 5505.4.1.1 Ventilation. Ventilation required [ by the applicable building code shall be maintained and operated ] in areas where cryogenic fluids are dispensed [ ~~shall be maintained in accordance with the applicable building code~~ ].

Exception: Cryogenic fluids that can be demonstrated not to create harmful vapors.

### **13VAC5-51-150. IFC Chapter 56 Explosives and Fireworks.**

A. Change exception 4 in Section 5601.1 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 5601.1 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

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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 5601.1.3 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 5601.1.3 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 5601.2 to read:

5601.2 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.

5601.2.1 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 5606.

5601.2.2 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 5603.2 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.

5601.2.3 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.

5601.2.3.1 Permit applicants. As a condition of a permit as provided for in Section 107.5, the fire official shall not issue a permit to manufacture, store, handle, use or sell explosives

or blasting agents to any applicant who has not provided on the permit application the name and signature of a designated individual as representing the applicant. When, as provided for in Section 107.2 or 107.6, a permit is required to conduct a fireworks display, as a condition of permit as provided for in Section 107.5, the fire official shall not issue a permit to design, setup or conduct a fireworks display to any applicant who has not provided on the permit application the name and signature of a designated individual as representing the applicant.

If the applicant's designated individual changes or becomes no longer qualified to represent the applicant as responsible management or designated individual, the applicant shall notify the fire official who issued the permit on the change of status of the designated individual. The notice is to be made prior to the use of any explosives or conducting a fireworks display but in no case shall the notification occur more than seven days after the change of status and shall provide the name of another designated individual. The fire official may revoke or require the reissuance of a permit based on a change of permit conditions or status or inability to provide another designated individual.

5601.2.3.1.1 BCC. The SFMO shall process all applications for a BCC for compliance with § 27-97.2 of the Code of Virginia and will be the sole provider of a BCC. Using forms provided by the SFMO, a BCC may be applied for and issued to any person who submits to the completion of a background investigation by providing fingerprints and personal descriptive information to the SFMO. The SFMO shall forward the fingerprints and personal descriptive information to the Central Criminal Records Exchange for submission to the Federal Bureau of Investigation for the purpose of obtaining a national criminal history records check regarding such applicant.

5601.2.3.1.2 Issuance of a BCC. The issuance of a BCC 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.

5601.2.3.1.3 Fee for BCC. The fee for obtaining or renewing a BCC from the 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.

5601.2.3.1.4 Revocation of a BCC. After issuance of a BCC, subsequent conviction of a felony will be grounds for immediate revocation of a BCC, 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 BCC shall be returned to the SFMO



immediately. An individual may reapply for his BCC if his civil rights have been restored by the Governor or other appropriate authority.

5601.2.4 Financial responsibility. Before a permit is issued, as required by Section 5601.2, the applicant shall file with the jurisdiction a corporate surety bond in the principal sum of \$500,000 or a public liability insurance policy for the same amount, for the purpose of the payment of all damages to persons or property which arise from, or are caused by, the conduct of any act authorized by the permit upon which any judicial judgment results. The legal department of the jurisdiction may specify a greater amount when conditions at the location of use indicate a greater amount is required. Government entities shall be exempt from this bond requirement.

5601.2.4.1 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 \$1,000,000.

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.

5601.2.4.2 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, but in no case shall the value of the coverage be less than \$1,000,000.

F. Change entire Section 5601.4 to read:

5601.4 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.

5601.4.1 Certification of blasters and pyrotechnicians. Certificates as a restricted blaster, unrestricted blaster or pyrotechnician will be issued upon proof of successful completion of an examination approved by the SFMO commensurate to the certification sought and completion of 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)~~ persons 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.
3. For certification as a pyrotechnician, aerial, or pyrotechnician, proximate, applicant was in responsible charge of or has assisted in the documented design, setup and conducting of a fireworks display on at least six occasions within the 24 months immediately preceding the application for certification.

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 and pyrotechnician certifications.

Exception: The use of explosives by 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.

5601.4.2 Certification issuance. The issuance of a certification as a blaster or pyrotechnician shall be denied if the applicant has (i) 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, (ii) has not provided acceptable proof or evidence of the experience required in Section 5601.4.1, or (iii) has not provided acceptable proof or evidence of the continued training or education required in Section 5601.4.5.

5601.4.3 Fee for certification. The fee for obtaining or renewing a blaster or pyrotechnician certificate from the 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.

5601.4.3.1 Fee for replacement certificate. A written request for a replacement blaster or pyrotechnician certificate shall be accompanied by the payment of an administrative fee in the amount of \$20 made payable to the Treasurer of Virginia. Verbal requests shall not be accepted.

5601.4.4 Revocation of a blaster or pyrotechnician certification. After issuance of a blaster or pyrotechnician certification, subsequent conviction of a felony will be grounds for immediate revocation of a blaster or pyrotechnician certification, whether such conviction occurred under the laws of the Commonwealth, or any other

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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 or pyrotechnician certification if his civil rights have been restored by the Governor or other appropriate authority.

5601.4.5 Expiration and renewal of a BCC, or blaster or pyrotechnician certification. A certificate for an unrestricted blaster, restricted blaster or pyrotechnician shall be valid for three years from the date of issuance. A BCC 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 accumulated 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 accumulated 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 pyrotechnician certificate will be issued upon proof of at least 12 accumulated hours of continued training or education in the subject areas of explosives storage; the design, setup or conduct of a fireworks display 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 or pyrotechnician certificate shall be obtained during the three years immediately prior to the certificate's published expiration date. Failure to renew a blaster or pyrotechnician certificate in accordance with this section shall cause an individual to obtain another blaster or pyrotechnician certificate upon compliance with Section 5601.4.1 to continue engaging in the unsupervised use of explosives or conducting a fireworks display.

5601.4.6 Denial, suspension or revocation of a certificate. If issuance or renewal of a blaster or pyrotechnician certificate is denied, or upon the filing of a complaint against an applicant or certificate holder for non-performance, or performance in violation of the SFPC and the appropriate referenced NFPA 495, 1123 or 1126 standards, the State Fire Marshal may convene a three-member panel to hear the particulars of the complaint or denial. The three-member panel will be comprised of the following persons:

1. A Virginia certified fire official, excluding any person certified as a blaster or pyrotechnician, or who is on the staff of the SFMO.
2. A Virginia certified blaster or pyrotechnician whose certification is the same as that of the person to whom a complaint is lodged, and who is not associated in any way with the person against whom a complaint is lodged and whose work or employer is geographically remote, as

much as practically possible, from the person to whom a complaint is lodged.

3. A member of the general public who does not have a vested financial interest in conducting a fireworks display, or the manufacture, sale, storage, or use of explosives.

Upon the State Fire Marshal convening such panel, the hearing is to commence within 60 calendar days of the filing of the complaint or denial. The three-member panel is to hear the complaint and render a written recommendation to the State Fire Marshal for certificate issuance, no action, revocation, or suspension of a certificate for a period not to exceed six months. Notwithstanding the discretionary decision and action to convene such panel, the State Fire Marshal reserves the authority to choose an action that may be contrary to the panel's recommendation. A written decision of the State Fire Marshal is to be delivered to the party within 14 days of the hearing's conclusion. If the certificate is denied, revoked, or suspended by the SFMO, in accordance with Section 112.9, the party may file an appeal with the State Review Board. The party's appeal to State Review Board must be filed within 14 calendar days of the receipt of the State Fire Marshal's written decision to deny, revoke, or suspend. The denial, revocation, or suspension of a license is independent of any criminal proceedings that may be initiated by any state or local authority.

5601.4.6.1 Replacement of revoked certificate. Any person whose certificate as a pyrotechnician or blaster was revoked upon cause may apply for certification as a pyrotechnician or blaster six months or more from the date of the revocation and upon compliance with Section 5601.4.1. All elements of Section 5601.4.1 are required to be obtained and dated after the date of revocation.

5601.4.6.2 Return of suspended certificate. Any certificate that was suspended upon cause will be reinstated at the end of the suspension period without change to its expiration date.

G. Change Section 5601.7 to read:

5601.7 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. Change Section 5601.8.1.1 to read:

5601.8.1.1 Mass-detonating explosives (Division 1.1, 1.2 or 1.5). The total net explosive weight of mass-detonating explosives (Division 1.1, 1.2 or 1.5) shall be used. See Table 5604.5.2(1) as appropriate.

Exception: Where the TNT equivalence of the explosive material has been determined, the equivalence is allowed to be used to establish the net explosive weight.

## I. Change Section 5601.8.1.3 to read:

5601.8.1.3 Combinations of mass-detonating and non-mass-detonating explosives (excluding Division 1.4). Combination of mass-detonating and non-mass-detonating explosives (excluding Division 1.4) shall be as follows:

1. Where Divisions 1.1 and 1.2 explosives are located in the same site, determine the distance for the total quantity considered first as Division 1.1 and then as Division 1.2. The required distance is the greater of the two. [ ~~Where~~ When ] the Division 1.1 requirements are controlling and the TNT equivalence of the Division 1.2 is known, the TNT equivalent weight of the [ ~~Division~~ ] 1.2 items shall be allowed to be added to the total explosive weight of Division 1.1 items to determine the net explosive weight for Division 1.1 distance determination. See Table 5604.5.2(2) [ ~~or Table 5605.3~~ ] as appropriate.
2. Where Divisions 1.1 and 1.3 explosives are located in the same site, determine the distances for the total quantity considered first as [ ~~Division~~ ] 1.1 and then as [ ~~Division~~ ] 1.3. The required distance is the greater of the two. [ ~~Where~~ When ] the Division 1.1 requirements are controlling and the TNT equivalence of the [ ~~Division~~ ] 1.3 is known, the TNT equivalent weight of the [ ~~Division~~ ] 1.3 items shall be allowed to be added to the total explosive weight of Division 1.1 items to determine the net explosive weight for Division 1.1 distance determination. See Table 5604.5.2(1) or Table 5604.5.2(2) [ ~~or 5605.3,~~ ] as appropriate.
3. Where Divisions 1.1, 1.2 and 1.3 explosives are located in the same site, determine the distances for the total quantity considered first as [ ~~Division~~ ] 1.1, next as [ ~~Division~~ ] 1.2 and finally as [ ~~Division~~ ] 1.3. The required distance is the greatest of the three. As allowed by subdivisions 1 and 2 of this subsection, TNT equivalent weights for [ ~~Division~~ ] 1.2 and [ ~~Division~~ ] 1.3 items are allowed to be used to determine the net weight of explosives for Division 1.1 distance determination. Table 5604.5.2(1) [ ~~or 5605.3~~ ] shall be used [ ~~where~~ when ] TNT equivalency is used to establish the net explosive weight.
4. For composite pyrotechnic items Division 1.1 and Division 1.3, the sum of the net weights of the pyrotechnic composition and the explosives involved shall be used. See Tables 5604.5.2(1) and 5604.5.2(2).

## J. Change Section 5605.6.4.1 to read:

~~5605.6.4.1 Magazines. Magazines used for storage in processing areas shall be in accordance with the requirements of Section 5604.5.1. Explosive materials shall be removed to appropriate storage magazines for unattended storage at the end of the work day. The contents of indoor magazines shall be added to the quantity of explosives contained at individual workstations and the total quantity of material stored, processed or used shall be utilized to~~

~~establish the intraplant separation distances indicated by Table 5604.5.2(3) as appropriate.~~

## K. Change Section 5606.5.2.1 to read:

~~5606.5.2.1 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 not less than 1 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 not less than 1 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 1 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 not less than 1 inch (25 mm) nominal thickness or equivalent and having shelves with not 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 (12192 mm) between cabinets.~~
  - ~~3.5. 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 1/4 inch thick (6.4 mm), 2 inch (51 mm) nominal thickness wood, brick or concrete block.~~
  - ~~3.6. 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.~~
  - ~~3.7. The building shall be equipped throughout with an automatic sprinkler system installed in accordance with the applicable building code.~~
- ~~4. Smokeless propellants not stored in according to Item 1, 2, or 3 shall be stored in a Type 2 or 4 magazine in accordance with Section 5604 and NFPA 495.~~

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~~L.~~ Change Section 5606.5.2.3 to read:

~~5606.5.2.3 Small arms primers. Commercial stocks of small arms primers shall be stored as follows:~~

~~1. Quantities not to exceed 750,000 small arms primers stored in a building shall be arranged such that not more than 100,000 small arms primers are stored in any one pile and piles are not less than 15 feet (4572 mm) apart.~~

~~2. Quantities exceeding 750,000 small arms primers stored in a building shall comply with all of the following:~~

~~2.1. The warehouse or storage building shall not be accessible to unauthorized personnel.~~

~~2.2. Small arms primers shall be stored in cabinets. Not more than 200,000 small arms primers shall be stored in any one cabinet.~~

~~2.3. Shelves in cabinets shall have vertical separation of not less than 2 feet (610 mm).~~

~~2.4. Cabinets shall be located against walls of the warehouse or storage room with not less than 40 feet (12192 mm) between cabinets. The minimum required separation between cabinets shall be allowed to be reduced to 20 feet (6096 mm) provided that barricades twice the height of the cabinets are attached to the wall, midway between each cabinet. The barricades shall be firmly attached to the wall and shall be constructed of steel not less than 1/4 inch thick (6.4 mm), 2 inch (51 mm) nominal thickness wood, brick or concrete block.~~

~~2.5. Small arms primers shall be separated from materials classified as combustible liquids, flammable liquids, flammable solids or oxidizing materials by a distance of 25 feet (7620 mm) by a fire partition having a fire-resistance rating of 1 hour.~~

~~2.6. The building shall be protected throughout with an automatic sprinkler system installed in accordance with the applicable building code.~~

~~3. Small arms primers not stored in accordance with Item 1 or 2 of this section shall be stored in a magazine meeting the requirements of Section 5604 and NFPA 495.~~

~~M.~~ J. Add the following to the list of definitions in Section 5602.1:

Background clearance card (BCC).

Blaster, restricted.

Blaster, unrestricted.

Design.

Designated individual.

~~Fireworks.~~

~~Fireworks, 1.4G.~~

~~Fireworks, 1.3G.~~

Permissible fireworks.

Pyrotechnician (fireworks operator).

Pyrotechnician, aerial.

Pyrotechnician, proximate.

Responsible management.

~~Smokeless propellants.~~

Sole proprietor.

~~N.~~ K. Change Section 5603.4 to read:

5603.4 Accidents. Accidents involving the use of explosives, explosive materials, and fireworks, which result in injuries or property damage, shall be immediately reported by the permit holder to the fire code official and State Fire Marshal.

~~O.~~ L. Change Section 5605.1 to read:

5605.1 General. The restricted and unrestricted manufacture, assembly and testing of explosives, ammunition, blasting agents and fireworks shall comply with the requirements of this section, NFPA 495, NFPA 1124, or NFPA 1126.

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. ]

~~P.~~ M. Add Section 5605.1.1 to read:

5605.1.1 Permits. Permits for the restricted and unrestricted explosives 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 for unrestricted explosives manufacturing of any explosive material shall be prohibited unless such manufacture is authorized by a federal license and conducted in accordance with recognized safety practices. All restricted explosives manufacturing shall comply with the instructions provided by the supplier of the components used in the manufacture of the explosive material.

Exceptions:

1. Any recreational use of reactive targets is not required to obtain a permit for restricted explosives manufacture or explosives use when such manufacture and use complies with all of the following:

1.1. The manufacture and use is limited to one pound or less per unit on private property with the permission of the

property owner and used no closer than 500 feet from a roadway or structure;

1.2. The manufacture of the reactive target complies with the instructions provided by the producer of the components used in the manufacture;

1.3. The reactive target manufactured is for immediate use without any residual storage or transportation; and

1.4. The exploding or use of the target is in conformance with its intended purpose by the manufacturer of the reactive target and does not involve the deliberate destruction of any property, vehicle, structure or animal life.

2. 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 is not required to obtain a permit for restricted explosives manufacture when such manufacture complies with all of the following:

2.1. The manufacture of the explosives is conducted by the owner of such real estate;

2.2. The manufacture of the explosives complies with the instructions provided by the producer of the components used in the manufacture;

2.3. The explosive used does not include reactive targets;

2.4. The reactive target manufactured is for immediate use without any residual storage or transportation; and

2.5. A permit to use explosives has been obtained in accordance with Section 107.2.

3. An applicant that is performing nonpersonal, business work is not required to obtain a permit for restricted explosives manufacture when such manufacture complies with all of the following:

3.1. The applicant's certified blaster who manufactures the explosives complies with the instructions provided by the producer of the components used in the manufacture;

3.2. The explosive used does not include the use of reactive targets;

3.3. The explosive material manufactured is for immediate use without any residual storage or transportation; and

3.4. A permit to use explosives has been obtained in accordance with Section 107.2.

~~Q. N.~~ Delete [ ~~Section 5605.3 and~~ ] Table 5605.3 [ - and change Section 5605.3 to read:

5605.3 Intraplant separation of operating buildings. Separation of explosives manufacturing buildings and fireworks manufacturing buildings, including those where explosive charges are assembled, manufactured, prepared, or loaded utilizing Division 1.1, 1.2, 1.3, 1.4, or 1.5 explosives shall be separated from all other buildings, including magazines, within the confines of the manufacturing plant, at a distance not less than that required

by the applicable building code or Table 5604.5.2(3), as applicable. The quantity of explosives in an operating building shall be the net weight of all explosives contained therein. ]

~~R. O.~~ Change Section 5605.4 to read:

~~(N)5605.4~~ 5605.4 Separation of manufacturing operating buildings from inhabited buildings, public traffic routes and magazines. Where an operating building on an explosive materials plant site is designed to contain explosive materials, [ such a building shall be maintained in accordance with the applicable building code the distance between such a building and inhabited buildings, public traffic routes and magazines, required by the applicable building code, shall be maintained ].

~~S. P.~~ Change Section 5605.5 to read:

~~(N)5605.5~~ 5605.5 Buildings and equipment. Buildings or rooms that exceed the maximum allowable quantity per control area of explosive materials [ in accordance with the applicable building code, ] shall be operated in accordance with this section.

[ Exception: Fireworks manufacturing buildings constructed and operated in accordance with NFPA 1124 and maintain the requirements of the applicable building code for Group H occupancies ].

~~T. Delete Table 5605.3.~~

~~U. Q.~~ Change Section 5605.6.4 to read:

~~(N)5605.6.4~~ 5605.6.4 Quantity limits. The quantity of explosives at any particular work station shall be limited to that posted on the load limit signs for the individual work station. The total quantity of explosives for multiple workstations shall not exceed that established by the intraplant distances in [ accordance with Table 5604.5.2(3) and ] the applicable building code.

~~R.~~ Change Section 5605.6.4.1 to read:

5605.6.4.1 Magazines. Magazines used for storage in processing areas shall be in accordance with the requirements of Section 5604.5.1. [ Explosive All explosive ] materials shall be removed to appropriate storage magazines for unattended storage at the end of the work day. The contents of indoor magazines shall be added to the quantity of explosives contained at individual workstations and the total quantity of material stored, processed, or used shall be utilized to establish the intraplant separation distances indicated by Table [ 5605.3 or Table ] 5604.5.2(3) as appropriate.

~~V. S.~~ Change Section 5606.4 to read:

5606.4 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

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

~~W. T.~~ Delete Sections 5606.4.1, 5606.4.2, and 5606.4.3.

~~X. U.~~ Change Section 5606.5.1.1 to read:

5606.5.1.1 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.

~~Y. V.~~ Delete Section 5606.5.1.3.

~~Z. W.~~ Change Section 5606.5.2.1 to read:

5606.5.2.1 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)~~ (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~~ 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 one hour.

3.6. The building shall be equipped throughout with an automatic sprinkler system installed in accordance with ~~Section 903.3.1.1~~ the applicable NFPA 13 standard.

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 5604 and NFPA 495.

X. Change Section 5606.5.2.3 to read:

5606.5.2.3 Small arms primers. Commercial stocks of small arms primers shall be stored as follows:

1. Quantities not to exceed 750,000 small arms primers stored in a building shall be arranged such that not more than 100,000 small arms primers are stored in any one pile, and piles are not less than 15 feet (4572 mm) apart.

2. Quantities exceeding 750,000 small arms primers stored in a building shall comply with all of the following:

2.1. The warehouse or storage building is not open to unauthorized personnel.

2.2. Small arms primers shall be stored in cabinets. Not more than 200,000 small arms primers shall be stored in any one cabinet.

2.3. Shelves in cabinets shall have vertical separation of not less than 2 feet (610 mm).

2.4. Cabinets shall be located against walls of the warehouse or storage room with not less than 40 feet (12,192 mm) between cabinets. The minimum required separation between cabinets shall be allowed to be reduced to 20 feet (6096 mm) provided that barricades twice the height of the cabinets are attached to the wall, midway between each cabinet. The barricades shall be firmly attached to the wall and shall be constructed of steel not less than 1/4-inch thick (6.4 mm), 2-inch (51 mm) nominal thickness wood, brick, or concrete block.

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

2.6. The building shall be protected throughout with an automatic sprinkler system installed in accordance with the applicable NFPA 13 standard.

3. Small arms primers not stored in accordance with Item 1 or 2 of this section shall be stored in a magazine meeting the requirements of Section 5604 and NFPA 495.

~~AA- Y.~~ Change Section 5607.1 to read:

5607.1 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.

~~BB- Z.~~ Add Section 5607.16 to read:

5607.16 Blast records. A record of each blast shall be kept and retained for at least five years and shall be readily available for inspection by the code official. The record shall be in a format selected by the blaster and shall contain the minimum data and information indicated in Form 5607.16.

| Form 5607.16<br>Blast (shot) Record   |   |   |   |                |
|---|---|---|---|----------------|
| Block 1<br>General Information  |   |   |   |                |
| 1   | Blast date:   | Blast Number:   | Blast Time:   | Permit Number: |
| 2   | Blast location by address including city, county or town:                                 |   |   |                |
| 3   | Blast location by GPS coordinates: <input type="checkbox"/> check box if unknown          |   |   |                |
| 4   | Name of Permit Holder:  |   |   |                |
| 5   | Name of Blaster in charge (print):  |   |   |                |
| 6   | Signature of Blaster in charge:   |   |   |                |
| 7   | Certification Number of Blaster in charge:  |   |   |                |
| Block 2<br>General Environmental Conditions   |   |   |   |                |
| 1   | Weather (Clear? Cloudy? Overcast?)  | Wind direction and speed<br><br>@ _____ mph                     | Temperature<br>F° / C°  |                |
| 2   | Topography (Flat? Hilly? Mountainous?)  | Distance from blast site to nearest inhabited building:         | Distance from nearest inhabited building determined by:<br><input type="checkbox"/> GPS coordinates<br><input type="checkbox"/> Measurement<br><input type="checkbox"/> Estimated           |                |
| 3   | Use of nearest inhabited building (Dwelling? Business? Apartment Building? School?)       | Direction from blast site to nearest inhabited building:        | Direction from blast site to nearest inhabited building determined by:<br><input type="checkbox"/> GPS instrument<br><input type="checkbox"/> Compass<br><input type="checkbox"/> Estimated |                |
| Additional Blaster notations on environmental conditions:   |   |   |   |                |
| Block 3<br>Shot Layout and Precautions Taken (N/A = Not Applicable)   |   |   |   |                |
| 1   | Number of holes   | Diameter of hole or holes                                       | Depth of hole or holes  |                |
| 2   | Were any holes decked?<br><br><input type="checkbox"/> Yes<br><input type="checkbox"/> No | How many holes were decked?<br><br><input type="checkbox"/> N/A | How many decks per hole?<br><br><input type="checkbox"/> N/A  |                |
| (If applicable, indicate on any attached shot pattern drawing which holes were decked and the number of decks for the holes.) |   |   |   |                |

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|--|--|----------------------------|--|
| 3  | Shot pattern<br><input type="checkbox"/> Check this box if only single hole. | Depth of sub-drilling      | Drilling angle   |
| 4  | Burden   | Spacing of holes           | Water height   |
| 5  | Stemming height  | Material used for stemming | Check box for flyrock precautions taken<br><input type="checkbox"/> Mats<br><input type="checkbox"/> Overburden<br><input type="checkbox"/> None taken |
| Additional Blaster notations on shot layout and precautions: |  |                            |  |

**Block 4**  
Seismic Control Measures (N/A = Not Applicable)

|   |   |  |   |
|---|---|--|---|
| 1 | Was scaled distance formula used?<br><input type="checkbox"/> Yes<br><input type="checkbox"/> No  | Indicate which scaled distance equation was used.<br><input type="checkbox"/> N/A<br><input type="checkbox"/> $W(lb) = \{D(ft)/50\}^2$<br><input type="checkbox"/> $W(lb) = \{D(ft)/55\}^2$<br><input type="checkbox"/> $W(lb) = \{D(ft)/65\}^2$ | Maximum allowable charge weight per 8 ms based on scaled distance. <input type="checkbox"/> N/A                                 |
| 2 | Was seismograph used?<br><input type="checkbox"/> Yes<br><input type="checkbox"/> No  | Seismograph manufacturer and model number: <input type="checkbox"/> N/A  | Seismograph serial number:<br><input type="checkbox"/> N/A<br>Seismograph's last calibration date. <input type="checkbox"/> N/A |
| 3 | Distance and direction seismograph from blast site <input type="checkbox"/> N/A   | Distance determined by:<br><input type="checkbox"/> N/A <input type="checkbox"/> GPS coordinates<br><input type="checkbox"/> Estimated <input type="checkbox"/> Measurement  |   |
| 4 | Seismograph <input type="checkbox"/> N/A<br>Geophone Minimum Frequency _____ Hz<br>Seismograph<br>Microphone Minimum Frequency _____ Hz | Seismograph recordings: <input type="checkbox"/> N/A<br>Transverse _____ in/s _____ Hz<br>Vertical _____ in/s _____ Hz<br>Longitudinal _____ in/s _____ Hz<br>Acoustic _____ dB _____ Hz   |   |
| 5 | Seismograph trigger level <input type="checkbox"/> N/A<br><br>_____ in/s _____ dB   |  |   |

Additional Blaster notations on seismic control measures:

**Block 5**  
Quantity and Product

|   |   |   |
|---|---|---|
| 1 | Maximum allowable charge weight per 8 ms interval<br><input type="checkbox"/> Delay not used<br>_____ lbs | Initiation (Check)<br><input type="checkbox"/> Electric<br><input type="checkbox"/> Non-electric<br><input type="checkbox"/> Electronic |
| 2 | Maximum number of holes/decks per 8 ms interval<br><input type="checkbox"/> Delay not used<br>_____ lbs   |   |



|   |   |  |                             |                  |
|---|---|--|-----------------------------|------------------|
| 3   | Maximum weight or sticks of explosive per hole<br><br>_____ lbs | Firing device manufacturer and model: <input type="checkbox"/> N/A |                             |                  |
| Explosive Product listing (Attach additional pages as needed.)  |   |  |                             |                  |
| 4   | Manufacturer  | Product name, description or brand                                 | Number of units             | Unit weight (lb) |
| Explosive Product listing (Attach additional pages as needed.)  |   |  |                             |                  |
| 5   | Total explosive weight in this shot: lbs.                       |  |                             |                  |
| Additional Blaster notations on product and quantities:   |   |  |                             |                  |
| Block 6<br>Completion of Shot Record and General Comments   |   |  |                             |                  |
| General comments on shot not included in notes above:   |   |  |                             |                  |
| Date shot report completed:   |   |  | Time shot report completed: |                  |
| Printed name and signature of person completing shot report if different from Block 1, Lines 5 and 6. |   |  | (Print)                     |                  |
|   |   |  | (Signature)                 |                  |

~~CC~~. AA. Change Section 5608.2 to read:

5608.2 Permit application. Prior to issuing permits for a fireworks display, plans for the fireworks display, inspections of the display site and demonstrations of the display operations shall be approved. A plan establishing procedures to follow and actions to be taken in the event that a shell fails to ignite in, or discharge from, a mortar or fails to function over the fallout area or other malfunctions shall be provided to the fire code official.

In addition to the requirements of Section 5601.2.3.1, a permit to conduct a fireworks display shall not be issued to any applicant without the applicant identifying on the application the pyrotechnician who will be in responsible charge of the fireworks display and who is appropriately certified as a pyrotechnician in accordance with Section 5601.4.1.

Exception: Permits are not required for the use or display of permissible fireworks on private property with the consent of the owner of such property.

~~DD~~. BB. Change Section 5608.3 to read:

5608.3 Approved fireworks displays. Approved fireworks displays shall include only the approved fireworks 1.3G, fireworks 1.4G, fireworks 1.4S and pyrotechnic articles 1.4G. The design, setup, conducting or direct on-site supervision of the design, setup and conducting of any fireworks display, either inside a building or outdoors, shall be performed only by persons certified by the SFMO in accordance with Section 5601.4.1 as a pyrotechnician (firework operator) and at least one person properly certified by the SFMO as a pyrotechnician shall be present at the site

where the fireworks display is being conducted. The approved fireworks shall be arranged, located, discharged and fired in a manner that will not pose a hazard to property or endanger any person.

Exception: Certification as a pyrotechnician is not required for the use or display of permissible fireworks when conducted on private property with the consent of the owner of such property.

~~EE~~. CC. Change Section 5608.4 to read:

5608.4 Clearance. Spectators, spectator parking areas, and dwellings, buildings or structures shall not be located within the display site. The site for the outdoor land or water display shall have at least 100-ft/in. (31-m/2.4mm) radius of internal mortar diameter of the largest shell to be fired as shown in Table 5608.4.

Exceptions:

1. This provision shall not apply to pyrotechnic special effects and fireworks displays using Division 1.4G materials before a proximate audience in accordance with NFPA 1126.
2. This provision shall not apply to unoccupied dwellings, buildings and structures with the approval of the building owner and the fire code official.

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~~FF~~. DD. Add Table 5608.4 to read:

| Table 5608.4<br>Distances for Outdoor Fireworks Display Sites: Minimum Separation Distances from Mortars to Spectators for Land and Water Displays |  |                                  |     |                               |     |   |     |   |     |
|--|--|----------------------------------|-----|-------------------------------|-----|---|-----|---|-----|
| Mortar Size <sup>a</sup>   |  | Minimum Secured Diameter of Site |     | Vertical Mortars <sup>b</sup> |     | Angled Mortars <sup>c</sup><br>1/3 offset |     | Mortars to Special Hazards <sup>d</sup> |     |
| in.  | mm   | ft                               | m   | ft                            | m   | ft  | m   | ft                                      | m   |
| <3   | <76  | 300                              | 92  | 150                           | 46  | 100                                       | 31  | 300                                     | 92  |
| 3  | 76   | 600                              | 183 | 300                           | 92  | 200                                       | 61  | 600                                     | 183 |
| 4  | 102  | 800                              | 244 | 400                           | 122 | 266                                       | 81  | 800                                     | 244 |
| 5  | 127  | 1000                             | 305 | 500                           | 152 | 334                                       | 102 | 1000                                    | 305 |
| 6  | 152  | 1200                             | 366 | 600                           | 183 | 400                                       | 122 | 1200                                    | 366 |
| 7  | 178  | 1400                             | 427 | 700                           | 213 | 467                                       | 142 | 1400                                    | 427 |
| 8  | 203  | 1600                             | 488 | 800                           | 244 | 534                                       | 163 | 1600                                    | 488 |
| 10   | 254  | 2000                             | 610 | 1000                          | 305 | 667                                       | 203 | 2000                                    | 610 |
| 12   | 305  | 2400                             | 732 | 1200                          | 366 | 800                                       | 244 | 2400                                    | 732 |
| >12  | Requires the approval of the fire official |                                  |     |                               |     |   |     |   |     |

<sup>a</sup> Aerial shells, mines, and comets shall be classified and described only in terms of the inside diameter of the mortar from which they are fired (e.g., 3-in. (76-mm) aerial shells, mines and comets are only for use in 3-in. (~~76-mm~~) (76-mm) mortars).

<sup>b</sup> Where the mortars are positioned vertically, the mortars shall be placed at the approximate center of the display site.

<sup>c</sup> Mortars shall be permitted to be angled during a display to allow for wind and to carry shells away from the main spectator viewing areas. For angled mortars, the minimum secured diameter of the display site does not change. Only the location of the mortars within the secured area changes when the mortars are angled.

<sup>d</sup> Note that this is only the distance to the special hazards. The minimum secured diameter of the display site does not change.

~~GG~~. EE. Add Sections 5608.4.1 and 5608.4.2 to read:

5608.4.1 Non-splitting, non-bursting comets, and mines. For non-splitting or non-bursting comets and mines containing only stars or non-splitting or non-bursting comets, the minimum required radius of the display site shall be 50 feet per inch (15.24 m per 25.4 mm) of the internal mortar diameter of the largest comet or mine to be fired, one-half that shown in Table 5608.4.

5608.4.2 Special distance requirements. The minimum distance requirements of Table 5608.4 shall be adjusted as follows:

1. For chain-fused aerial shells and comets and mines to be fired from mortars, racks, or other holders that are sufficiently strong to prevent their being repositioned in

the event of an explosive malfunction of the aerial shells, comets, or mines, the minimum required radius shall be the same as that required in Sections 5608.4 and 5608.4.1. For chain-fused aerial shells and comets and mines to be fired from mortars, racks, or other holders that are not sufficiently strong to prevent their being repositioned in the event of an explosive malfunction of the aerial shells, comets, or mines, or if there is doubt concerning the strength of racks holding chain-fused mortars, based upon the largest mortar in the sequence, the minimum required radius shall be double that required in Sections 5608.4 and 5608.4.1.

2. Distances from the point of discharge of any firework to a health care or detention and correctional facility, or the bulk storage of materials that have flammability, explosive, or toxic hazard shall be at least twice the distances specified in Table 5608.4.

3. The minimum required spectator separation distance for roman candles and cakes that produce aerial shells, comets, or mine effects shall be the same as the minimum required radius specified in Table 5608.4.

4. Aerial shells, comets and mines, and roman candles and cakes shall be permitted to be angled if the dud shells or components are carried away from the main spectator area and either of the following requirements is satisfied:

- 4.1. The offset specified in Table 5608.4 is followed.
- 4.2. The separation distance is correspondingly increased in the direction of the angle.

If the offset provided in Table 5608.4 is followed, the mortars or tubes shall be angled so that any dud shells or components fall at a point approximately equal to the offset of the mortars or tubes from the otherwise required discharge point but in the opposite direction.

## 13VAC5-51-151. IFC Chapter 57 Flammable and Combustible Liquids.

A. The following changes shall be made to Section 5701, General:

1. Add Section 5701.1.1 to read:

5701.1.1 Other regulations. Provisions of the Virginia State Water Control Board regulations 9VAC25-91 and 9VAC25-580 addressing the maintenance and operational aspects of underground and aboveground storage tanks subject to those regulations are hereby 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.

Note: For requirements for the installation, repair, upgrade and closure of such tanks, see Section 414.6.2 of the USBC, Part I, Construction.

2. Change Section 5701.2 to read:

~~(N)5701.2 5701.2 [ Applicability. This chapter shall apply to the maintenance and operation of flammable and combustible liquids. Nonapplicability. This chapter shall not apply to liquids as otherwise provided in other laws or regulations or chapters of this code, including:~~

1. Specific provisions for flammable liquids in motor fuel-dispensing facilities, repair garages, airports and marinas in Chapter 23.

2. Medicines, foodstuffs, cosmetics, and commercial, institutional and industrial products containing not more than 50% by volume of water-miscible liquids and with the remainder of the solution not being flammable, provided that such materials are packaged in individual containers not exceeding 1.3 gallons (5 L).

3. Quantities of alcoholic beverages in retail or wholesale sales or storage occupancies, provided that the liquids are packaged in individual containers not exceeding 1.3 gallons (5 L).

4. Storage and use of fuel oil in tanks and containers connected to oil-burning equipment. Such storage and use shall be in accordance with Section 603. For abandonment of fuel oil tanks, this chapter applies.

5. Refrigerant liquids and oils in refrigeration systems (see Section 606).

6. Storage and display of aerosol products complying with Chapter 51.

7. Storage and use of liquids that have no fire point when tested in accordance with ASTM D 92.

8. Liquids with a flash point greater than 95°F (35°C) in a water-miscible solution or dispersion with a water and inert (noncombustible) solids content of more than 80% by weight, which do not sustain combustion.

9. Liquids without flash points that can be flammable under some conditions, such as certain halogenated hydrocarbons and mixtures containing halogenated hydrocarbons.

10. The storage of distilled spirits and wines in wooden barrels and casks. ]

3. [ ~~Delete Change~~ ] Section 5701.3 [ - to read:

5701.3 Referenced documents. The applicable requirements of Chapter 50, other chapters of this code, and the applicable building code pertaining to flammable liquids shall apply. ]

4. Change Section 5701.4 to read:

5701.4 Permits. Permits shall be required as set forth in Section 107.2.

B. The following changes shall be made to Section 5703, General Requirements:

1. Change Sections 5703.1 and 5703.1.1 to read:

~~(N)5703.1 5703.1~~ Electrical. Electrical wiring and equipment shall be maintained in accordance with [ Chapter 6, NFPA 70, and ] the applicable building code.

~~(N)5703.1.1 5703.1.1~~ Classified locations for flammable liquids. [ ~~Areas where~~ Where ] flammable liquids are stored, handled, dispensed or mixed [ , the extent of classified locations identified in accordance with the applicable building code ] shall be maintained [ ~~in accordance with the applicable building code~~ ]. [ The extent of the classified area is allowed to be reduced, or eliminated, where sufficient technical justification is provided to the fire code official that a concentration in the area in excess of 25% of the lower flammable limit (LFL) cannot be generated. ]

2. Delete Table 5703.1.1.

3. Change Section 5703.1.2 to read:

~~(N)5702.1.2 [ 5702.1.2 5703.1.2 ]~~ Classified locations for combustible liquids. [ ~~Areas In~~ In areas ] where Class II or III liquids are heated above their flash points [ the extent of classified locations identified in accordance with the applicable building code ] shall be maintained [ ~~in accordance with the applicable building code~~ ].

4. [ ~~Delete Change~~ ] Section 5703.1.3 [ - to read:

5703.1.3 Other applications. The fire code official is authorized to determine the extent of the Class I electrical equipment and wiring location when a condition is not regulated by the applicable building code, these requirements, or NFPA 70. ]

5. Change Sections 5703.2 and 5703.6 to read:

~~(N)5703.2 5703.2~~ Fire protection. [ ~~Where provided, fire~~ Fire ] protection for the storage, use, dispensing, mixing, handling, and onsite transportation of flammable and combustible liquids shall be maintained in accordance with [ this chapter, Chapter 9, and ] the applicable building code.

~~(N)5703.6 5703.6~~ Piping systems. Piping systems, and their component parts, for flammable and combustible liquids shall be maintained in accordance with [ Sections 5703.6.1 through 5703.6.11 and ] the applicable building code.

6. [ Change Section 5703.6.1. ] Delete [ ~~Sections 5703.6.1 and Section~~ ] 5703.6.2.

[ 5703.6.1 Nonapplicability. The provisions of Section 5703.6 shall not apply to gas or oil well installations; piping that is integral to stationary or portable engines, including aircraft, watercraft, and motor vehicles; and piping in connection with boilers and pressure vessels regulated by the applicable building code. ]

7. Delete Table 5703.6.2.

8. Delete Sections 5703.6.2.1 and 5703.6.3.

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9. Change Section 5703.6.3.1 to read:  
~~(N)5703.6.3.1~~ 5703.6.3.1 Existing piping. Existing piping shall be tested in accordance with the applicable building code [ where when ] the fire [ code ] official has reasonable cause to believe that a leak exists. [ Piping that could contain flammable or combustible liquids shall not be tested pneumatically. Such tests shall be at the expense of the owner or operator.  
Exception: Vapor-recovery piping is allowed to be tested using an inert gas. ]
10. Delete Sections [ ~~5703.6.4—5703.6.6~~ ] through [ ~~5703.6.7, 5703.6.9, 5703.6.9.1, and~~ ] 5703.6.11. [ Change Sections 5703.6.4, 5703.6.5, 5703.6.8, and 5703.6.10 to read:
- 5703.6.4 Protection from vehicles. Guard posts or other approved means shall be maintained to protect piping, valves or fittings subject to vehicular damage in accordance with Section 312.
- 5703.6.5 Protection from external corrosion and galvanic action. Where subject to external corrosion, piping, related fluid-handling components, and supports for both underground and aboveground applications shall maintain corrosion protection.
- 5703.6.8 Piping supports. Piping systems required to be substantially supported and protected against physical damage and excessive stresses arising from settlement, vibration, expansion, contraction, or exposure to fire shall have the support and protection maintained.
- 5703.6.10 Pipe joints. Joints shall be maintained liquid tight. ]
- C. The following changes shall be made to Section 5704, Storage:
1. [ ~~Delete Section~~ Change Sections 5704.1 and ] 5704.2.5. [ 5704.1 General. The storage of flammable and combustible liquids in containers and tanks shall be in accordance with this section and the applicable sections of Chapter 50. For tanks subject to 9VAC25-91, Facility and Aboveground Storage Tank (AST) Regulation, and 9VAC25-580, Underground Storage Tanks: Technical Standards and Corrective Action Requirements, see Section 5701.1.1.
- 5704.2.5 Explosion control. Explosion control shall be maintained in accordance with Chapter 9 and the applicable building code. ]
2. Delete Sections [ ~~5704.2.7~~ 5704.2.7.1 ] through 5704.2.7.3.5.3 [ - and change Section 5704.2.7 to read:  
5704.2.7 Maintenance requirements for tanks. Tanks shall be maintained in accordance with NFPA 30. Each tank shall maintain a permanent nameplate or marking indicating the standard used as the basis of design. ]
3. Change Section 5704.2.7.4 to read:  
~~(N)5704.2.7.4~~ 5704.2.7.4 Emergency venting. Where [ required, emergency venting for stationary, aboveground tanks shall be maintained provided ] in accordance with the applicable building code [ , emergency venting for stationary, aboveground tanks shall be maintained ].
4. Delete Sections 5704.2.7.5 and 5704.2.7.5.1.
5. Delete Section 5704.2.7.5.3.
6. Delete Sections 5704.2.7.5.5 through 5704.2.7.5.5.2.
7. Delete Sections 5704.2.7.5.7 and 5704.2.7.5.8.
8. Change Section 5704.2.7.6 to read:  
~~(N)5704.2.7.6~~ 5704.2.7.6 Repair, alteration or reconstruction of tanks and piping. [ The repair, alteration, or reconstruction, including welding, cutting, and hot tapping of storage tanks and piping that have been placed in service shall be in accordance with NFPA 30 and the applicable building code. ] Hot work, as defined in Section 202, on [ storage such ] tanks shall be conducted in accordance with Section 3510.
9. Delete Sections 5704.2.7.7 through 5704.2.7.9.
10. Delete Sections 5704.2.7.11 through 5704.2.8.3.
11. Change Section 5704.2.8.5 to read:  
~~(N)5704.2.8.5~~ 5704.2.8.5 Anchoring. [ Anchoring for vaults shall be maintained in accordance with the applicable building code. Vaults and their tanks shall maintain anchoring in accordance with the applicable building code to withstand uplifting by ground water or flooding, including when the tank is empty. ]
12. Delete Sections 5704.2.8.7 and 5704.2.8.8.
13. Change Section 5704.2.8.9 to read:  
~~(N)5704.2.8.9~~ 5704.2.8.9 Ventilation. Where required [ , the exhaust system shall be maintained in accordance with by ] the applicable building code [ , vaults that contain tanks of Class I liquids provided with an exhaust system shall be operated and maintained in accordance with Section 5004.3 ]
14. Delete Sections 5704.2.8.10 and [ ~~change Section~~ ] 5704.2.8.11 [ - to read:  
5704.2.8.11 Liquid and vapor detection. Where required by the applicable building code, vaults shall maintain an approved vapor and liquid detection system. Where required by the applicable building code the following arrangements shall be maintained: The system shall be maintained with onsite audible and visual warning devices with battery backup. Vapor detection systems shall be maintained to sound an alarm when the system detects vapors that reach or exceed 25% of the lower explosive limit (LEL) of the liquid stored. Where required, liquid

detection systems shall be maintained to sound an alarm upon detection of any liquid, including water. Liquid detectors shall be maintained in accordance with the manufacturer's instructions. Where required, activation of either vapor or liquid detection systems shall cause a signal to be sounded at an approved, constantly attended location within the facility serving the tanks or at an approved location. Where required by the applicable building code, activation of vapor detection systems shall also shut off dispenser pumps. ]

15. Delete Sections 5704.2.8.13 and 5704.2.8.14.

16. Delete Section 5704.2.8.16.

17. Delete Section 5704.2.8.18.

18. Change Sections 5704.2.9 and 5704.2.9.1 to read:

~~(N)5704.2.9~~ 5704.2.9 Aboveground tanks. Aboveground storage of flammable and combustible liquids in tanks shall [ ~~be maintained in accordance with the applicable building code.~~ comply with Section 5704.2 and Sections 5704.2.9.1 through 5704.2.9.7.10. For tanks subject to 9VAC25-91, Facility and Aboveground Storage Tank (AST) Regulation, see Section 5701.1.1. ]

~~(N)5704.2.9.1~~ 5704.2.9.1 Existing noncompliant installations. Existing aboveground tanks shall be maintained in accordance with the code requirements that were applicable at the time of installation. [ Aboveground tanks that were installed in violation of code requirements applicable at the time of installation shall be made code compliant or shall be removed in accordance with Section 5704.2.14. ]

19. Delete Sections 5704.2.9.2 through 5704.2.9.2.3.

20. [ ~~Delete~~ Change ] Section 5704.2.9.3 [ - to read:

5704.2.9.3 Supports, foundations and anchorage. Supports, foundations and anchorages for aboveground tanks shall be maintained in accordance with NFPA 30 and the applicable building code. ]

21. Change Sections 5704.2.9.4 and 5704.2.9.5 to read:

~~(N)5704.2.9.4~~ 5704.2.9.4 Stairways, platforms and walkways. Stairways, platforms and walkways shall be maintained in accordance with [ NFPA 30 and ] the applicable building code.

~~(N)5704.2.9.5~~ 5704.2.9.5 Aboveground tanks inside of buildings. Aboveground tanks inside of buildings shall be maintained in accordance with the applicable building code [ and Sections 5704.2.9.5.1 and 5704.2.9.5.2. ]

22. [ ~~Delete~~ Change ] Sections 5704.2.9.5.1 and 5704.2.9.5.2 [ - to read:

5704.2.9.5.1 Overfill prevention. Where required by the applicable building code, aboveground tanks storing Class I, II, and IIIA liquids inside buildings shall maintain a device or other means to prevent overflow into the

building including: a float valve; a preset meter on the fill line; a valve actuated by the weight of the tank's contents; a low-head pump that is incapable of producing overflow; or a liquid-tight overflow pipe at least one pipe size larger than the fill pipe and discharging by gravity back to the outside source of liquid or to an approved location. Where required, tanks containing Class IIIB liquids and connected to fuel-burning equipment shall maintain a means to prevent overflow into buildings in accordance with Section 5704.2.7.5.8.

5704.2.9.5.2 Fill pipe connection operations. Where required by the applicable building code, fill pipe connections for tanks storing Classes I, II, and IIIA liquids and Class IIIB liquids connected to fuel-burning equipment shall be maintained in accordance with Section 5704.2.9.7.7. ]

23. Change Section 5704.2.9.6 to read:

~~(N)5704.2.9.6~~ 5704.2.9.6 Aboveground tanks outside of buildings. Aboveground tanks outside of buildings shall be maintained in accordance with the applicable building code.

24. Delete Sections 5704.2.9.6.1 through 5704.2.9.7.3.

25. Delete Section 5704.2.9.7.5.

26. [ ~~Delete~~ Change ] Sections 5704.2.9.7.5.2 and 5704.2.9.7.6 [ - to read:

5704.2.9.7.5.2 Determination of available tank capacity. The filling procedure shall require the person filling the tank to determine the gallonage (literage) required to fill it to 90% of capacity before commencing the fill operation.

5704.2.9.7.6 Overfill prevention. Protected aboveground tanks shall not be filled in excess of 95% of their capacity. Where required by the applicable building code, an overfill prevention system shall be maintained for each tank. During tank-filling operations, the system shall comply with one of the following unless otherwise approved in accordance with the applicable building code:

1.The system shall:

1.1.Provide an independent means of notifying the person filling the tank that the fluid level has reached 90% of tank capacity by providing an audible or visual alarm signal, providing a tank level gauge marked at 90% of tank capacity, or other approved means; and

1.2.Automatically shut off the flow of fuel to the tank when the quantity of liquid in the tank reaches 95% of tank capacity. For rigid hose fuel-delivery systems, an approved means shall be provided to empty the fill hose into the tank after the automatic shutoff device is activated.

2.The system shall reduce the flow rate to not more than 15 gallons per minute (0.95 L/s) so that at the reduced flow rate, the tank will not overfill for 30 minutes, and

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automatically shut off flow into the tank so that none of the fittings on the top of the tank are exposed to product because of overfilling. ]

27. Delete Sections 5704.2.9.7.8 through 5704.2.10.3.

28. Delete Section 5704.2.10.5.

29. Change Sections 5704.2.11 and 5704.2.11.1 to read:

~~(N)5704.2.11~~ 5704.2.11 Underground tanks. Underground storage of flammable and combustible liquids in tanks shall ~~[ be maintained in accordance with the applicable building code~~ comply with Section 5704.2 and Sections 5704.2.11.1 through 5704.2.11.4.2 ]. ~~[ For tanks subject to 9VAC25-580, Underground Storage Tanks: Technical Standards and Corrective Action Requirements, see Section 5701.1.1. ]~~

~~(N)5704.2.11.1~~ 5704.2.11.1 Location. The location of flammable and combustible liquid storage tanks located underground, either outside or under buildings, shall be in accordance with the applicable building code.

30. Delete ~~[ Sections 5704.2.11.2 through Section 5704.2.11.2 and change Sections 5704.2.11.3 and ]~~ 5704.2.11.4 [ - to read:

5704.2.11.3 Overfill protection and prevention systems. Fill pipes shall be equipped with a spill container and, where required by the applicable building code, an overfill prevention system in accordance with NFPA 30.

5704.2.11.4 Leak prevention. Leak prevention for underground tanks shall be maintained in accordance with the applicable building code and Sections 5704.2.11.4.1 and 5704.2.11.4.2. ]

31. ~~[ Delete Change ]~~ Section 5704.2.11.4.2 [ - to read:

5704.2.11.4.2 Leak detection. Where required by the applicable building code, underground storage tank systems shall maintain an approved method of leak detection from any component of the system that is designed and installed in accordance with NFPA 30. ]

32. Add the following exception to Section 5704.2.13.1.3 to read:

Exception: Underground storage tanks subject to the Virginia State Water Control Board regulation 9VAC25-580.

33. Change Section 5704.2.12.2 to read:

5704.2.12.2 Testing of underground tanks. Before being covered or placed in use, tanks and piping connected to underground tanks shall be tested for tightness in the presence of the fire code official. Piping shall be tested in accordance with the applicable building code. The system shall not be covered until it has been approved.

34. Change Section 5704.13.1.2 to read:

5704.2.13.1.2 Out of service for 90 days. Underground tanks not used for a period of 90 days shall be safeguarded in accordance with all the following or be removed in accordance with Section 5704.2.14:

1. Flammable or combustible liquids shall be removed from the tank.

2. All piping, including fill line, gauge opening, vapor return and pump connection, shall be capped or plugged and secured from tampering.

3. Vent lines shall remain open and be maintained in accordance with Section 5704.2.7.4.

35. Change ~~[ Section Sections 5704.2.13.1.1, 5704.2.13.1.3, and ]~~ 5704.2.13.1.5 to read:

[ 5704.2.13.1.1 Temporarily out of service. Underground tanks temporarily out of service shall have the fill line, gauge opening, vapor return, and pump connection secure against tampering. Vent lines shall remain open and be maintained in accordance with Sections 5704.2.7.3 and 5704.2.7.4.

Exception: Underground storage tank systems subject to 9VAC25-580, Underground Storage Tanks: Technical Standards and Corrective Action Requirements, that are out-of-service shall comply with the temporary closure requirements of 9VAC25-580-310.

5704.2.13.1.3 Out of service for one year. Underground tanks that have been out of service for a period of one year shall be removed from the ground in accordance with Section 5704.2.14 or abandoned in place in accordance with Section 5704.2.13.1.4.

Exception: Underground storage tank systems subject to 9VAC25-580, Underground Storage Tanks: Technical Standards and Corrective Action Requirements, that are in compliance with the performance standards of 9VAC25-580-50 and 9VAC25-580-60 are allowed to remain temporarily closed for a period of more than one year in accordance with 9VAC25-580-310 as part of the Virginia Department of Environmental Quality's program. ]

~~(N)5704.2.13.1.5~~ 5704.2.13.1.5 Reinstallation of underground tanks. Tanks that are to be reinstalled for flammable or combustible liquid service shall be approved by the building official.

36. Change Section 5704.3 to read:

5704.3 Container and portable tank storage. Storage of flammable and combustible liquids in closed containers that do not exceed 60 gallons (227 L) in individual capacity and portable tanks that do not exceed 660 gallons (2498 L) in individual capacity, and limited transfers incidental thereto, shall comply with Sections 5704.3.1 through 5704.3.8.4.

37. Change Section 5704.3.3.5 to read:

~~(N)5704.3.3.5~~ 5704.3.3.5 Shelf storage. Shelving shall be maintained of approved construction, adequately braced and anchored. Seismic requirements shall be ] in accordance with the applicable building code.

38. Delete [ Sections ~~5704.3.3.5.1~~ and Section ] 5704.3.3.5.2 [ ; and change Section 5704.3.3.5.1 to read:

5704.3.3.5.1 Use of wood. Wood of at least 1 inch (25 mm) nominal thickness is allowed to be used as shelving, racks, dunnage, scuffboards, floor overlay, and similar installations. ]

39. [ ~~Delete Change~~ ] Section 5704.3.3.6 [ ; to read:

5704.3.3.6 Rack storage. Where storage on racks is allowed by the applicable building code and elsewhere in this code, a minimum 4-foot-wide (1219 mm) aisle shall be maintained between adjacent rack sections and any adjacent storage of liquids unless otherwise approved by the applicable building code. Main aisles shall be a minimum of 8 feet (2438 mm) wide unless otherwise approved by the applicable building code. ]

40. Change Section 5704.3.4 to read:

~~(N)5704.3.4~~ 5704.3.4 Quantity limits for storage. Liquid storage quantity limitations [ shall be maintained in accordance with comply with Sections 5704.3.4.1 through 5704.3.4.4 and ] the applicable building code.

41. [ ~~Delete Change~~ ] Section 5704.3.4.1 [ ; to read:

5704.3.4.1 Maximum allowable quantity per control area. For occupancies other than Group M wholesale and retail sales uses, indoor storage of flammable and combustible liquids exceeding the maximum allowable quantities per control area indicated in the applicable building code or the additional limitations set forth in this section shall be approved by the Building Official in accordance with the applicable building code.

For Group M occupancy wholesale and retail sales uses, indoor storage of flammable and combustible liquids shall not exceed the maximum allowable quantities per control area indicated in the applicable building code unless approved by the Building Official in accordance with the applicable building code.

Storage of hazardous production material flammable and combustible liquids in Group H-5 occupancies shall be in accordance with Chapter 27 and the applicable building code. ]

42. Delete Table 5704.3.4.1.

43. [ ~~Delete Change~~ ] Sections 5704.3.4.2 [ and ~~5704.3.4.3~~ through 5704.3.4.4 to read:

5704.3.4.2 Occupancy quantity limits. The following limits for quantities of stored flammable or combustible liquids shall not be exceeded unless approved by the

Building Official in accordance with the applicable building code:

1. Group A occupancies: Quantities in Group A occupancies shall not exceed that necessary for demonstration, treatment, laboratory work, maintenance purposes, and operation of equipment and shall not exceed quantities set forth in the applicable building code.

2. Group B occupancies: Quantities in drinking, dining, office, and school uses within Group B occupancies shall not exceed that necessary for demonstration, treatment, laboratory work, maintenance purposes, and operation of equipment and shall not exceed quantities set forth in the applicable building code.

3. Group E occupancies: Quantities in Group E occupancies shall not exceed that necessary for demonstration, treatment, laboratory work, maintenance purposes, and operation of equipment and shall not exceed quantities set forth in the applicable building code.

4. Group F occupancies: Quantities in dining, office, and school uses within Group F occupancies shall not exceed that necessary for demonstration, laboratory work, maintenance purposes, and operation of equipment and shall not exceed quantities set forth in the applicable building code.

5. Group I occupancies: Quantities in Group I occupancies shall not exceed that necessary for demonstration, laboratory work, maintenance purposes, and operation of equipment and shall not exceed quantities set forth in the applicable building code.

6. Group M occupancies: Quantities in dining, office, and school uses within Group M occupancies shall not exceed that necessary for demonstration, laboratory work, maintenance purposes, and operation of equipment and shall not exceed quantities set forth in the applicable building code. The maximum allowable quantities for storage in wholesale and retail sales areas shall be in accordance with Section 5704.3.4.1.

7. Group R occupancies: Quantities in Group R occupancies shall not exceed that necessary for maintenance purposes and operation of equipment and shall not exceed quantities set forth in the applicable building code.

8. Group S occupancies: Quantities in dining and office uses within Group S occupancies shall not exceed that necessary for demonstration, laboratory work, maintenance purposes, and operation of equipment and shall not exceed quantities set forth in the applicable building code.

5704.3.4.3 Quantities exceeding limits for control areas. Where required by the applicable building code, quantities exceeding those allowed in control areas set forth in Section 5704.3.4.1 shall be in liquid storage rooms or liquid storage warehouses approved by the Building

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Official in accordance with Sections 5704.3.7, 5704.3.8, and the applicable building code.

5704.3.4.4 Liquids for maintenance and operation of equipment. In all occupancies, quantities of flammable and combustible liquids in excess of 10 gallons (38 L) used for maintenance purposes and the operation of equipment shall be stored in liquid storage cabinets in accordance with Section 5704.3.2. Quantities not exceeding 10 gallons (38 L) are allowed to be stored outside of a cabinet when in approved containers located in private garages or other approved locations. ]

44. Change Section 5704.3.5 to read:

~~(N)5704.3.5~~ 5704.3.5 Storage in control areas. Storage of flammable and combustible liquids in control areas shall be [ maintained ] in accordance with [ the applicable building code Sections 5704.3.5.1 through 5704.3.5.4 ].

45. [ ~~Delete Change~~ ] Section 5704.3.5.1 [ - to read:

5704.3.5.1 Basement storage. Classes I, II, and IIIA liquids shall be allowed to be stored in basements in amounts not exceeding the maximum allowable quantity per control area for use-open systems when approved by the Building Official in accordance with the applicable building code. ]

46. Change Section 5704.3.6.2 to read:

5704.3.6.2 Container capacity. Containers for Class I liquids shall not exceed a capacity of 5 gallons (19 L).

Exception: Metal containers not exceeding 55 gallons (208 L) are allowed to store up to 240 gallons (908 L) of the maximum allowable quantity per control area of Classes IB and IC liquids in a control area. The building shall be equipped throughout with an approved automatic sprinkler system in accordance with the applicable building code. The containers shall be provided with plastic caps without cap seals and shall be stored upright. Containers shall not be stacked or stored in racks and shall not be located in areas accessible to the public.

47. Change Section 5704.3.7.1 to read:

~~(N)5704.3.7.1~~ 5704.3.7.1 General. Quantities of liquids exceeding those set forth in the applicable building code for storage in control areas shall be stored in a liquid storage room complying with the applicable building code.

48. Change Section 5704.3.7.2.2 to read:

~~(N)5704.3.7.2.2~~ 5704.3.7.2.2 Separation and aisles. [ Piles shall be separated from each other in accordance with the applicable building code. Aisles shall be maintained in accordance with the applicable building code. Unless otherwise approved in accordance with the applicable building code, separation and aisles shall comply with this section.

Piles shall be separated from each other by at least 4-foot (1219 mm) aisles. Aisles shall be provided so that all containers are 20 feet (6096 mm) or less from an aisle. Where the storage of liquids is on racks, a minimum 4-foot-wide (1219 mm) aisle shall be provided between adjacent rows of racks and adjacent storage of liquids. Main aisles shall be a minimum of 8 feet (2438 mm) wide.

Additional aisles shall be maintained for access to doors, required windows and ventilation openings, standpipe connections, mechanical equipment, and switches. Such aisles shall be at least 3 feet (914 mm) in width, unless greater widths are required for separation of piles or racks, in which case the greater width shall be provided. ]

49. Change Sections 5704.3.7.3 through 5704.3.7.5 to read:

~~(N)5704.3.7.3~~ 5704.3.7.3 Spill control and secondary containment. [ Liquid storage rooms shall be maintained in accordance with Where provided or required by the applicable building code, liquid storage rooms shall maintain spill control and secondary containment in accordance with Section 5004.2 and ] the applicable building code.

~~(N)5704.3.7.4~~ 5704.3.7.4 Ventilation. [ Ventilation for storage rooms shall be maintained in accordance with Where provided or required by the applicable building code, liquid storage rooms shall be ventilated in accordance with Section 5004.3 and ] the applicable building code.

~~(N)5704.3.7.5~~ 5704.3.7.5 Fire protection. Fire protection for liquid storage rooms shall [ be maintained in accordance comply ] with the applicable building code [ and Sections 5704.3.7.5.1 and 5704.3.7.5.2 ].

50. [ ~~Delete Change~~ ] Section 5704.3.7.5.1 [ - to read:

5704.3.7.5.1 Fire-extinguishing systems for liquid storage rooms shall be maintained in accordance with Chapter 9 and the applicable building code. ]

51. Change Sections 5704.3.8 and 5704.3.8.1 to read:

~~(N)5704.3.8~~ 5704.3.8 Liquid storage warehouses. [ Liquid storage warehouses shall be maintained Buildings used for storage of flammable or combustible liquids in quantities exceeding those set forth in Section 5704.3.4 for control areas and Section 5704.3.7 for liquid storage rooms shall be approved by the Building Official ] in accordance with the applicable building code.

~~(N)5704.3.8.1~~ 5704.3.8.1 Quantities and storage arrangement. The total quantities of liquids in a liquid storage warehouse shall [ not ] be [ maintained in accordance with limited unless otherwise limited by ] the applicable building code. [ The Unless otherwise approved by the applicable building code, the ] arrangement of storage shall be in accordance with Table 5704.3.6.3(2) or 5704.3.6.3(3).



52. [ ~~Delete~~ Change ] Sections 5704.3.8.1.1 and 5704.3.8.1.2 [ - to read:

5704.3.8.1.1 Mixed storage. Mixed storage shall be in accordance with Section 5704.3.7.2.1 unless otherwise required by the applicable building code.

5704.3.8.1.2 Separation and aisles. Separation and aisles shall be in accordance with Section 5704.3.7.2.2 unless otherwise required by the applicable building code. ]

53. Change Sections 5704.3.8.2 through 5704.3.8.4 to read:

~~(N)5704.3.8.2~~ 5704.3.8.2 Spill control and secondary containment. [ Spill control and secondary containment for liquid storage warehouses shall be maintained in accordance with Liquid storage warehouses shall maintain spill control and secondary containment as set forth in Section 5004.2 and ] the applicable building code.

~~(N)5704.3.8.3~~ 5704.3.8.3 Ventilation. Ventilation for liquid storage warehouses storing containers greater than 5 gallons (19 L) in capacity shall be [ operated and ] maintained in accordance with the applicable building code.

~~(N)5704.3.8.4~~ 5704.3.8.4 [ Automatic sprinkler Fire extinguishing ] systems. Automatic sprinkler systems for [ liquid ] storage warehouses shall be maintained in accordance with [ Chapter 9 and ] the applicable building code.

54. [ ~~Delete~~ Change ] Section 5704.3.8.5 [ - to read:

5704.3.8.5 Warehouse hose lines. Where provided or required by the applicable building code, in liquid storage warehouses either 1 1/2-inch (38 mm) lined or 1-inch (25 mm) hard rubber hand hose lines shall be maintained in sufficient number to reach all liquid storage areas and shall be maintained in accordance with Chapter 9. ]

55. Change Section 5704.4.3 to read:

~~(N)5704.4.3~~ 5704.4.3 Spill control and secondary containment. [ Spill Where provided in accordance with the applicable building code, spill ] control and secondary containment for storage areas shall be maintained in accordance with [ Section 5703.4 and ] the applicable building code.

[ Exception:

Containers stored on approved containment pallets in accordance with Section 5004.2.3 and containers stored in cabinets and lockers with integral spill containment. ]

56. [ ~~Delete~~ Change ] Section 5704.4.7 [ - to read:

5704.4.7 Weather protection. Weather protection for outdoor storage shall be maintained in accordance with Section 5004.13.and the applicable building code. ]

D. The following change shall be made to Section 5705, Dispensing, Use, Mixing and Handling:

1. Change Section 5705.3.6.2.3 to read:

5705.3.6.2.3 Solvent quantity limits. Solvent quantities shall be limited [ ~~as follows~~:

~~1. Machines without remote solvent reservoirs shall be limited to quantities set forth in Section 5705.3.5.~~

~~2. Machines with remote solvent reservoirs using Class I liquids shall be limited to quantities set forth in Section 5705.3.5.~~

~~3. Machines with remote solvent reservoirs using Class II liquids shall be limited to 35 gallons (132 L) per machine. The total quantities shall not exceed an aggregate of 240 gallons (908 L) per control area in buildings not equipped throughout with an approved automatic sprinkler system and an aggregate of 480 gallons (1817 L) per control area in buildings equipped throughout with an approved automatic sprinkler system in accordance with the applicable building code NFPA 13 standard.~~

~~4. Machines with remote solvent reservoirs using Class IIIA liquids shall be limited to 80 gallons (303 L) per machine. in accordance with the applicable building code. ]~~

2. Change Section 5705.5 to read:

5705.5 Alcohol-based hand rubs classified as Class I or II liquids. The use of wall-mounted dispensers containing alcohol-based hand rubs classified as Class I or II liquids shall be in accordance with all of the following:

1. The maximum capacity of each dispenser shall be 68 ounces (2 L).

2. The minimum separation between dispensers shall be 48 inches (1219 mm).

3. The dispensers shall not be installed above, below, or closer than 1 inch (25 mm) to an electrical receptacle, switch, appliance, device or other ignition source. The wall space between the dispenser and the floor or intervening countertop shall be free of electrical receptacles, switches, appliances, devices or other ignition sources.

4. Dispensers shall be mounted so that the bottom of the dispenser is not less than 42 inches (1067 mm) and not more than 48 inches (1219 mm) above the finished floor.

5. Dispensers shall not release their contents except when the dispenser is manually activated. Facilities shall be permitted to install and use automatically activated "touch free" alcohol-based hand-rub dispensing devices with the following requirements:

5.1. The facility or persons responsible for the dispensers shall test the dispensers each time a new refill is installed in accordance with the manufacturer's care and use instructions.

5.2. Dispensers shall be designed and must operate in a manner that ensures accidental or malicious activations of the dispensing device are minimized. At a minimum, all

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devices subject to or used in accordance with this section shall have the following safety features:

5.2.1. Any activations of the dispenser shall only occur when an object is placed within 4 inches (98 mm) of the sensing device.

5.2.2. The dispenser shall not dispense more than the amount required for hand hygiene consistent with label instructions as regulated by the U.S. Food and Drug Administration (USFDA).

5.2.3. An object placed within the activation zone and left in place will cause only one activation.

6. Storage and use of alcohol-based hand rubs shall be in accordance with the applicable provisions of Sections 5704 and 5705.

7. Dispensers installed in occupancies with carpeted floors shall only be allowed in smoke compartments or fire areas equipped throughout with an approved automatic sprinkler system in accordance with [ ~~the applicable building code~~ NFPA 13 standard NFPA 13 or NFPA 13R or the applicable building code ].

3. [ ~~Delete Change~~ ] Section 5705.5.1 [ ~~to read:~~

5705.5.1 Corridor installations. Where wall-mounted dispensers containing alcohol-based hand rubs are installed in corridors, they shall be in accordance with all of the following:

1. Level 2 and 3 aerosol containers shall not be allowed in corridors.

2. The maximum capacity of each Class I or II liquid dispenser shall be 41 ounces (1.21 L) and the maximum capacity of each Level 1 aerosol dispenser shall be 18 ounces (0.51 kg).

3. The maximum quantity allowed in a corridor within a control area shall be 10 gallons (37.85 L) of Class I or II liquids or 1,135 ounces (32.2 kg) of Level 1 aerosols, or a combination of Class I or II liquids and Level 1 aerosols not to exceed, in total, the equivalent of 10 gallons (37.85 L) or 1,135 ounces (32.2 kg) such that the sum of the ratios of the liquid and aerosol quantities divided by the allowable quantity of liquids and aerosols, respectively, shall not exceed one.

4. The minimum corridor width shall be 72 inches (1829 mm).

5. Projections into a corridor shall be in accordance with the applicable building code. ]

E. The following changes shall be made to Section 5706, Special Operations:

1. Add Section 5706.1.1 to read:

5706.1.1 Mobile fueling operations. Delivery of Class I, Class II, and Class III liquids to the fuel tank of a highway vehicle from a tank vehicle, a tank carried on a vehicle, or a nonportable container is prohibited.

**Exceptions:**

- ~~1. The refueling of highway vehicles in an emergency.~~
- ~~2. The refueling of vehicles in compliance with Sections 5706.5.4.1 through 5706.5.4.5.~~
- ~~3. Vehicles used for farm operations and machinery.~~

~~2.~~ 1. Change Section 5706.2.4.2 to read:

5706.2.4.2 Vents. Tanks shall be provided with a method of normal and emergency venting. Normal vents shall be in accordance with the applicable building code.

Emergency vents shall be in accordance with Section 5704.2.7.4. Emergency vents shall be arranged to discharge in a manner that prevents localized overheating or flame impingement on any part of the tank in the event that vapors from such vents are ignited.

~~3.~~ 2. Change ~~Sections~~ Section 5706.2.6 and 5706.3.3 to read:

~~(N)5706.2.6~~ 5706.2.6 Spill control drainage control and diking. [ Outdoor storage areas shall be provided with drainage control or diking as set forth in the applicable building code ~~Where provided or required by the applicable building code indoor storage and dispensing areas shall be maintained with spill control and drainage control as set forth in Section 5703.4. Where provided or required by the applicable building code, outdoor storage areas shall be maintained with drainage control or diking as set forth in Section 5704.2.10 ]~~.

3. Change Section 5706.3.3 to read:

~~(N)5706.3.3~~ 5706.3.3 Sumps. Sumps associated with wells shall [ be maintained in accordance with the applicable building code ~~comply with Sections 5706.3.3.1 through 5706.3.3.3 ]~~.

4. Delete Sections 5706.3.3.1 and [ ~~change Section~~ ] 5706.3.3.3 [ ~~to read:~~

5706.3.3.3 Security. Sumps, diversion ditches, and depressions used as sumps shall be securely fenced or covered. ]

5. Change Sections 5706.4.1, 5706.4.2, 5706.4.4, 5706.4.7.6, and 5706.4.9 to read:

~~(N)5706.4.1~~ 5706.4.1 Building construction. Buildings shall be maintained in accordance with the applicable building code.

~~(N)5706.4.2~~ 5706.4.2 Means of egress. [ Means of egress from rooms in which liquids are stored, used or transferred by pumps shall be maintained in accordance with the applicable building code ~~Rooms in which liquids are stored, used, or transferred by pumps shall have means of egress maintained in accordance with Chapter 10 and the applicable building code to prevent occupants from being trapped in the event of fire ]~~.

~~(N)5706.4.4~~ 5706.4.4 Ventilation. Ventilation for rooms, buildings and enclosures in which Class I liquids are

pumped, used or transferred shall be [ operated and ] maintained in accordance with the applicable building code. [ When natural ventilation is inadequate, mechanical ventilation shall be provided in accordance with the applicable building code. ]

~~(N)5706.4.7.6~~ 5706.4.7.6 Piping, valves and fittings. Piping, valves and fittings shall be maintained in accordance with the applicable building code.

~~(N)5706.4.9~~ 5706.4.9 Drainage control. Loading and unloading areas shall be [ ~~provided with drainage control in accordance with~~ maintained with drainage control in accordance with Section 5704.2.10 and ] the applicable building code.

6. Change Sections 5706.4.10, 5706.5.1.2, 5706.5.1.3, 5706.5.1.5, 5706.5.1.6, 5706.8.1, 5706.8.3, and 5706.8.5 to read:

~~(N)5706.4.10~~ 5706.4.10 Fire protection. Fire protection for bulk plants or terminals shall be maintained in accordance with [ Chapter 9, Sections 5706.4.10.1 through 5706.4.10.4, and ] the applicable building code.

~~(N)5706.5.1.2~~ 5706.5.1.2 Weather protection canopies. Where weather protection canopies are provided, they shall be [ approved by the Building Official and ] maintained in accordance with [ Section 5004.13 and ] the applicable building code.

~~(N)5706.5.1.3~~ 5706.5.1.3 Ventilation. Ventilation shall be [ operated and ] maintained [ to prevent accumulation of vapors ] in accordance with the applicable building code.

~~(N)5706.5.1.5~~ 5706.5.1.5 Spill control and secondary containment. [ ~~The Areas where transfer operations are located shall be maintained with~~ ] spill control and secondary containment [ ~~system shall be maintained~~ ] in accordance with the applicable building code.

~~(N)5706.5.1.6~~ 5706.5.1.6 Fire protection. Fire protection shall be maintained in accordance with [ Chapter 9, Section 5703.2, and ] the applicable building code.

5706.8.1 Over-pressure or vacuum protection. Tanks and equipment shall have independent venting for over-pressure or vacuum conditions that might occur from malfunction of the vapor recovery or processing system.

Exception: For tanks, venting shall comply with the applicable building code.

5706.8.3 Vapor collection systems and overfill protection. The operation of the vapor collection system and overfill protection shall be in accordance with this section and Section 19.5 of NFPA 30.

5706.8.5 Overfill protection. Storage tanks served by vapor recovery or processing systems shall be equipped with overfill protection in accordance with the applicable building code.

7. Change Section 5707.1 and delete Sections 5707.1.1 through 5707.6.3.

Section 5707.1 to read:

5707.1 Mobile fueling operations. Delivery of Classes I, II, and III liquids to the fuel tank of a highway vehicle from a tank vehicle, a tank carried on a vehicle, or a nonportable container is prohibited.

Exceptions:

1. The refueling of highway vehicles in an emergency.
2. The refueling of vehicles in compliance with Sections 5706.5.4.1 through 5706.5.4.5.
3. Vehicles used for farm operations and machinery.

**13VAC5-51-151.5. IFC Chapter 58 Flammable Gases and Flammable Cryogenic Fluids.**

A. Change Sections 5801.1 and 5801.2 to read:

~~(N)5801.1~~ 5801.1 Scope. The storage and use of flammable gases and flammable cryogenic fluids shall be in accordance with this chapter and NFPA 55. Compressed gases shall also comply with Chapter 53 and cryogenic fluids shall also comply with Chapter 55. Flammable cryogenic fluids shall comply with Section 5806. Hydrogen motor fuel-dispensing stations and repair garages and their associated aboveground hydrogen storage systems shall also be designed, constructed and maintained in accordance with Chapter 23 and NFPA 2.

Exceptions:

1. Gases used as refrigerants in refrigeration systems (see Section 606).
2. Liquefied petroleum gases and natural gases regulated by Chapter 61.
3. Fuel-gas systems and appliances regulated under the International Fuel Gas Code other than gaseous hydrogen systems and appliances.
4. Pyrophoric gases in accordance with Chapter 64.

5801.2 Permits. Permits shall be required as set forth in Section 107.2.

B. Change Sections 5803.1, 5803.1.1.2, 5803.1.5, and 5804.1 to read:

~~(N)5803.1~~ 5803.1 Quantities not exceeding the maximum allowable quantity per control area. The storage and use of flammable gases in amounts not exceeding the maximum allowable quantity per control area [ ~~under in accordance with~~ ] the applicable building code [ shall be maintained in accordance with Sections 5001, 5003, 5801, and 5803 ].

~~(N)5803.1.1.2~~ 5803.1.1.2 Aggregate quantity. The aggregate quantities of flammable gases used for maintenance purposes and operation of equipment shall [ ~~not exceed the maximum allowable quantity per control area under be maintained as to not exceed the maximum allowable quantity per control area indicated in~~ ] the applicable building code.

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- ~~(N)5803.1.5~~ 5803.1.5 Electrical. Electrical wiring and equipment shall be maintained in accordance with [ ~~the applicable building code~~ Chapter 6 and NFPA 70 ].
- ~~(N)5804.1~~ 5804.1 Indoor storage. Indoor storage of flammable gases in amounts exceeding the maximum allowable quantity per control area in accordance with [ ~~Sections 5001, 5003, and 5004; this chapter; and~~ ] the applicable building code [ ~~and this chapter~~ ].
- C. [ ~~Delete~~ Change ] Sections 5804.1.1 and 5806.2 [ - to read:  
5804.1.1 Explosion control. Buildings or portions thereof containing flammable gases and provided with explosion control shall be maintained in accordance with Chapter 9 and remain in accordance with the applicable building code.  
5806.2 Limitations. Storage of flammable cryogenic fluids in stationary containers outside of buildings may be subject to local ordinances or other regulations. ]
- D. Change Section 5806.3 to read:  
~~(N)5806.3~~ 5806.3 Aboveground tanks for liquid hydrogen. Aboveground tanks for the storage of liquid hydrogen shall be maintained in accordance with the applicable building code.
- E. Delete Sections 5806.3.1 through 5806.3.2.1.
- F. Change Section 5806.4 to read:  
~~(N)5806.4~~ 5806.4 Underground tanks for liquid hydrogen. Underground tanks for the storage of liquid hydrogen shall be maintained in accordance with the applicable building code.
- G. Delete Sections 5806.4.1 through 5806.4.3.
- H. Change Section 5806.4.4 to read:  
~~(N)5806.4.4~~ 5806.4.4 Anchorage and security. Anchorage provided for tanks and systems shall be maintained in accordance with the applicable building code.
- I. Delete Sections 5806.4.5 through 5806.4.8.3.
- J. Change Sections 5807.1.10 and 5808.1 to read:  
~~(N)5807.1.10~~ 5807.1.10 Electrical. Electrical components for metal hydride storage systems shall be maintained in accordance with [ Chapter 6 and ] NFPA 70.  
~~(N)5808.1~~ 5808.1 General. Where required by the applicable building code, hydrogen fuel gas rooms shall be maintained.
- K. Delete Sections [ ~~5808.2 through 5808.3.1 and~~ ] 5806.8.3.2 [ - and change Sections 5808.2 and 5808.3 to read:  
5808.2 Location. Unless otherwise permitted by the applicable building code, hydrogen fuel gas operations shall not be located below grade.  
5808.3 Pressure control. Unless otherwise approved by the applicable building code, hydrogen fuel gas rooms shall maintain a negative pressure in relation to surrounding rooms and spaces. Windows shall remain in accordance with the applicable building code and shall not be able to be opened. ]
- L. Change Sections 5808.4 and 5808.5 to read:  
~~(N)5808.4~~ 5808.4 Exhaust ventilation. Ventilation required for hydrogen fuel gas rooms shall be maintained [ and operated ] in accordance with the applicable building code.  
~~(N)5808.5~~ 5808.5 Gas detection system. Gas detection systems required for hydrogen fuel gas rooms shall be maintained [ and operated ] in accordance with the applicable building [ code ].
- M. Delete Sections 5808.5.1 ~~through 5808.5.4~~ and 5808.5.2 [ - and change Sections 5808.5.3 and 5808.5.4 to read:  
5808.5.3 Operation. Where provided, activation of the gas detection system shall occur as designed and approved under the applicable building code. At no time shall the level of flammable gas exceed 25% lower flammable limit (LFL) and the system shall be maintained to result in both of the following:  
1. Initiation of distinct audible and visual alarm signals both inside and outside of the hydrogen fuel gas room.  
2. Activation of the mechanical exhaust ventilation system.  
5808.5.4 Failure of the gas detection system. Unless otherwise required by the applicable building code failure of the gas detection system shall result in the activation of the mechanical exhaust ventilation system, cessation of the hydrogen generation and the sounding of a trouble signal in an approved location. ]
- N. Change ~~Section~~ Sections 5808.6 and 5808.7 to read:  
~~(N)5808.6~~ 5808.6 Explosion control. Explosion control required for hydrogen fuel gas rooms shall be maintained in accordance with the applicable building code [ and Chapter 9 ].  
~~(N)5808.7~~ 5808.7 Standby power. Standby power provided for mechanical ventilation and gas detection systems shall be maintained in accordance with [ Chapter 12 and remain in accordance with ] the applicable building code.
- 13VAC5-51-152.5. IFC Chapter 59 Flammable Solids.**
- A. Change Section 5901.2 to read:  
5901.2 Permits. Permits shall be required as set forth in Section 107.2.
- B. Change Section 5904.1 to read:  
~~(N)5904.1~~ 5904.1 Indoor storage. Indoor storage of flammable solids in amounts exceeding the maximum allowable quantity per control area [ ~~shall be indicated in~~ Table 5003.1.1(1) and the applicable building code shall be

maintained in accordance with Sections 5001, 5003, 5004, and this chapter and approved ] in accordance with the applicable building code.

C. [ ~~Delete Change~~ ] Section 5904.1.1 [ - to read:

5904.1.1 Pile size limits and location. Unless otherwise approved in accordance with the applicable building code, flammable solids stored in quantities greater than 1,000 cubic feet (28 m<sup>3</sup>) shall be separated into piles each not larger than 1,000 cubic feet (28 m<sup>3</sup>). ]

D. Change ~~Section 590~~ Sections 5904.1.2, 5904.1.3, and 5906.2 to read:

~~(N)5904.1.2~~ 5904.1.2 Aisles. [ Aisle Unless otherwise approved in accordance with the applicable building code, aisle ] widths between piles shall be maintained [ in accordance with the applicable building code to be not less than the height of the piles or 4 feet (1219 mm), whichever is greater ].

~~(N)5904.1.3~~ 5904.1.3 Basement storage. Flammable solids shall not be stored in basements unless [ previously ] approved [ in accordance with the applicable building code ].

~~(N)5906.2~~ 5906.2 Storage of magnesium articles. The storage of magnesium shall [ be maintained in accordance with the applicable building code ] comply with Sections 5906.2.1 through 5906.4.3 ].

E. [ ~~Delete Change~~ ] Sections 5906.2.1 through 5906.2.3 [ - to read:

5906.2.1 Storage of greater than 50 cubic feet. Unless otherwise approved in accordance with the applicable building code, magnesium storage in quantities greater than 50 cubic feet (1.4 m<sup>3</sup>) shall be separated from storage of other materials that are either combustible or in combustible containers by aisles. Piles shall be separated by aisles with a minimum width of not less than the pile height.

5906.2.2 Storage of greater than 1,000 cubic feet. Unless otherwise approved in accordance with the applicable building code, magnesium storage in quantities greater than 1,000 cubic feet (28 m<sup>3</sup>) shall be separated into piles not larger than 1,000 cubic feet (28 m<sup>3</sup>) each. Piles shall be separated by aisles with a minimum width of not less than the pile height. Unless approved by the applicable building code, such storage shall not be located in nonsprinklered buildings of Type III, IV, or V construction, as defined in the applicable building code.

5906.2.3 Storage in combustible containers or within 30 feet of other combustibles. Unless otherwise approved in accordance with the applicable building code, where stored in nonsprinklered buildings of Type III, IV, or V construction as defined in the applicable building code,

magnesium shall not be stored in combustible containers or within 30 feet (9144 mm) of other combustibles. ]

F. Change Sections 5906.3.1 and 5906.4 to read:

~~(N)5906.3.1~~ 5906.3.1 Indoor storage. [ Indoor Unless otherwise approved in accordance with the applicable building code, indoor ] storage of pigs, ingots and billets shall [ be maintained in accordance with the applicable building code only be on floors of noncombustible construction. Piles shall not be larger than 500,000 pounds (226.8 metric tons) each. Piles shall be separated by aisles with a minimum width of not less than one-half the pile height ].

~~(N)5906.4~~ 5906.4 Storage of fine magnesium scrap. The storage of scrap magnesium shall [ be maintained in accordance with the applicable building code ] comply with Sections 5906.4.1 through 5906.4.3 ].

G. [ ~~Delete Change~~ ] Sections 5906.4.2 through 5906.5.4 [ - to read:

5906.4.2 Storage of 50 to 1,000 cubic feet. Unless otherwise approved by the applicable building code, storage of fine magnesium scrap in quantities greater than 50 cubic feet (1.4 m<sup>3</sup>) [ six 55-gallon (208 L) steel drums ] shall be maintained separated from other occupancies by an open space of at least 50 feet (15 240 mm) or by a fire-resistance rated barrier constructed and approved in accordance with applicable building code.

5906.4.3 Storage of greater than 1,000 cubic feet. Storage of fine magnesium scrap in quantities greater than 1,000 cubic feet (28 m<sup>3</sup>) shall be maintained separated from all buildings other than those used for magnesium scrap recovery operations by a distance of not less than 100 feet (30 480 mm) unless otherwise approved by the applicable building code.

5906.5 Use of magnesium. The use of magnesium shall comply with Sections 5906.5.1 through 5906.5.8 and only be conducted in buildings or structures approved for that use in accordance with the applicable building code.

5906.5.1 Melting pots. Floors under and around melting pots shall be of noncombustible construction.

5906.5.2 Heat-treating ovens. Approved means shall be provided for control of magnesium fires in heat-treating ovens.

5906.5.3 Dust collection. Where provided, magnesium grinding, buffing and wire-brushing operations, other than rough finishing of castings, shall be conducted with approved hoods or enclosures for dust collection in accordance with the applicable building code.

5906.5.3.1 Ducts. Where provided, connecting ducts or suction tubes shall be maintained as completely grounded, as short as possible, and without bends. Ducts shall be

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maintained with a smooth interior, with internal lap joints pointing in the direction of airflow and without unused capped side outlets, pockets, or other dead-end spaces which allow an accumulation of dust.

5906.5.3.2 Independent dust separators. Each machine shall be maintained with an individual dust-separating unit in accordance with the applicable building code.

Exceptions:

1. One separator is allowed to serve two dust-producing units on multi-unit machines.

2. One separator is allowed to serve not more than four portable dust-producing units in a single enclosure or stand.

5906.5.4 Power supply interlock. Where provided, power supply to machines shall be maintained to be interlocked with exhaust airflow, and liquid pressure level or flow. The interlock shall be maintained to shut down the machine it serves when the dust removal or separator system is not operating properly. ]

H. Change Section 5906.5.5 to read:

~~(N)5906.5.5~~ 5906.5.5 Electrical equipment. Electric wiring, fixtures and equipment in the immediate vicinity of and attached to dust-producing machines, [ including those used in connection with separator equipment, ] shall be maintained in accordance with [ Chapter 6, NFPA 70, and ] the applicable building code.

I. [ ~~Delete Change~~ ] Section 5906.5.6 [ - to read:

5906.5.6 Grounding. Where required by the applicable building code, equipment shall be maintained securely grounded by permanent ground wires in accordance with NFPA 70. ]

## **13VAC5-51-153. IFC Chapter 60 Highly Toxic and Toxic Materials.**

A. Change Sections 6001.1 and 6001.2 to read:

6001.1 Scope. The outside storage and use of highly toxic and toxic materials and the maintenance and operational aspects of inside storage and use of highly toxic and toxic materials shall comply with this chapter. Compressed gases shall also comply with Chapter 53.

Exceptions:

1. Display and storage in Group M and storage in Group S occupancies complying with Section 5003.11.

2. Conditions involving pesticides or agricultural products as follows:

2.1. Application and release of pesticide, agricultural products and materials intended for use in weed abatement, erosion control, soil amendment or similar applications when applied in accordance with the manufacturer's instruction and label directions.

2.2. Transportation of pesticides in compliance with the Federal Hazardous Materials Transportation Act and regulations thereunder.

2.3. Storage in dwellings or private garages of pesticides registered by the U.S. Environmental Protection Agency to be utilized in and around the home, garden, pool, spa and patio.

6001.2 Permits. Permits shall be required as set forth in Section 107.2.

B. Change Section 6003.1.4 to read:

6003.1.4 Indoor storage. Indoor storage of highly toxic and toxic solids and liquids shall comply with the applicable building code.

C. Delete [ ~~Sections 6003.1.4.1, 6003.1.4.2, and Section~~ ] 6003.2.5 [ - ~~and change Sections 6003.1.4.1 and 6003.1.4.2 to read:~~

6003.1.4.1 Floors. In addition to the requirements set forth in Section 5004.12, where liquid-tight floors were required by the applicable building code, they shall be maintained.

6003.1.4.2 Separation—highly toxic solids and liquids. In addition to the requirements set forth in Section 5003.9.8, unless approved in accordance with the applicable building code, highly toxic solids and liquids in storage shall be located in approved hazardous material storage cabinets or isolated from other hazardous material storage in accordance with the applicable building code. ]

D. Change Sections 6004.1.2, ~~and~~ 6004.1.3, ~~and~~ 6004.3.3 to read:

6004.1.2 Gas cabinets. Gas cabinets containing highly toxic or toxic compressed gases shall comply with Section 5003.8.6 and the following requirements:

1. The average ventilation velocity at the face of gas cabinet access ports or windows shall be not less than 200 feet per minute (1.02 m/s) with not less than 150 feet per minute (0.76 m/s) at any point of the access port or window.

2. Gas cabinets shall be connected to an exhaust system.

3. Gas cabinets shall not be used as the sole means of exhaust for any room or area.

4. The maximum number of cylinders located in a single gas cabinet shall not exceed three, except that cabinets containing cylinders not exceeding 1 pound (0.454 kg) net contents are allowed to contain up to 100 cylinders.

5. Gas cabinets required by Section 6004.2 or 6004.3 shall be equipped with an approved automatic sprinkler system in accordance with the applicable ~~building code~~ NFPA 13 standard. Alternative fire-extinguishing systems shall not be used.

6004.1.3 Exhausted enclosures. Exhausted enclosures containing highly toxic or toxic compressed gases shall comply with Section 5003.8.5 and the following requirements:

1. The average ventilation velocity at the face of the enclosure shall be not less than 200 feet per minute (1.02 m/s) with not less than 150 feet per minute (0.76 m/s).
2. Exhausted enclosures shall be connected to an exhaust system.
3. Exhausted enclosures shall not be used as the sole means of exhaust for any room or area.
4. Exhausted enclosures required by Section 6004.2 or 6004.3 shall be equipped with an approved automatic sprinkler system in accordance with the applicable building code NFPA 13 standard. Alternative fire-extinguishing systems shall not be used.

~~6004.3.3 Outdoor storage weather protection for portable tanks and cylinders. Weather protection in accordance with Section 5004.13 shall be provided for portable tanks and cylinders located outdoors and not within gas cabinets or exhausted enclosures. The storage area shall be equipped with an approved automatic sprinkler system in accordance with the applicable building code.~~

~~Exception: An automatic sprinkler system is not required when:~~

- ~~1. All materials under the weather protection structure, including hazardous materials and the containers in which they are stored, are noncombustible.~~
- ~~2. The weather protection structure is located not less than 30 feet (9144 mm) from combustible materials or structures or is separated from such materials or structures using a fire barrier complying with Section 6004.3.2.1.1.~~

E. Change Sections 6004.2.2.5, 6004.2.2.6, and 6004.2.2.8 to read:

~~(N)6004.2.2.5~~ 6004.2.2.5 Piping and controls - stationary tanks. In addition to the requirements of Section 5003.2.2, piping and controls on stationary tanks shall comply with the following requirements:

1. Pressure relief devices shall be vented to a treatment system designed in accordance with Section 6004.2.2.7.

Exception: Pressure relief devices on outdoor tanks provided exclusively for relieving pressure due to fire exposure are not required to be vented to a treatment system provided that:

1. The material in the tank is not flammable.
2. The tank is located not less than 30 feet (9144 mm) from combustible materials or structures or is shielded by a fire barrier complying with Section 6004.3.2.1.1.
2. Filling or dispensing connections shall be provided with a means of local exhaust. Such exhaust shall be designed to capture fumes and vapors. The exhaust shall be directed

to a treatment system in accordance with Section 6004.2.2.7.

3. Stationary tanks shall be provided with a means of excess flow control on all tank inlet or outlet connections.

Exceptions:

1. Inlet connections designed to prevent backflow.
2. Pressure relief devices.

~~(N)6004.2.2.6~~ 6004.2.2.6 Gas rooms. Gas rooms shall comply with Section 5003.8.4 and [ both of ] the following [ requirement requirements ]:

1. The exhaust ventilation from gas rooms shall be directed to an exhaust system.

[ 2. Approved automatic sprinkler systems in gas rooms shall be maintained in accordance with Chapter 9 and the applicable building code. ]

~~(N)6004.2.2.8~~ 6004.2.2.8 Emergency power. Emergency power shall be maintained in accordance with [ Chapter 12, NFPA 70, and ] the applicable building code.

F. Delete Sections 6004.2.2.8.1 and [ ~~6004.2.2.9~~ ] 6004.2.2.10, 6004.2.2.10.1, 6004.2.2.10.2, and 6004.2.2.10.3 [ and change Section 6004.2.2.9 to read:

6004.2.2.9 Automatic fire detection system—highly toxic compressed gases. Where provided in rooms or areas where highly toxic compressed gases are stored or used, an approved automatic fire detection system shall be maintained in accordance with Chapter 9 and the applicable building code. ]

G. Change Section 6004.3.3 to read:

6004.3.3 Outdoor storage weather protection for portable tanks and cylinders. Weather protection in accordance with Section 5004.13 shall be provided for portable tanks and cylinders located outdoors and not within gas cabinets or exhausted enclosures. The storage area shall be equipped with an approved automatic sprinkler system in accordance with the applicable NFPA 13 standard.

Exception: An automatic sprinkler system is not required when:

1. All materials under the weather protection structure, including hazardous materials and the containers in which they are stored, are noncombustible.

2. The weather protection structure is located not less than 30 feet (9144 mm) from combustible materials or structures or is separated from such materials or structures using a fire barrier complying with Section 6004.3.2.1.1.

**13VAC5-51-154. IFC Chapter 61 Liquefied Petroleum Gases.**

A. Change [ ~~Section Sections 6101.1 and~~ ] 6101.2 [ ~~to read and delete Section 6101.3.~~

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6101.1 Scope. Storage, handling and transportation of liquefied petroleum gas (LP-gas) and LP-gas equipment pertinent to systems for such uses shall comply with this chapter and NFPA 58. Properties of LP-gases shall be determined in accordance with Appendix B of NFPA 58. ]

6101.2 Permits. Permits shall be required as set forth in Section 107.2. Distributors shall not fill an LP-gas container for which a permit is required unless [ ~~a permit for installation~~ an operational permit ] has been issued for that location by the fire code official, except when the container is for temporary use on construction sites.

B. Change [ the Title of Section 6103 to USE OF EQUIPMENT and change ] Section 6103.1 to read:

~~(N)6103.1~~ 6103.1 General. [ The use of ] LP-gas equipment shall be [ ~~maintained~~ ] in accordance with the [ ~~code under which it was installed~~ International Fuel Gas Code and NFPA 58, except as otherwise provided in this chapter ].

C. Delete Section 6103.3.

D. Change Section 6104.1 to read:

~~(N)6104.1~~ 6104.1 General. The storage and handling of LP-gas and the maintenance of related equipment shall comply with applicable building code.

E. Delete Sections 6104.2 through 6104.4 and Table 6104.3.

F. Add Section 6106.4 to read:

6106.4 DOTn cylinders filled on site. U.S. Department of Transportation (DOTn) cylinders in stationary service that are filled on site and therefore are not under the jurisdiction of DOTn either shall be requalified in accordance with DOTn requirements or shall be visually inspected within 12 years of the date of manufacture or within five years from May 1, 2008, whichever is later, and within every five years thereafter, in accordance with the following:

1. Any cylinder that fails one or more of the criteria in Item 3 shall not be refilled or continued in service until the condition is corrected.

2. Personnel shall be trained and qualified to perform inspections.

3. Visual inspection shall be performed in accordance with the following:

3.1. The cylinder is checked for exposure to fire, dents, cuts, digs, gouges, and corrosion according to CGA C-6, Standards for Visual Inspection of Steel Compressed Gas Cylinders, except that paragraph 4.2.1(1) of that standard (which requires tare weight certification), shall not be part of the required inspection criteria.

3.2. The cylinder protective collar (where utilized) and the foot ring are intact and are firmly attached.

3.3. The cylinder is painted or coated to retard corrosion.

3.4. The cylinder pressure relief valve indicates no visible damage, corrosion of operating components, or obstructions.

3.5. There is no leakage from the cylinder or its appurtenances that is detectable without the use of instruments.

3.6. The cylinder is installed on a firm foundation and is not in contact with the soil.

3.7. A cylinder that passed the visual inspection shall be marked with the month and year of the examination followed by the letter "E" (example: 10-01E, indicating requalification in October 2001 by the external inspection method).

3.8. The results of the visual inspection shall be documented, and a record of the inspection shall be retained for a five-year period.

Exception: Any inspection procedure outlined in Items 3.1 through 3.8 that would require a cylinder be moved in such a manner that disconnection from the piping system would be necessary shall be omitted, provided the other inspection results do not indicate further inspection is warranted.

G. Change Section 6108.1 to read:

~~(N)6108.1~~ 6108.1 General. Fire protection for installations having LP-gas storage containers shall be maintained in accordance with the applicable building code.

H. [ ~~Delete Change~~ ] Section 6109.11.2 [ ~~to read~~:

6109.11.2 Storage. Storage in buildings and rooms used for gas manufacturing, gas storage, gas air mixing, and vaporization shall be approved in accordance with the applicable building code. These areas are to be maintained in accordance with the applicable building code and NFPA 58. ]

I. Change Section 6111.2 to read:

6111.2 Unattended parking. The unattended parking of LP-gas tank vehicles shall be in accordance with Sections 6111.2.1 and 6111.2.2.

Exception: The unattended outdoor parking of LP-gas tank vehicles may also be in accordance with Section 9.7.2 of NFPA 58.

## **13VAC5-51-154.2. IFC Chapter 62 Organic Peroxides.**

A. Change Section 6201.2 to read:

6201.2 Permits. Permits shall be required for organic peroxides as set forth in Section 107.2.

B. Change Sections 6203.1 and 6203.1.1 to read:

~~(N)6203.1~~ 6203.1 [ ~~Storage and use~~ Quantities not exceeding the maximum allowable quantity per control area ]. The storage and use of organic peroxides in amounts not exceeding the maximum allowable quantity per control



area indicated in Section 5003.1 shall be maintained in accordance with [ ~~the applicable building code~~ Sections 5001, 5003, 6201, and 6203 ].

~~(N)6203.1.1~~ 6203.1.1 Special limitations for indoor storage and use by occupancy. The indoor storage and use of organic peroxides shall be maintained in accordance with [ ~~the applicable building code~~ Sections 6203.1.1.1 through 6203.1.1.4 ].

C. [ ~~Delete~~ Change ] Sections 6203.1.1.1 and 6203.1.1.3 [ - to read:

6203.1.1.1 Group A, E, I, or U occupancies. Unless otherwise approved by the applicable building code, in Group A, E, I, or U occupancies, any amount of unclassified detonable and Class I organic peroxides shall be stored in accordance with the following:

1. Unclassified detonable and Class I organic peroxides shall be stored in hazardous materials storage cabinets complying with Section 5003.8.7.

2. The hazardous materials storage cabinets shall not contain other storage.

6203.1.1.3 Group B, F, M, or S occupancies. Unless otherwise approved by the applicable building code, unclassified detonable and Class I organic peroxides shall not be stored or used in offices or retail sales areas of Group B, F, M, or S occupancies. ]

D. Change Section 6203.1.1.4 to read:

~~(N)6203.1.1.4~~ 6203.1.1.4 Classrooms. [ ~~In~~ Unless otherwise approved by the applicable building code, in ] classrooms in Group B, F or M occupancies, any amount of unclassified detonable and Class 1 organic peroxides shall be stored in accordance with the [ ~~applicable building code.~~ following:

1. Unclassified detonable and Class 1 organic peroxides shall be stored in hazardous materials storage cabinets complying with Section 5003.8.7.

2. The hazardous materials storage cabinets shall not contain other storage. ]

E. [ ~~Delete~~ Change ] Sections 6203.2 and 6204.1.1 [ - to read:

6203.2 Quantities exceeding the maximum allowable quantity per control area. The storage and use of organic peroxides in amounts exceeding the maximum allowable quantity per control area indicated in Section 5003.1 shall be maintained in accordance with Chapter 50 and this chapter and comply with the applicable building code.

6204.1.1 Detached storage. Unless otherwise approved by the applicable building code, storage of organic peroxides shall be in detached buildings when required by Section 5003.8.2. ]

F. [ ~~Delete~~ Change the Title of ] Table 6204.1.2 [ to ORGANIC PEROXIDES-DISTANCE TO EXPOSURES FROM OUTDOOR STORAGE AREAS ].

G. Change Section 6203.1.2 through and 6204.1.6 to read:

~~(N)6204.1.2~~ 6204.1.2 Distance from detached buildings to exposures. Detached storage buildings for Classes I, II, III, IV and V organic peroxides shall be located in accordance with the applicable building code [ and maintain separation distances from exposures in accordance with Table 6304.1.2 ]. Detached buildings containing quantities of unclassified detonable organic peroxides [ in excess of those set forth in Table 5003.8.2, ] shall be located in accordance with the applicable building code [ and maintain separation distances from exposures in accordance with Table 5604.5.2(1) ].

~~(N)6204.1.3~~ 6204.1.3 Liquid-tight floor. Liquid-tight floors shall be maintained in accordance with the applicable building code.

~~(N)6204.1.4~~ 6204.1.4 Electrical wiring and equipment. Electrical wiring and equipment in storage areas for Class I or II organic peroxides shall be maintained in accordance with [ Chapter 6 and remain as classified in accordance with ] the applicable building code.

~~(N)6204.1.5~~ 6204.1.5 Smoke detection. Smoke detection systems shall be maintained in accordance with the [ applicable building code Chapter 9 ].

~~(N)6204.1.6~~ 6204.1.6 Maximum quantities. Maximum allowable quantities per building in a mixed occupancy building [ or detaches storage building ] shall not exceed the amounts set forth by the applicable building code.

[ ~~Maximum allowable quantities per building in a detached storage building shall not exceed the amounts set forth by the applicable building code.~~ ]

H. Change Sections 6204.1.10 and 6204.1.11 to read:

~~(N)6204.1.10~~ 6204.1.10 Explosion control. [ ~~Indoor~~ Explosion control for indoor ] storage rooms, areas and buildings containing [ explosion control shall be maintained in accordance with the applicable building code unclassified detonable and Class 1 organic peroxides shall be maintained in accordance with Chapter 9 ].

~~(N)6204.1.11~~ 6204.1.11 Standby power. Standby power [ for storage areas of Class 1 and unclassified detonable organic peroxide ] shall be maintained in accordance with [ the applicable building code Section 1203 ].

I. Delete Section 6204.1.11.1.

J. Change Section 6204.2.3 to read:

6204.2.3 Maximum quantities. Maximum quantities of organic peroxides in outdoor storage shall be in accordance with the applicable building code.

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K. Change Section 6204.2.5 to read:

6204.2.5 Separation. In addition to the requirements of Section 5003.9.8, outdoor storage areas for organic peroxides in amounts exceeding those specified [ ~~by the applicable building code in Table 5003.12~~ ] shall be located a minimum distance of 50 feet ~~(15,240~~ (15,240 mm) from other hazardous material storage.

~~K.~~ Change Section 6204.2.3 to read:

~~(N)6204.2.3 Maximum quantities. Maximum quantities of organic peroxides in outdoor storage shall be in accordance with the applicable building code.~~

[ L. Change Section 6204.2.3 to read:

6204.2.3 Maximum quantities. Maximum quantities of organic peroxides in outdoor storage shall be in accordance with Table 6204.1.2. ]

## **13VAC5-51-154.4. IFC Chapter 63 Oxidizers, Oxidizing Gases and Oxidizing Cryogenic Fluids.**

A. Change Section 6301.2 to read:

6301.2 Permits. Permits shall be required as set forth in Section 107.2.

B. Change Section 6303.1 to read:

~~(N)6303.1 6303.1 [ Storage and use Quantities not exceeding the maximum allowable quantity per control area ]. The storage and use of oxidizing materials [ shall be maintained in accordance with the applicable building code in amounts not exceeding the maximum allowable quantity per control area indicated in Section 5003.1 shall be maintained in accordance with Sections 5001, 5003, 6301, and 6303. Oxidizing gases shall also comply with Chapter 53 ].~~

C. [ ~~Delete Change~~ ] Sections 6303.1.1 and 6303.1.1.1 [ - to read:

6303.1.1 Special limitations for indoor storage and use by occupancy. The indoor storage and use of oxidizing materials shall be in accordance with Sections 6303.1.1.1 through 6303.1.1.3.

6303.1.1.1 Class 4 liquid and solid oxidizers. The storage and use of Class 4 liquid and solid oxidizers shall comply with Sections 6303.1.1.1.1 through 6303.1.1.1.4. ]

D. Change Section 6303.1.1.1.1 to read:

6303.1.1.1.1 Group A, E, I or U occupancies. [ ~~It~~ Unless otherwise approved by the applicable building code, in ] Group A, E, I or U occupancies, any amount of Class 4 liquid and solid oxidizers shall be stored in accordance with the following:

[ 1. ] Class 4 liquid and solid oxidizers shall be stored in hazardous materials storage cabinets complying with Section 5003.8.7.

[ 2. The hazardous materials storage cabinets shall not contain other storage. ]

E. [ ~~Delete Change~~ ] Sections 6303.1.1.2 and 6303.1.1.3 [ - to read:

6303.1.1.2 Class 3 liquid and solid oxidizers. Unless otherwise approved by the applicable building code, a maximum of 200 pounds (91 kg) of solid or 20 gallons (76 L) of liquid Class 3 oxidizer is allowed in Group I occupancies when such materials are necessary for maintenance purposes or operation of equipment. The oxidizers shall be stored in approved containers and in an approved manner.

6303.1.1.3 Oxidizing gases. Except for cylinders of nonliquefied compressed gases not exceeding a capacity of 250 cubic feet (7 m<sup>3</sup>) or liquefied compressed gases not exceeding a capacity of 46 pounds (21 kg) each used for maintenance purposes, patient care or operation of equipment, oxidizing gases shall not be stored or used in Group A, E, I, or R occupancies or in offices in Group B occupancies.

The aggregate quantities of gases used for maintenance purposes and operation of equipment shall not exceed the maximum allowable quantity per control area listed in the applicable building code.

Medical gas systems and medical gas supply cylinders shall also be in accordance with Section 5306. ]

F. Change Section 6303.1.2 to read:

~~(N)6303.1.2 6303.1.2 Emergency shutoff. [ Shutoff valves shall be maintained in accordance with the applicable building code Compressed gas systems conveying oxidizing gases with manual or automatic emergency shutoff valves in accordance with the applicable building code shall be maintained and be accessible to be activated at each point of use and at each source ].~~

G. Delete Sections 6303.1.2.1 and 6303.1.2.2.

H. Change Sections 6303.1.3 and 6303.2 to read:

~~(N)6303.1.3 6303.1.3 Ignition source control. Ignition sources in areas containing oxidizing gases shall be controlled in accordance with [ the applicable building code Section 5003.7 ].~~

~~(N)6303.2 6303.2 Class 1 oxidizer storage configuration. The [ outdoor ] storage configuration of Class I liquid and solid oxidizers shall be as set forth in [ Table 6303.2, indoor storage shall be in ] accordance with the applicable building code.~~

I. [ ~~Delete~~ Change the title of ] Table 6303.2 [ to OUTDOOR STORAGE OF CLASS 1 OXIDIZER LIQUIDS AND SOLIDS ].

J. Change Sections 6304.1 through 6304.1.5 to read:

~~(N)6304.1~~ 6304.1 Indoor storage. Indoor storage of oxidizing materials [ in amounts exceeding the maximum allowable quantity per control area indicated in the applicable building code ] shall be maintained in accordance with [ Sections 5001, 5003, and 5004 and this chapter and comply with ] the applicable building code.

~~(N)6304.1.1~~ 6304.1.1 Explosion control. Explosion control for indoor storage rooms, areas and buildings containing Class 4 liquid or solid oxidizers shall be maintained in accordance with [ the applicable building code Chapter 9 ].

~~(N)6304.1.2~~ 6304.1.2 Automatic sprinkler system. The automatic sprinkler system for oxidizer storage shall be maintained in accordance with [ the applicable building code Chapter 9 ].

~~(N)6304.1.3~~ 6304.1.3 Liquid-tight floor. [ Liquid-tight In addition to Section 5004.12, liquid-tight ] floors of storage areas for liquid and solid oxidizers shall be maintained [ in accordance with the applicable building code ].

~~(N)6304.1.4~~ 6304.1.4 Smoke detection. Smoke detection systems shall be maintained in accordance with [ the applicable building code Chapter 9 ].

~~(N)6304.1.5~~ 6304.1.5 Storage conditions. The maximum quantity of oxidizers per building in storage buildings shall [ be maintained in accordance with not exceed those quantities set forth in ] the applicable building code. [ The storage configuration for liquid and solid oxidizers shall be as set forth in the applicable building code. Class 2 oxidizers shall not be stored in basements unless approved by the applicable building code. Class 3 and 4 oxidizers in amounts exceeding the maximum allowable quantity per control area set forth in 5003.1, shall be stored on the ground floor only unless otherwise approved by the applicable building code. ]

K. Delete Tables 6304.1.5(1), 6304.1.5(2), and 6304.1.5(3).

L. Change Section 6304.1.8 to read:

6304.1.8 Detached storage. Storage of liquid and solid oxidizers shall be in detached buildings where required by the applicable building code.

M. Change Section 6304.2.2 [ and change the title of Tables 6304.2.2(1), 6304.2.2(2), and 6304.2.2(3) ] to read:

6304.2.2 Storage configuration for liquid and solid oxidizers. Storage configuration for liquid and solid oxidizers shall be [ maintained ] in accordance with [ Table 6303.2 and Tables 6304.1.5(1) through 6304.1.5(3) and comply with ] the applicable building code.

[ Table 6304.2.2(1) OUTDOOR STORAGE OF CLASS 2 OXIDIZER LIQUIDS AND SOLIDS.

Table 6304.2.2(2) OUTDOOR STORAGE OF CLASS 3 OXIDIZER LIQUIDS AND SOLIDS.

Table 6304.2.2(3) OUTDOOR STORAGE OF CLASS 4 OXIDIZER LIQUIDS AND SOLIDS. ]

N. Change Sections 6305.1 and 6306.4 to read:

~~(N)6305.1~~ 6305.1 Scope. The use of oxidizers [ shall be in accordance in amounts exceeding the maximum allowable quantity per control area indicated in Table 5003.1.1(1) or Table 5003.1.1(3) shall be maintained in accordance with Sections 5001, 5003, and 5005 and this chapter and comply ] with the applicable building code. [ Oxidizing gases shall also comply with Chapter 53. ]

~~(N)6306.4~~ 6306.4 Maximum aggregate quantity. The maximum aggregate quantity of liquid oxygen allowed in storage and in use in each dwelling unit shall be [ maintained in accordance with the applicable building code 31.6 gallons (120 L).

Exceptions:

1. The maximum aggregate quantity of liquid oxygen allowed in Group I-4 occupancies shall be limited by the maximum allowable quantity set forth in the applicable building code.

2. Where individual sleeping rooms are separated from the remainder of the dwelling unit by fire-resistant rated assemblies constructed in accordance with the applicable building code, the maximum aggregate quantity per dwelling unit shall be increased to allow a maximum of 31.6 gallons (120 L) of liquid oxygen per sleeping room ].

**13VAC5-51-154.6. IFC Chapter 64 Pyrophoric Materials.**

A. Change Section 6401.2 to read:

6401.2 Permits. Permits shall be required as set forth in Section 107.2.

B. Change Sections 6403.1 and 6403.1.1 to read:

~~(N)6403.1~~ 6403.1 [ Storage and use Quantities not exceeding the maximum allowable quantity per control area ]. The storage and use of pyrophoric [ material materials ] in amounts not exceeding the maximum allowable quantity per control area indicated in Section 5003.1 ] shall be maintained in accordance with [ the applicable building code Sections 5001, 5003, 6401, and 6403 ].

~~(N)6403.1.1~~ 6403.1.1 Emergency shutoff. [ Emergency shutoff valves shall be maintained Manual or automatic emergency shutoff valves for compressed gas systems conveying pyrophoric gases shall be maintained and be accessible to be activated at each point of use and at each source ] in accordance with the applicable building code.

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C. Delete Sections 6403.1.1.1, 6403.1.1.2, and [ change Section ] 6403.2.

[ 6403.2 Quantities exceeding the maximum allowable quantity per control area. The storage and use of pyrophoric materials in amounts exceeding the maximum allowable quantity per control area indicated in Section 5003.1 shall be maintained in accordance with Chapter 50 and this chapter and comply with the applicable building code. ]

D. Change Sections 6404.1 and 6404.1.1 to read:

~~(N)6404.1~~ 6404.1 Indoor storage. Indoor storage of pyrophoric materials [ in amounts exceeding the maximum allowable quantity per control area indicated in the applicable building code, ] shall be [ ~~maintained~~ ] in accordance with [ Sections 5001, 5003, and 5004 and this chapter and comply with ] the applicable building code. [ The storage of silane gas and gas mixtures with a silane concentration of 1.37% or more by volume, shall be maintained in accordance with CGA G-13. ]

~~(N)6404.1.1~~ 6404.1.1 Liquid-tight floor. [ ~~Liquid-tight floors of storage areas containing pyrophoric liquids~~ In addition to the requirements of Section 5004.12, liquid-tight floors ] shall be maintained in accordance with the applicable building code.

E. [ ~~Delete~~ Change ] Sections 6404.1.2, 6404.1.3, 6404.1.4, and 6404.2.2 [ ~~- to read:~~

6404.1.2 Pyrophoric solids and liquids. Unless otherwise approved by the applicable building code, storage of pyrophoric solids and liquids shall be limited to the following: A maximum area of 100 square feet (9.3 m<sup>2</sup>) per pile. Storage shall not exceed 5 feet (1524 mm) in height. Individual containers shall not be stacked.

Aisles between storage piles shall be a minimum of 10 feet (3048 mm) in width.

Individual tanks or containers shall not exceed 500 gallons (1893 L) in capacity.

6404.1.3 Pyrophoric gases. Storage of pyrophoric gases shall be in detached buildings when required by the applicable building code.

6404.1.4 Separation from incompatible materials. In addition to the requirements of Section 5003.9.8, indoor storage of pyrophoric materials shall be isolated from incompatible hazardous materials in accordance with the applicable building code. Fire-resistance rated construction and openings shall be maintained in accordance with Chapter 7.

Exception: Storage in approved hazardous materials storage cabinets constructed in accordance with Section 5003.8.7.

6404.2.2 Weather protection. Automatic fire-extinguishing systems for overhead sheltering of outdoor storage areas of

pyrophoric materials shall be maintained in accordance with Chapter 9.

F. Change Section 6405.2 to read:

6405.2 Weather protection. Automatic fire-extinguishing system for overhead sheltering of outdoor use areas of pyrophoric materials shall be maintained in accordance with Chapter 9. ]

## **13VAC5-51-154.7. IFC Chapter 65 Pyroxylin (Cellulose Nitrate) Plastics.**

A. Change Section 6501.2 to read:

6501.2 Permits. Permits shall be required as set forth in Section 107.2.

B. [ ~~Delete~~ Change ] Sections 6504.1.1 and 6504.1.3 [ ~~- to read:~~

6504.1.1 Storage of incoming material. Unless otherwise approved by the applicable building code, where raw material in excess of 25 pounds (11 kg) is received in a building or fire area, it shall be stored in an approved vented cabinet or approved vented vault equipped with an approved automatic sprinkler system in accordance with the applicable building code.

6504.1.3 Storage of additional material. Raw material in excess of that allowed by Section 6504.1.2 shall remain stored in vented vaults or other arrangement approved in accordance with the applicable building code. ]

C. Change Sections 6504.1 and 6504.2 to read:

6504.1 Raw material. Raw cellulose nitrate (pyroxylin) plastic material in a Group F building shall be stored and handled in accordance with Sections [ ~~6504.1.2 and 6504.1.4 6504.1.1~~ ] through 6504.1.7.

~~(N)6504.2~~ 6504.2 Fire protection. [ ~~Fire protection~~ Unless otherwise permitted by the applicable building code, buildings or portions thereof used ] for the manufacture or storage of articles of cellulose nitrate (pyroxylin) plastic in quantities exceeding 100 pounds (45 kg) shall [ ~~be in accordance with~~ maintain an approved automatic sprinkler system in accordance with the applicable NFPA 13 standard and ] the applicable building code.

## **13VAC5-51-154.8. 8. IFC Chapter 66 Unstable (Reactive) Materials.**

A. Change Section 6601.2 to read:

6601.2 Permits. Permits shall be required as set forth in Section 107.2.

B. Change Sections 6603.1 and 6603.1.1 to read:

~~(N)6603.1~~ 6603.1 [ ~~Storage and use~~ Quantities not exceeding the maximum allowable quantity per control area ]. Quantities of unstable (reactive) materials not

exceeding the maximum allowable quantity per control area shall be ~~[ maintained ]~~ in accordance with ~~[ the applicable building code Sections 6603.1.1 through 6603.1.2.5 ]~~.

~~(N)6603.1.1~~ 6603.1.1 General. The storage and use of unstable (reactive) materials ~~[ in amounts not exceeding the maximum allowable quantity per control area indicated in Section 5003.1 ]~~ shall be in accordance with ~~[ the applicable building code Sections 5001, 5003, 6601, and 6603 ]~~.

C. ~~[ Delete Change ]~~ Section 6603.1.2 ~~[ - to read:~~

6603.1.2 Limitations for indoor storage and use by occupancy. The indoor storage of unstable (reactive) materials shall be maintained in accordance with Sections 6603.1.2.1 through 6603.1.2.5 and comply with the applicable building code. ]

D. Change Sections 6603.1.2.1 and 6604.1 to read:

6603.1.2.1 Group A, E, I<sub>1</sub> or U occupancies. ~~[ In Unless otherwise approved by the applicable building code, in ]~~ Group A, E, I<sub>1</sub> or U occupancies, any amount of Classes 3 and 4 unstable (reactive) materials shall be stored in accordance with the ~~[ applicable building code, following:~~

1. Class 3 and 4 unstable (reactive) materials shall be stored in hazardous material storage cabinets complying with Section 5003.8.7.
2. The hazardous material storage cabinets shall not contain other storage. ]

~~(N)6604.1~~ 6604.1 Indoor storage. Indoor storage of unstable (reactive) materials ~~[ in amounts exceeding the maximum allowable quantity per control area indicated in Table 5003.1.1(1) ]~~ shall be maintained in accordance with ~~[ Sections 5001, 5003, and 5004 and this chapter and comply with ]~~ the applicable building code.

~~[ In addition, Class 3 and 4 unstable (reactive) detonable materials shall be stored in accordance with the applicable building code requirements for explosives. ]~~

E. ~~[ Delete Change ]~~ Section 6604.1.1 ~~[ - to read:~~

6604.1.1 Detached storage. Storage of unstable (reactive) materials shall be maintained in detached buildings when required by the applicable building code. ]

~~D. F.~~ Change Sections 6604.1.2, 6604.1.3, and 6604.1.5 to read:

~~(N)6604.1.2~~ 6604.1.2 Explosion control. Explosion control for indoor storage ~~[ rooms, areas, and buildings containing Class 3 or 4 unstable (reactive) materials ]~~ shall be maintained in accordance with ~~[ the applicable building code Chapter 9 ]~~.

~~(N)6604.1.3~~ 6604.1.3 Liquid-tight floor. Liquid-tight floors of storage areas shall be maintained in accordance with the applicable building code.

~~(N)6604.1.5~~ 6604.1.5 Location in building. Unstable (reactive) materials shall not be stored in basements unless approved.

**13VAC5-51-154.9. 9. IFC Chapter 67 Water-Reactive Solids and Liquids.**

A. Change Section 6701.2 to read:

6701.2 Permits. Permits shall be required as set forth in Section 107.2.

B. Change Section 6703.1 to read:

~~(N)6703.1~~ 6703.1 ~~[ Storage and use Quantities not exceeding the maximum allowable quantity per control area ]~~. The storage and use of water reactive solids and liquids ~~[ in amounts not exceeding the maximum allowable quantity per control area indicated in Section 5003.1 ]~~ shall be maintained in accordance with ~~[ the applicable building code Sections 5001, 5003, 6701, and 6703 ]~~.

C. Change Section 6703.2 to read:

~~(N)6703.2~~ 6703.2 Quantities exceeding the maximum allowable quantity per control area. ~~[ The storage and use of water-reactive solids and liquids in amounts exceeding the maximum allowable quantity per control area indicated in Section 5003.1 shall be maintained in accordance with Chapter 50 and this chapter and comply with the applicable building code. ]~~

D. Change Section 6704.1 to read:

~~(N)6704.1~~ 6704.1 Indoor storage. Indoor storage of water-reactive solids and liquids ~~[ in amounts exceeding the maximum allowable quantity per control area indicated in the applicable building code ]~~ shall be maintained in accordance with ~~[ Sections 5001, 5003, and 5004 and this chapter and comply with ]~~ the applicable building code.

E. Change Section 6704.1.1 to read:

~~(N)6704.1.1~~ 6704.1.1 Detached storage. ~~[ The storage of water-reactive solids and liquids shall be in detached buildings where required by the applicable building code. ]~~

F. Change Section 6704.1.2 to read:

~~(N)6704.1.2~~ 6704.1.2 Liquid-tight floor. ~~[ Liquid-tight In addition to the provisions of Section 5004.12, liquid-tight ]~~ floors in storage areas for water reactive solids and liquids shall be maintained in accordance with the applicable building code.

G. ~~[ Delete Change ]~~ Section 6704.1.3 ~~[ - to read:~~

6704.1.3 Waterproof room. Rooms or areas used for the storage of water-reactive solids and liquids shall be maintained in a manner which resists the penetration of water in accordance with the applicable building code. ]

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H. Change Section 6704.1.5 to read:

~~(N)6704.1.5~~ 6704.1.5 Storage configuration. [ Water-reactive solids and liquids stored in quantities greater than 500 cubic feet (14 m<sup>3</sup>) shall be maintained separated into piles, each not larger than 500 cubic feet (14 m<sup>3</sup>) unless otherwise approved by the applicable building code. ] Aisle widths between piles shall [ ~~be maintained in accordance with the applicable building code~~ not be less than the height of the pile or 4 feet (1219 mm), whichever is greater.

Exception: Water-reactive solids and liquids stored in tanks.

Class 2 water-reactive solids and liquids shall not be stored in basements unless such materials are stored in closed water-tight containers or tanks.

Class 3 water-reactive solids and liquids shall not be stored in basements.

Class 2 or 3 water-reactive solids and liquids shall not be stored with flammable liquids ].

I. Change Section ~~6704.1.1~~ 6704.1.6 to read:

~~(N)6704.1.6~~ 6704.1.6 Explosion control. Explosion control for indoor storage [ ~~rooms shall be maintained in accordance with the applicable building code~~ rooms, areas, and buildings containing Class 2 or 3 water-reactive solids and liquids shall be maintained in accordance with Chapter 9 ].

J. Change Section 6704.2.5 to read:

~~(N)6704.2.5~~ 6704.2.5 Containment. Secondary containment shall be [ ~~provided in accordance with the applicable building code~~ maintained in accordance with the provisions of Section 5004.2.2 ].

## 13VAC5-51-155. IFC Chapter 80 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       | 6106.4                                    |
| <del>NFPA 45-15</del>     | <del>Standard on Fire Protection for Laboratories Using Chemicals</del> | <del>5001.7.5, 5001.7.10, 5001.7.11</del> |
| <del>NFPA 96-17</del>     | <del>Standard for Ventilation Control and Fire Protection of</del>      | <del>319.4, 904.3</del>                   |

|                         |  |                      |
|-------------------------|--|----------------------|
|                         | <del>Commercial Cooking Operations</del>                             |                      |
| UL 1278-00              | Standard for Movable and Wall- or Ceiling-Hung Electric Room Heaters | 605.10.1             |
| <del>UL 1805-2002</del> | <del>Standard for Laboratory Hoods and Cabinets</del>                | <del>5001.7.11</del> |
| NA3178                  | <u>Smokeless Powder for Small Arms</u>                               | <u>202</u>           |

## DOCUMENTS INCORPORATED BY REFERENCE (13VAC5-51)

American National Standards Institute, 25 West 43rd Street, Fourth Floor, New York, NY 10036 (<https://www.ansi.org>):

ANSI Z21.69/CSA 6.16-09, Connectors for Movable Gas Appliances

ANSI/CGA P-18, Standard for Bulk Inert Gas Systems

The American Society of Mechanical Engineers, Two Park Avenue, New York, NY 10016-5990 (<https://www.asme.org>):

ASME Boiler and Pressure Vessel Code-2010/2011 addenda

[ ASME A17.1-16/CSA B44-16, Safety Code for Elevators and Escalators ]

ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 (<https://www.astm.org>):

ASTM D 92-12b, Standard Test Method for Flash and Fire Points by Cleveland Open Cup

ASTM E 84-2013A, Test Method for Surface Burning Characteristics of Building Materials

ASTM E 108-2011, Standard Test Method for Fire Tests of Roof Coverings

~~ASTM E 1354-2013~~ 1354-2016, Standard Test Method for Heat and Visible Smoke Release Rates for Materials and Products Using an Oxygen Consumption Calorimeter

~~ASTM E 1537-13~~ 1537-15, Standard Test Method for Fire Testing of Upholstered Furniture

~~ASTM E 1590-13~~ 1590-13, Standard Test Method for Fire Testing of Mattresses

State of California Department of Consumer Affairs, Bureau of Electronics and Appliance Repair, Home Furnishings and

Thermal Insulation, 4244 South Market Court, Suite D, Sacramento, CA 95834-1243 ([www.bearhfti.ca.gov](http://www.bearhfti.ca.gov)):

California Technical Bulletin 129-1992

California Technical Bulletin 133-1991

Compressed Gas Association, 14501 George Carter Way, Suite 103, Chantilly, VA 20151 ([www.cganet.com](http://www.cganet.com)):

ANSI/P-18-2006, Standard for Bulk Inert Gas Systems

CGA C-6-2001, Standards for Visual Inspection of Steel Compressed Gas Cylinders, Eighth Edition

European Committee for Standardization (EN), Central Secretariat, Rue de Stassart 36, B-10 50 Brussels (<https://www.cen.eu>):

EN 1081, 1998 Resilient Floor Coverings-Determination of the Electrical Resistance

International Code Council, Inc., 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001-2070 (<http://www.iccsafe.org>):

International Fire Code - ~~2015~~ 2018 Edition

International Fuel Gas Code - ~~2015~~ 2018 Edition

International Residential Code - ~~2015~~ 2018 Edition

National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471 (<http://www.nfpa.org>):

NFPA ~~2-11~~ 2-16, Hydrogen Technologies Code

NFPA ~~11-10~~ 11-16, Standard for Low-, Medium- and High-Expansion Foam

NFPA ~~12-11~~ 12-15, Standard on Carbon Dioxide Extinguishing Systems

NFPA ~~12A-09~~ 12A-15, Standard on Halon 1301 Fire Extinguishing Systems

NFPA [ ~~13-13~~ 13-16 ], Standard for the Installation of Sprinkler Systems

NFPA 13D-13, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes

NFPA [ ~~13R-13~~ 13R-16 ], Standard for the Installation of Sprinkler Systems in Low Rise Residential Occupancies

NFPA ~~14-13~~ 14-16, Standard for the Installation of Standpipe and Hose Systems

NFPA 16-15, Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems

NFPA ~~17-13~~ 17-17, Standard for Dry Chemical Extinguishing Systems

NFPA ~~17A-13~~ 17A-17, Standard for Wet Chemical Extinguishing Systems

[ NFPA 20, Standard for the Installation of Stationary Pumps for Fire Protection ]

NFPA ~~25-14~~ 25-17, Standard for Inspection, Testing and Maintenance of Water-based Fire Protection Systems

NFPA ~~30-12~~ 30-18, Flammable and Combustible Liquids Code

NFPA ~~30A-15~~ 30A-18, Code for Motor Fuel Dispensing Facilities and Repair Garages

NFPA 30B-15, Code for the Manufacture and Storage of Aerosol Products

NFPA ~~31-11~~ 31-16, Standard for the Installation of Oil-Burning Equipment

NFPA ~~32-11~~ 32-16, Standard for Drycleaning Plants

NFPA 34-15, Standard for Dipping, Coating and Printing Processes Using Flammable or Combustible Liquids

NFPA ~~35-11~~ 35-16, Standard for the Manufacture of Organic Coatings

NFPA 45-15, Standard on Fire Protection for Laboratories Using Chemicals

NFPA ~~52-13~~ 52-16, Vehicular Gaseous Fuel System Code

NFPA ~~55-13~~ 55-16, Compressed Gases and Cryogenic Fluids Code

NFPA ~~58-14~~ 58-17, Liquefied Petroleum Gas Code

NFPA ~~59A-13~~ 59A-16, Standard for the Production, Storage and Handling of Liquefied Natural Gas (LNG)

NFPA 69-14, Standard on Explosion Prevention Systems

NFPA ~~70-14~~ 70-17, National Electrical Code

NFPA ~~72-13~~ 72-16, National Fire Alarm and Signaling Code

NFPA 80-16, Standard for Fire Doors and Other Opening Protectives

NFPA 86-15, Standard for Ovens and Furnaces

NFPA 96-17, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations

NFPA ~~110-13~~ 110-16, Standard for Emergency and Standby Power Systems

NFPA 111-13, Standard on Stored Electrical Energy Emergency and Standby Power Systems

NFPA ~~211-13~~ 211-16, Standard for Chimneys, Fireplaces, Vents and Solid Fuel-Burning Appliances

NFPA 286-15, Standard Methods of Fire Tests for Evaluating Contribution of Wall and Ceiling Interior Finish to Room Fire Growth



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NFPA ~~303-11~~ 303-16, Fire Protection Standard for Marinas and Boatyards

NFPA ~~495-13~~ 495-18, Explosives Materials Code

NFPA [ ~~701-10~~ 701-15 ], Standard Methods of Fire Tests for Flame - Propagation of Textiles and Films

[ NFPA 704-17, Standard System for Identification of the Hazards of Materials for Emergency Response ]

NFPA 720-15, Standard for the Installation of Carbon Monoxide (CO) Detection and Warning Equipment

NFPA 853-15, Installation of Stationary Fuel Cell Power Systems

NFPA ~~1123-14~~ 1123-18, Code for Fireworks Display

NFPA ~~1124-06~~ 1124-17, Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles

NFPA ~~1126-11~~ 1126-16, Standard for the Use of Pyrotechnics Before a Proximate Audience

NFPA 2001-15, Standard on Clean Agent Fire Extinguishing Systems

NFPA 2010-15, Standard for Fixed Aerosol Fire-Extinguishing Systems

Underwriters Laboratories, Inc., 333 Pfingsten Road, Northbrook, IL 60062 (<http://www.ul.com>):

UL [ 80-07 ~~80-16~~ ], Steel Tanks for Oil-Burner Fuels and Other Combustible Liquids-with revisions through August 2009

UL 87A-12, Outline of Investigation for Power-Operated Dispensing Devices for Gasoline and Gasoline/ethanol Blends with Nominal Ethanol Concentrations up to 85 Percent

UL 142-06, Steel Aboveground Tanks for Flammable and Combustible Liquids-with revisions through February 12, 2010

UL 199E-04, Outline of Investigation for Fire Testing of Sprinklers and Water Spray Nozzles for Protection of Deep Fat Fryers

UL 217-06, Single and Multiple Station Smoke Alarms-with revisions through April 2012

UL 710B-2011, Recirculating Systems

UL 790-04, Standard Test Methods for Fire Tests of Roof Coverings-with revisions through October 2008

UL 1278-00, Standard for Movable and Wall- or Ceiling-Hung Electric Room Heaters, Third Edition, June 21, 2000

UL 1315-95, Standard for Safety for Metal Waste Paper Containers-with revisions through September 2012

UL 1805-2002, Standard for Laboratory Hoods and Cabinets

V.A.R. Doc. No. R19-5886; Filed February 2, 2021, 5:21 p.m.

## Final Regulation

**REGISTRAR'S NOTICE:** The Board of Housing and Community Development is claiming an exemption from Article 2 of the Administrative Process Act pursuant to § 2.2-4006 A 12 of the Code of Virginia, which excludes regulations adopted by the Board of Housing and Community Development pursuant to the 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. The Board of Housing and Community Development will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**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, 13VAC5-63-80, 13VAC5-63-90, 13VAC5-63-100, 13VAC5-63-120, 13VAC5-63-130, 13VAC5-63-150, 13VAC5-63-160, 13VAC5-63-170, 13VAC5-63-190 through 13VAC5-63-280, 13VAC5-63-295 through 13VAC5-63-360, 13VAC5-63-400 through 13VAC5-63-440, 13VAC5-63-450, 13VAC5-63-470 through 13VAC5-63-490, 13VAC5-63-510, 13VAC5-63-520, 13VAC5-63-530, 13VAC5-63-540, 13VAC5-63-545; adding 13VAC5-63-224, 13VAC5-63-226, 13VAC5-63-444; repealing 13VAC5-63-445)

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

**Effective Date:** July 1, 2021.

**Agency Contact:** Kyle Flanders, Senior Policy Analyst, Board of Housing and Community Development, Main Street Centre 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804)786-6761, FAX (804)371-7090, TDD (804)371-7089, or email [kyle.flanders@dhcd.virginia.gov](mailto:kyle.flanders@dhcd.virginia.gov).

**Background:** The Uniform Statewide Building Code (USBC) is a regulation governing 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 (BHCD) initiates a regulatory action to incorporate the newest editions of the



model codes into the regulation as well as accepting proposals for changes to the regulation from affected stakeholder groups and the public.

**Summary:**

*Amendments include in:*

*13VAC5-63-10, clarifying that references to the international codes and standards include state amendments made to those codes and providing supersession provisions when the Virginia Energy Conservation Code address the same subject matter in the National Electric Code, Virginia Maintenance Code, Virginia Plumbing Code, and Virginia Fuel Gas Code.*

*13VAC5-63-50, adding high school technical training programs and college fields to the list of education and experience requirements that would meet qualification standards for technical assistants.*

*13VAC5-63-60, adding a provision for allowing the building official to consider other nationally recognized guidelines when deciding to approve a code modification.*

*13VAC5-63-80, adding emergency supplemental hardware language to the permit application requirement and removing the requirement for an affidavit to obtain a permit.*

*13VAC-5-63-100, adding requirements for a building official to consult and notify the fire official prior to the approval of emergency supplemental hardware; removing the requirement that the signature of the building official be on the physical permit; adding noncompliance with provisions of the code as a reason for revocation of a permit; adding a requirement for the name and certification number of the elevator mechanic performing the tests on an elevator; removing the requirement that a certificate of occupancy be issued within five working days; adding a provision that the notice of violation can be issued to other persons deemed responsible in addition to the person performing the work; adding a provision that when no certificate exists, a building department can verify in writing that a certificate did exist at one point; and allowing for applications to be submitted electronically.*

*13VAC5-63-130, adding flood hazard documentation requirements for submission to the building official and adding a requirement to include the name and certification number of the elevator mechanic performing tests on elevators, escalators, and other related conveyances.*

*13VAC5-63-160, adding an exception for the issuance of a certificate of occupancy for additions to one-family and two-family homes where a certificate of occupancy already exists.*

*13VAC5-63-190, adding that the State Review Board has the power and duty to hear all appeals arising from the USBC; adding that all hearings before the State Review Board shall be open meetings, the BHCD shall have the power to uphold, reverse, or modify decisions, and that the*

*proceedings are governed by the Administrative Process Act.*

*13VAC5-63-210, reorganizing sections on residential occupancies; adding requirements for state regulated care facilities; making several changes to the Residential Code, including (i) adding definitions for accessory dwelling unit, substantial damage, and substantial improvement; (ii) revising the component and cladding table and the height and exposure adjustment coefficient table; (iii) updating the wind design section to correlate with ASCE 7-16; (iv) adding elevation requirements for buildings in flood hazard areas; (v) adding a requirement for garage door labeling to include model or series number, testing standard, and wind pressure rating; (vi) adding a requirement for a mandatory energy certificate to list predominant R-values of insulation, U-factors of fenestration, and solar heat gain coefficient of fenestration; (vii) adding requirements for the required pan under a storage tank-type water heater or hot water storage tank; (viii) adding the allowance of NFPA 13 and 13R sprinkler systems; (ix) restoring the energy certificate requirement and allowing the certificate to be kept at an off-site location for multi-family buildings; (x) requiring blower door testing for air leakage rating of buildings; (xi) removing the prohibition against using building cavities as plenums; (xii) removing the requirement for residential exhaust hoods in kitchens for grease laden vapors as the requirements for this are specified in the International Mechanical Code and don't belong in the International Energy Conservation Code; (xiii) revising landing and floor height requirements for exterior doors; (xiv) allowing the use of Appendix Q for tiny houses; (xv) revising foundation anchorage language to match the International Building Code; (xvi) clarifying that only one foundation vent is required within three feet of each corner; (xvii) adding an option for relining existing building sewers and building draining piping; (xviii) adding an option to provide a notice by electronic means for a local board of building code appeals hearing; and (xix) changing the minimum slope for drainage on impervious surfaces within 10 feet of the building foundation.*

*13VAC5-63-220, changing the section reference for short-term holding areas.*

*13VAC5-63-224, adding a new requirement for address identification.*

*13VAC5-63-226, adding an alternative construction provision requiring certain type of construction to comply with all provisions of the 2021 International Building Code (IBC) and International Fire Code (IFC).*

*13VAC5-63-240, adding an additional benchmark of four or more stories for Class III standpipes; removing an exception from the Virginia Construction Code (VCC) for visible alarm notification appliances in alterations where a fire alarm system is replaced or upgraded because this falls within the purview of the Virginia Existing Building Code*

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(VEBC); adding an exception to infrastructure for public safety wireless communications where localities do not provide the additional communication equipment required for the operation of the system; and adding provisions and parameters to allow the use of emergency supplemental hardware.

13VAC5-63-245, clarifying that protection is provided for increased occupants in compartments at each story with a horizontal exit and deleting an exception for tread depth and height requirements for stair risers.

13VAC5-63-250, adding fixture type provisions for multi-user gender-neutral toilet facilities and allowing portions of areas in places of religious worship to not be accessible that are primarily for performance of religious ceremonies.

13VAC5-63-260, adding new provisions to accommodate multi-user gender-neutral facilities.

13VAC5-63-264, adding new energy requirements for roofs and roof assemblies and adding new energy requirements for skylights.

13VAC5-63-280, adding a new section detailing testing requirements for garage doors and rolling doors.

13VAC5-63-300, changing Article 555 of NFPA 70 2017 edition to NFPA 70 2020 edition.

13VAC5-63-310, adding occupant density and outdoor airflow rate metrics for medical procedure rooms, patient rooms, and physical therapy rooms; prohibiting the installation of dampers in the exhaust duct; and adding requirements for protecting penetrations of shaft and ductwork.

13VAC5-63-320, adding minimum number of fixture requirements for multi-user gender-neutral toilet facilities; adding exceptions to separate facility requirements where single-user toilet rooms or multi-user gender-neutral facilities are provided; adding requirements for the location of backflow preventers; adding calculation procedures for the effects of roof discharge on calculating roof area; removing minimum fixture requirements from the IBC and points directly to the VPC; adding a definition for service sink; requiring footbaths and pedicure baths to be protected against backflow; removing a conflict regarding an exception for using primer for solvent cement on pipe joints; adding an option for relining existing building sewers and building drainage piping; and adding a standard for rainwater harvesting.

13VAC5-63-330, incorporating more IBC requirements for elevator machine rooms, exceptions for fire barriers, and stickers labeling such requirements.

13VAC5-63-410, adding a provision that requires additions separated by a new firewall be constructed per the VCC.

13VAC5-63-430, adding a new definition for roof covering and deleting the definition for roof repair.

13VAC5-63-431, adding a requirement that the repair or replacement of smoke alarms shall be with UL217 listed devices no more than 10 years from the date of manufacture of the original smoke alarm; deleting some provisions that could be interpreted as retrofit requirements; including references for replacement window emergency escape openings; and specifying what is permitted and what's an exception in the roof recovery requirements.

13VAC5-63-432.5, changing the provisions of the change of occupancy section to state that existing buildings are not required to be provided with additional accessibility features and removing the exception for Type B dwelling or sleeping units; adding a requirement that additional toilet and bathing facilities in assembly and mercantile occupancies must include no fewer than one accessible family or assisted-use toilet room; and adding a provision that Type B dwelling or sleeping units are not required to be provided in historic buildings or structures.

13VAC5-63-433, adding a requirement that repairs shall comply with the VECC and specifying what work shall be considered a repair.

13VAC5-63-433.3, adding conditions by which alterations are required to comply with the VECC or Virginia Residential Code (VRC) without requiring the unaltered portions to comply with the VECC or VRC; adding new sections on reroofing, roof recover, and reinstallation of materials for roofing; updating the Level 1 and Level 2 alteration definitions; and changing the compliance for interior finishes in historic buildings to a table in the VCC rather than incorporating an ASTM standard.

13VAC5-63-433.5, adding a provision that standpipe systems installed due to a change of occupancy only need to serve the area undergoing the change of occupancy.

13VAC5-63-434.5, allowing existing guard heights to be acceptable rather than having to comply with a specific section.

13VAC5-63-435.5, adding a retrofit requirement for existing buildings requiring address identification and FDC sign.

13VAC5-63-440, adding a requirement for evaluating existing buildings for structural integrity and adding requirements for evaluating existing fire alarm systems, means of egress capacity, maximum exit travel distance, means of egress emergency lighting, and standpipes.

13VAC5-63-444, adding requirements for displays and written information being able to be seen by a seated person and for new direct connections to commercial, retail, or residential facilities to have an accessible route to the maximum extent feasible.

13VAC5-63-470, requiring adherence to the Virginia Residential Landlord and Tenant Act (§ 55.1-1200 et seq.) for responsible parties for a violation.

*13VAC5-63-480, requiring elevator inspections to include the name and certification number of the elevator mechanic.*

*13VAC5-63-485, adding a requirement that copies of notices of violations shall be delivered to the owner, even if the owner isn't the responsible party.*

*13VAC5-63-520, updating rodent harborage and infestation requirements to state and federal health standards.*

*13VAC5-63-540, updating provisions for fuel oil and propane tanks.*

*13VAC5-63-545, deleting a provision that could be interpreted as a retrofit.*

### **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 or as the VCC. The term "USBC" shall mean the VCC 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.

Note: This code is also known as the ~~2015~~ 2018 edition of the USBC due to the use of the ~~2015~~ 2018 editions of the model codes.

B. Section 101.2 Incorporation by reference. Chapters 2 - 35 of the ~~2015~~ 2018 International Building Code, published by the International Code Council, Inc., are adopted and incorporated by reference to be an enforceable part of the USBC. The term "IBC" means the ~~2015~~ 2018 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 other International Codes and standards including the following major codes:

~~2015~~ 2018 International Plumbing Code (IPC)

~~2015~~ 2018 International Mechanical Code (IMC)

~~2014~~ 2017 NFPA 70

~~2015~~ 2018 International Fuel Gas Code (IFGC)

~~2015~~ 2018 International Energy Conservation Code (IECC)

~~2015~~ 2018 International Residential Code (IRC)

Note 2: The IRC is applicable to the construction of detached one-family 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 provisions of this code shall be used as follows:

1. 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.
2. The term "this code<sub>1</sub>" or "the code<sub>1</sub>" where used in a code or standard referenced in the IBC means that code or standard, unless the context clearly indicates otherwise.
3. 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.
4. 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.

[ 5. References to International Codes and standards, where used in this code, include state amendments made to those International Codes and standards in the VCC. ]

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F. Section 101.6 Order of precedence. The provisions of this code shall be used as follows:

1. The provisions of Chapter 1 of this code supersede any provisions of Chapters 2 - 35 of the IBC that address the same subject matter and impose differing requirements.
2. The provisions of Chapter 1 of this code supersede any provisions of the codes and standards referenced in the IBC that address the same subject matter and impose differing requirements.
3. The state amendments to the IBC supersede any provisions of Chapters 2 - 35 of the IBC that address the same subject matter and impose differing requirements.
4. The state amendments to the IBC supersede any provisions of the codes and standards referenced in the IBC that address the same subject matter and impose differing requirements.
5. The provisions of Chapters 2 - 35 of the IBC supersede any provisions of the codes and standards referenced in the IBC that address the same subject matter and impose differing requirements.

[ 6. The provisions of the NEC, VMC, VPC, and VFGC supersede any provisions of the VECC that address the same subject matter and impose differing requirements.

7. The provisions of Chapters 2 through 10 and 12 through 44 of the VRC supersede any provisions of Chapter 11 of the VRC that address the same subject matter and impose differing requirements. ]

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 § 15.2-2286.1 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 ~~403.40~~ 103.5 of this code.

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

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

1. Equipment and wiring used for providing utility, communications, information, cable television, broadcast or

radio service in accordance with all of the following conditions:

1.1. The equipment and wiring, are located on either rights-of-way or property for which the service provider has rights of occupancy and entry.

1.2. Buildings housing exempt equipment and wiring shall be subject to the USBC.

1.3. The equipment and wiring exempted by this section shall not create an unsafe condition prohibited by the USBC.

2. Support structures owned or controlled by a provider of publicly regulated utility service or its affiliates for the transmission and distribution of electric service in accordance with all of the following conditions:

2.1. The support structures are located on either rights-of-way or property for which the service provider has rights of occupancy and entry.

2.2. The support structures exempted by this section shall not create an unsafe condition prohibited by the USBC.

3. Direct burial poles used to support equipment or wiring providing communications, information or cable television services. The poles exempted by this section shall not create an unsafe condition prohibited by the USBC.

4. Electrical equipment, transmission equipment, and related wiring used for wireless transmission of radio, broadcast, telecommunications, or information service in accordance with all of the following conditions:

4.1. Buildings housing exempt equipment and wiring and structures supporting exempt equipment and wiring shall be subject to the USBC.

4.2. The equipment and wiring exempted by this section shall not create an unsafe condition prohibited by the USBC.

5. Manufacturing, processing, and product handling machines and equipment that do not produce or process hazardous materials regulated by this code, including those portions of conveyor systems used exclusively for the transport of associated materials or products, and all of the following service equipment:

5.1. Electrical equipment connected after the last disconnecting means.

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

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

Manufacturing and processing machines that produce or process hazardous materials regulated by this code are only required to comply with the code provisions regulating the hazardous materials.

6. Parking lots and sidewalks that are not part of an accessible route.

7. 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.

8. 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 427 and in the case of demolition of such industrialized buildings or manufactured homes.

9. 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.

10. Federally owned buildings and structures unless federal law specifically requires a permit from the locality. Underground storage tank installations, modifications and removals shall comply with this code in accordance with federal law.

11. Off-site manufactured intermodal freight containers, moving containers, and storage containers placed on site temporarily or permanently for use as a storage container.

12. Automotive lifts.

### **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 rehabilitation of buildings and structures, and the equipment therein.

B. Section 103.1.1 Virginia Existing Building Code. Part II of the Virginia Uniform Statewide Building Code, also known as the "Virginia Existing Building Code," or the "VEBC" is applicable to construction and rehabilitation activities in existing buildings and structures, as those terms are defined in the VEBC, except where specifically addressed in the VCC.

C. Section 103.2 When applicable to ~~new~~ construction. Construction for which a permit application is submitted to the local building department on or after the effective date of the ~~2015~~ 2018 edition of the code shall comply with the provisions of this code, except for permit applications submitted during a one-year period beginning on the effective date of the ~~2015~~

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2018 edition of the code. 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 edition of the code in effect immediately prior to the ~~2015~~ 2018 edition. 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.

D. Section 103.3 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.

E. Section 103.3.1 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.

F. Section 103.4 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. Testing requirements and requirements for the submittal of construction documents in any of the ICC codes referenced in Chapter 35 and in the IRC.
3. Section R301.2 of the IRC authorizing localities to determine climatic and geographic design criteria.
4. Flood load or flood-resistant construction requirements in the IBC or the IRC, 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~~ a registered design professional (RDP).

5. Section R101.2 of the IRC.

6. Section N1102.1 of the IRC and Sections C402.1.1 and R402.1 of the IECC.

G. Section 103.5 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, and (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.

H. Section 103.6 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.

I. Section 103.7 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 through 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 or building built on state-owned property for which preliminary plans were prepared or on which construction commenced after the initial effective date of the USBC, shall remain subject to the provisions of the USBC that were in effect at the time such plans were completed or such construction commenced.

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

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

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

Except as provided in subsection E of § 23.1-1016 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 subsection A of § 23.1-1002 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. Emergency response planning and activities related to the standards 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.

J. Section 103.7.1 Certification of state enforcement personnel. State enforcement personnel shall comply with the applicable requirements of Section 105 for certification.

### **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

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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.

Note: Continuing education and periodic training requirements for DHCD certifications are set out in the VCS.

E. 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.

F. 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 construction conceptual and administrative processes; 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, including high school technical training programs or college engineering, architecture, or construction degree programs, shall be deemed to satisfy this requirement. The locality may establish additional qualification requirements.

G. 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.

Exceptions:

1. 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.
2. A permit technician in place prior to the effective date of the 2015 edition of the code shall not be required to meet the

certification requirements in this section while continuing to serve in the same capacity in the same locality.

Note: Continuing education and periodic training requirements for DHCD certifications are set out in the VCS.

H. 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.

I. 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. 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~~ a registered design professional (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. The building official may also consider nationally recognized guidelines in deciding whether to approve a modification.

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.

**13VAC5-63-80. Section 108 Application for permit.**

A. Section 108.1 When applications are required. Application for a permit shall be made to the building official and a permit shall be obtained prior to the commencement of any of the following activities, except that applications for emergency construction, alterations or equipment replacement shall be submitted by the end of the first working day that follows the day such work commences. In addition, the building official may authorize work to commence pending the receipt of an application or the issuance of a permit.

1. Construction or demolition of a building or structure. Installations or alterations involving (i) the removal or addition of any wall, partition or portion thereof, (ii) any structural component, (iii) the repair or replacement of any required component of a fire or smoke rated assembly, (iv) the alteration of any required means of egress system, including the addition of emergency supplemental hardware, (v) water supply and distribution system, sanitary drainage system or vent system, (vi) electric wiring, (vii) fire protection system, mechanical systems, or fuel supply systems, or (viii) any equipment regulated by the USBC.
2. For change of occupancy, application for a permit shall be made when a new certificate of occupancy is required by the VEBC.
3. Movement of a lot line that increases the hazard to or decreases the level of safety of an existing building or structure in comparison to the building code under which such building or structure was constructed.
4. Removal or disturbing of any asbestos containing materials during the construction or demolition of a building or structure, including additions.

B. Section 108.2 Exemptions from application for permit. Notwithstanding the requirements of Section 108.1, application for a permit and any related inspections shall not be required for the following; however, this section shall not be construed to exempt such activities from other applicable requirements of this code. In addition, when an owner or an owner's agent requests that a permit be issued for any of the following, then a permit shall be issued and any related inspections shall be required.

1. Installation of wiring and equipment that (i) operates at less than 50 volts, (ii) is for broadband communications

systems, (iii) is exempt under Section 102.3(1) or 102.3(4), or (iv) is for monitoring or automation systems in dwelling units, except when any such installations are located in a plenum, penetrate fire rated or smoke protected construction or are a component of any of the following:

- 1.1. Fire alarm system.
  - 1.2. Fire detection system.
  - 1.3. Fire suppression system.
  - 1.4. Smoke control system.
  - 1.5. Fire protection supervisory system.
  - 1.6. Elevator fire safety control system.
  - 1.7. Access or egress control system or delayed egress locking or latching system.
  - 1.8. Fire damper.
  - 1.9. Door control system.
2. One story detached structures used as tool and storage sheds, playhouses or similar uses, provided the building area does not exceed 256 square feet (23.78 m<sup>2</sup>) and the structures are not classified as a Group F-1 or H occupancy.
  3. Detached prefabricated buildings housing the equipment of a publicly regulated utility service, provided the floor area does not exceed 150 square feet (14 m<sup>2</sup>).
  4. Tents or air-supported structures, or both, that cover an area of 900 square feet (84 m<sup>2</sup>) or less, 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 50 or less persons.
  5. Fences of any height unless required for pedestrian safety as provided for by Section 3306, or used for the barrier for a swimming pool.
  6. Concrete or masonry walls, provided such walls do not exceed six feet in height above the finished grade. Ornamental column caps shall not be considered to contribute to the height of the wall and shall be permitted to extend above the six feet height measurement.
  7. Retaining walls supporting less than three feet of unbalanced fill that are not constructed for the purpose of impounding Class I, II or III-A liquids or supporting a surcharge other than ordinary unbalanced fill.
  8. Swimming pools that have a surface area not greater than 150 square feet (13.95 m<sup>2</sup>), do not exceed 5,000 gallons ~~(49,000~~ (19,000 L) and are less than 24 inches (610 mm) deep.
  9. Signs under the conditions in Section H101.2 of Appendix H.
  10. Replacement of above-ground existing LP-gas containers of the same capacity in the same location and associated regulators when installed by the serving gas supplier.

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11. Flagpoles 30 feet (9144 mm) or less in height.
12. Temporary ramps serving dwelling units in ~~Group~~ Groups R-3 and R-5 occupancies where the height of the entrance served by the ramp is no more than 30 inches (762 mm) above grade.
13. Construction work deemed by the building official to be minor and ordinary and which does not adversely affect public health or general safety.
14. Ordinary repairs that include the following:
  - 14.1. Replacement of windows and doors with windows and doors of similar operation and opening dimensions that do not require changes to the existing framed opening and that are not required to be fire rated in Group R-2 where serving a single dwelling unit and in Groups R-3, R-4 and R-5.
  - 14.2. Replacement of plumbing fixtures and well pumps in all groups without alteration of the water supply and distribution systems, sanitary drainage systems or vent systems.
  - 14.3. Replacement of general use snap switches, dimmer and control switches, 125 volt-15 or 20 ampere receptacles, luminaires (lighting fixtures) and ceiling (paddle) fans in Group R-2 where serving a single dwelling unit and in Groups R-3, R-4 and R-5.
  - 14.4. Replacement of mechanical appliances provided such equipment is not fueled by gas or oil in Group R-2 where serving a single-family dwelling and in Groups R-3, R-4 and R-5.
  - 14.5. Replacement of an unlimited amount of roof covering or siding in ~~Groups~~ Group R-3, R-4 or R-5 provided the building or structure is not in an area where the nominal design wind speed is greater than 100 miles per hour (44.7 meters per second) and replacement of 100 square feet (9.29 m<sup>2</sup>) or less of roof covering in all groups and all wind zones.
  - 14.6. Replacement of 256 square feet ~~23.78 m<sup>2</sup>~~ (23.78 m<sup>2</sup>) or less of roof decking in ~~Groups~~ Group R-3, R-4 or R-5 unless the decking to be replaced was required at the time of original construction to be fire-retardant-treated or protected in some other way to form a fire-rated wall termination.
  - 14.7. Installation or replacement of floor finishes in all occupancies.
  - 14.8. Replacement of Class C interior wall or ceiling finishes installed in Groups A, E and I and replacement of all classes of interior wall or ceiling finishes in other groups.
  - 14.9. Installation or replacement of cabinetry or trim.
  - 14.10. Application of paint or wallpaper.

14.11. Other repair work deemed by the building official to be minor and ordinary which does not adversely affect public health or general safety.

15. Crypts, mausoleums, and columbaria structures not exceeding ~~1500~~ 1,500 square feet (139.35 m<sup>2</sup>) in area if the building or structure is not for occupancy and used solely for the interment of human or animal remains and is not subject to special inspections.

16. Billboard safety upgrades to add or replace steel catwalks, steel ladders, or steel safety cable.

#### Exceptions:

1. Application for a permit may be required by the building official for the installation of replacement siding, roofing and windows in buildings within a historic district designated by a locality pursuant to § 15.2-2306 of the Code of Virginia.

2. Application for a permit may be required by the building official for any items exempted in this section that are located in a special flood hazard area.

C. Section 108.3 Applicant information, processing by mail. Application for a permit shall be made by the owner or lessee of the relevant property or the agent of either or by the RDP, contractor or subcontractor associated with the work or any of their agents. The full name and address of the owner, lessee and applicant shall be provided in the application. If the owner or lessee is a corporate body, when and to the extent determined necessary by the building official, the full name and address of the responsible officers shall also be provided.

A permit application may be submitted by mail and such permit applications shall be processed by mail, unless the permit applicant voluntarily chooses otherwise. In no case shall an applicant be required to appear in person.

The building official may accept applications for a permit through electronic submissions provided the information required by this section is obtained.

D. Section 108.4 Prerequisites to obtaining permit. In accordance with § 54.1-1111 of the Code of Virginia, any person applying to the building department for the construction, removal or improvement of any structure shall furnish prior to the issuance of the permit either (i) satisfactory proof to the building official that he is duly licensed or certified under the terms of Chapter 11 (§ 54.1-1000 et seq.) of Title 54.1 of the Code of Virginia to carry out or superintend the same or (ii) file a written statement, ~~supported by an affidavit,~~ that he is not subject to licensure or certification as a contractor or subcontractor pursuant to Chapter 11 of Title 54.1 of the Code of Virginia. The applicant shall also furnish satisfactory proof that the taxes or license fees required by any county, city, or town have been paid so as to be qualified to bid upon or contract for the work for which the permit has been applied.

E. Section 108.5 Mechanics' lien agent designation. In accordance with § 36-98.01 of the Code of Virginia, a building permit issued for any one-family or two-family residential dwelling shall at the time of issuance contain, at the request of the applicant, the name, mailing address, and telephone number of the mechanics' lien agent as defined in § 43-1 of the Code of Virginia. If the designation of a mechanics' lien agent is not so requested by the applicant, the building permit shall at the time of issuance state that none has been designated with the words "None Designated."

Note: In accordance with § 43-4.01A of the Code of Virginia, a permit may be amended after it has been initially issued to name a mechanics' lien agent or a new mechanics' lien agent.

F. Section 108.6 Application form, description of work. The application for a permit shall be submitted on a form ~~or forms~~ supplied by the local building department. The application shall contain a general description and location of the proposed work and such other information as determined necessary by the building official.

G. Section 108.7 Amendments to application. An application for a permit may be amended at any time prior to the completion of the work governed by the permit. Additional construction documents or other records may also be submitted in a like manner. All such submittals shall have the same effect as if filed with the original application for a permit and shall be retained in a like manner as the original filings.

H. Section 108.8 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned six months after the date of filing unless such application has been pursued in good faith or a permit has been issued, except that the building official is authorized to grant one or more extensions of time if a justifiable cause is demonstrated.

## [ 13VAC5-63-90. Section 109 Construction documents.

A. Section 109.1 Submittal of documents. Construction documents shall be submitted with the application for a permit. The number of sets of such documents to be submitted shall be determined by the locality. Construction documents for one- and two-family dwellings may have floor plans reversed provided an accompanying site plan is approved.

Exception: Construction documents do not need to be submitted when the building official determines the proposed work is of a minor nature.

Note: Information on the types of construction required to be designed by an RDP is included in the "Related Laws Package" available from DHCD.

B. Section 109.2 Site plan. When determined necessary by the building official, a site plan shall be submitted with the application for a permit. The site plan shall show to scale the size and location of all proposed construction, including any associated wells, septic tanks or drain fields. The site plan shall

also show to scale the size and location of all existing structures on the site, the distances from lot lines to all proposed construction, the established street grades and the proposed finished grades. When determined necessary by the building official, the site plan shall contain the elevation of the lowest floor of any proposed buildings. The site plan shall also be drawn in accordance with an accurate boundary line survey. When the application for a permit is for demolition, the site plan shall show all construction to be demolished and the location and size of all existing structures that are to remain on the site.

Note: Site plans are generally not necessary for alterations, renovations, repairs or the installation of equipment.

C. Section 109.3 Engineering details. When determined necessary by the building official, construction documents shall include adequate detail of the structural, mechanical, plumbing or electrical components. Adequate detail may include computations, stress diagrams or other essential technical data and when proposed buildings are more than two stories in height, adequate detail may specifically be required to include where floor penetrations will be made for pipes, wires, conduits, and other components of the electrical, mechanical and plumbing systems and how such floor penetrations will be protected to maintain the required structural integrity or fire-resistance rating, or both. When dry floodproofing is provided, the engineering details shall include detail of the walls, floors, and flood shields designed to resist flood-related loads, including the sealing of floor and wall penetrations. All engineered documents, including relevant computations, shall be sealed by the RDP responsible for the design.

D. Section 109.4 Examination of documents. The building official shall examine or cause to be examined all construction documents or site plans, or both, within a reasonable time after filing. If such documents or plans do not comply with the provisions of this code, the permit applicant shall be notified in writing of the reasons, which shall include any adverse construction document review comments or determinations that additional information or engineering details need to be submitted. The review of construction documents for new one- and two-family dwellings for determining compliance with the technical provisions of this code not relating to the site, location or soil conditions associated with the dwellings shall not be required when identical construction documents for identical dwellings have been previously approved in the same locality under the same edition of the code and such construction documents are on file with the local building department.

E. Section 109.4.1 Expedited construction document review. The building official may accept reports from an approved person or agency that the construction documents have been examined and conform to the requirements of the USBC and may establish requirements for the person or agency

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submitting such reports. In addition, where such reports have been submitted, the building official may expedite the issuance of the permit.

F. Section 109.5 Approval of construction documents. The approval of construction documents shall be limited to only those items within the scope of the USBC. Either the word "Approved" shall be stamped on all required sets of approved construction documents or an equivalent endorsement in writing shall be provided. One set of the approved construction documents shall be retained for the records of the local building department and one set shall be kept at the building site and shall be available to the building official at all reasonable times.

G. Section 109.6 Phased approval. The building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted. ]

## **13VAC5-63-100. Section 110 Permits.**

A. Section 110.1 Approval and issuance of permits. The building official shall examine or cause to be examined all applications for permits or amendments to such applications within a reasonable time after filing. If the applications or amendments do not comply with the provisions of this code or all pertinent laws and ordinances, the permit shall not be issued and the permit applicant shall be notified in writing of the reasons for not issuing the permit. If the application complies with the applicable requirements of this code, a permit shall be issued as soon as practicable. The issuance of permits shall not be delayed in an effort to control the pace of construction of new detached one- or two-family dwellings.

B. Section 110.1.1 Consultation and notification. Prior to approval of emergency supplemental hardware, the building code official shall consult with the local fire code official, or state fire code official if no local fire code official exists, and head of the local law-enforcement agency. The local fire code official; the state fire code official; and the local fire, EMS, and law-enforcement first responders shall be notified of such approval [After, after] approval of such emergency supplemental hardware by the building code official.

C. Section 110.2 Types of permits. Separate or combined permits may be required for different areas of construction such as building construction, plumbing, electrical, and mechanical work, or for special construction as determined appropriate by the locality. In addition, permits for two or more buildings or structures on the same lot may be combined.

Annual permits may also be issued for any construction regulated by this code. The annual permit holder shall maintain a detailed record of all alterations made under the annual permit. Such record shall be available to the building official and shall be submitted to the local building department if requested by the building official.

~~C. D.~~ Section 110.3 Asbestos inspection in buildings to be renovated or demolished; exceptions. In accordance with § 36-99.7 of the Code of Virginia, the local building department shall not issue a building permit allowing a building for which an initial building permit was issued before January 1, 1985, to be renovated or demolished until the local building department receives certification from the owner or his agent that the affected portions of the building have been inspected for the presence of asbestos by an individual licensed to perform such inspections pursuant to § 54.1-503 of the Code of Virginia and that no asbestos-containing materials were found or that appropriate response actions will be undertaken in accordance with the requirements of the Clean Air Act National Emission Standard for the Hazardous Air Pollutant (NESHAPS) (40 CFR Part 61, Subpart M), and the asbestos worker protection requirements established by the U.S. Occupational Safety and Health Administration for construction workers (29 CFR 1926.1101). Local educational agencies that are subject to the requirements established by the Environmental Protection Agency under the Asbestos Hazard Emergency Response Act (AHERA) shall also certify compliance with 40 CFR Part 763 and subsequent amendments thereto.

To meet the inspection requirements above, except with respect to schools, asbestos inspection of renovation projects consisting only of repair or replacement of roofing, floorcovering, or siding materials may be satisfied by a statement that the materials to be repaired or replaced are assumed to contain friable asbestos and that asbestos installation, removal, or encapsulation will be accomplished by a licensed asbestos contractor.

The provisions of this section shall not apply to single-family dwellings or residential housing with four or fewer units unless the renovation or demolition of such buildings is for commercial or public development purposes. The provisions of this section shall not apply if the combined amount of regulated asbestos-containing material involved in the renovation or demolition is less than 260 linear feet on pipes or less than 160 square feet on other facility components or less than 35 cubic feet off facility components where the length or area could not be measured previously.

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

if determined by Transmission Electron Microscopy analysis (TEM).

~~D.~~ E. Section 110.4 Fire apparatus access road requirements. The permit applicant shall be informed of any requirements for providing or maintaining fire apparatus access roads prior to the issuance of a building permit.

~~E.~~ F. Section 110.5 ~~Signature on and posting~~ Posting of permits; limitation of approval. ~~The signature of the building official or authorized representative shall be on or affixed to every permit.~~ A copy of the permit shall be posted on the construction site for public inspection until the work is completed. Such posting shall include the street or lot number; if one has been assigned, to be readable from a public way. In addition, each building or structure to which a street number has been assigned shall, upon completion, have the number displayed so as to be readable from the public way.

A permit shall be considered authority to proceed with construction in accordance with this code, the approved construction documents, the permit application and any approved amendments or modifications. The permit shall not be construed to otherwise authorize the omission or amendment of any provision of this code.

~~F.~~ G. Section 110.6 Abandonment of work. A building official shall be permitted to revoke a permit if work on the site authorized by the permit is not commenced within six months after issuance of the permit, or if the authorized work on the site is suspended or abandoned for a period of six months after the permit is issued; however, permits issued for plumbing, electrical and mechanical work shall not be revoked if the building permit is still in effect. It shall be the responsibility of the permit applicant to prove to the building official that authorized work includes substantive progress, characterized by approved inspections as specified in Section 113.3 of at least one inspection within a period of six months or other evidence that would indicate substantial work has been performed. Upon written request, the building official may grant one or more extensions of time, not to exceed one year per extension.

~~G.~~ H. Section 110.7 Single-family dwelling permits. The building official shall be permitted to require a [~~three-year~~ three-year] time limit to complete construction of new detached single-family dwellings, additions to detached single-family dwellings and residential accessory structures. The time limit shall begin from the issuance date of the permit. The building official may grant extensions of time if the applicant can demonstrate substantive progress, characterized by approved inspections as specified in Section 113.3 of at least one inspection within a period of six months or other evidence that would indicate substantial work has been performed.

~~H.~~ I. Section 110.8 Revocation of a permit. The building official may revoke a permit or approval issued under this code in the case of any false statement, misrepresentation of fact,

abandonment of work, failure to complete construction as required by Section 110.7, noncompliance with provisions of this code and pertinent laws and ordinances, or incorrect information supplied by the applicant in the application or construction documents on which the permit or approval was based.

## **13VAC5-63-120. Section 112 Workmanship, materials and equipment.**

A. Section 112.1 General. It shall be the duty of any person performing work covered by this code to comply with all applicable provisions of this code and to perform and complete such work so as to secure the results intended by the USBC. Damage to regulated building components caused by violations of this code or by the use of faulty materials or installations shall be considered as separate violations of this code and shall be subject to the applicable provisions of Section 115.

B. Section 112.2 Alternative methods or materials. In accordance with § 36-99 of the Code of Virginia, where practical, the provisions of this code are stated in terms of required level of performance so as to facilitate the prompt acceptance of new building materials and methods. When generally recognized standards of performance are not available, this section and other applicable requirements of this code provide for acceptance of materials and methods whose performance is substantially equal in safety to those specified on the basis of reliable test and evaluation data presented by the proponent. In addition, as a requirement of this code, the building official shall require that sufficient technical data be submitted to substantiate the proposed use of any material, equipment, device, assembly or method of construction. The building official may consider nationally recognized guidelines in making a determination.

C. Section 112.3 Documentation and approval. In determining whether any material, equipment, device, assembly or method of construction complies with this code, the building official shall approve items listed by nationally recognized testing laboratories, when such items are listed for the intended use and application, and in addition, may consider the recommendations of RDPs. Approval shall be issued when the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code and that the material, equipment, device, assembly or method of construction offered is, for the purpose intended, at least the equivalent of that prescribed by the code. Such approval is subject to all applicable requirements of this code and the material, equipment, device, assembly or method of construction shall be installed in accordance with the conditions of the approval and their listings. In addition, the building official may revoke such approval whenever it is discovered that such approval was issued in error or on the basis of incorrect information, or where there are repeated violations of the USBC.

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D. Section 112.3.1 Conditions of listings. Where conflicts between this code and conditions of the listing or the manufacturer's installation instructions occur, the provisions of this code shall apply.

Exception: Where a code provision is less restrictive than the conditions of the listing of the equipment or appliance or the manufacturer's installation instructions, the conditions of the listing and the manufacturer's installation instructions shall apply.

E. Section 112.4 Used material and equipment. Used materials, equipment and devices may be approved provided they have been reconditioned, tested or examined and found to be in good and proper working condition and acceptable for use by the building official.

F. Section 112.5 Defective materials. Notwithstanding any provision of this code to the contrary, where action has been taken and completed by the BHCD under subsection D of § 36-99 of the Code of Virginia establishing new performance standards for identified defective materials, this section sets forth the new performance standards addressing the prospective use of such materials and establishes remediation standards for the removal of any defective materials already installed, which when complied with enables the building official to certify that the building is deemed to comply with the edition of the USBC under which the building was originally constructed with respect to the remediation of the defective materials.

G. Section 112.5.1 Drywall, performance standard. All newly installed gypsum wallboard shall not be defective drywall as defined in Section 112.5.1.1.1.

H. Section 112.5.1.1 Remediation standards. The following provisions establish remediation standards where defective drywall was installed in buildings.

I. Section 112.5.1.1.1 Definition. For the purposes of this section the term "defective drywall" means gypsum wallboard that (i) contains elemental sulfur exceeding 10 parts per million that when exposed to heat or humidity, or both, emits volatile sulfur compounds in quantities that cause observable corrosion on electrical wiring, plumbing pipes, fuel gas lines, or HVAC equipment, or any components of the foregoing or (ii) has been designated by the U.S. Consumer Product Safety Commission as a product with a product defect that constitutes a substantial product hazard within the meaning of § 15(a)(2) of the Consumer Product Safety Act (15 USC § 2064(a)(2)).

J. Section 112.5.1.1.2 Permit. Application for a permit shall be made to the building official, and a permit shall be obtained prior to the commencement of remediation work undertaken to remove defective drywall from a building and for the removal, replacement, or repair of corroded electrical, plumbing, mechanical, or fuel gas equipment and components.

K. Section 112.5.1.1.3 Protocol. Where remediation of defective drywall is undertaken, the following standards shall be met. The building official shall be permitted to consider and approve modifications to these standards in accordance with Section 106.3.

L. Section 112.5.1.1.3.1 Drywall. Drywall in the building, whether defective or nondefective, shall be removed and discarded, including fasteners that held any defective drywall to prevent small pieces of drywall from remaining under fasteners.

Exceptions:

1. Nondefective drywall not subject to the corrosive effects of any defective drywall shall be permitted to be left in place in buildings where the defective drywall is limited to a defined room or space or isolated from the rest of the building and the defective drywall can be positively identified. If the room or space containing the defective drywall also contains any nondefective drywall, the nondefective drywall in that room or space shall also be removed.

2. In multifamily buildings where defective drywall was not used in the firewalls between units and there are no affected building systems behind the firewalls, the firewalls shall be permitted to be left in place.

M. Section 112.5.1.1.3.2 Insulation and other building components. Insulation in walls and ceilings shall be removed and discarded. Carpet and vinyl flooring shall be removed and discarded. Woodwork, trim, cabinets, and tile or wood floors may be left in place or may be reused.

Exceptions:

1. Closed-cell foam insulation is permitted to be left in place if testing for off-gassing from defective drywall is negative, unless its removal is required to gain access.

2. Insulation, carpet, or vinyl flooring in areas not exposed to defective drywall or to the effects of defective drywall, may be left in place or reused.

N. Section 112.5.1.1.3.3 Electrical wiring, equipment, devices, and components. All electrical wiring regulated by this code shall be permitted to be left in place, but removal or cleaning of exposed ends of the wiring to reveal clean or uncorroded surfaces is required. All electrical equipment, devices, and components of the electrical system of the building regulated by this code shall be removed and discarded. This shall include all smoke detectors.

Exceptions:

1. Electrical equipment, devices, or components in areas not exposed to the corrosive effects of defective drywall shall be permitted to be left in place or reused. Electrical equipment, devices, or components in areas exposed to the corrosive

effects of defective drywall shall be cleaned, repaired, or replaced.

2. Cord and plug connected appliances are not subject to this code and, therefore, cannot be required to be removed or replaced.

Note: All low-voltage wiring associated with security systems, door bells, elevator controls, and other such components shall be removed and replaced or repaired.

O. Section 112.5.1.1.3.4 Plumbing and fuel gas piping, fittings, fixtures, and equipment. All copper fuel gas piping and all equipment utilizing fuel gas with copper, silver, or aluminum components shall be removed and discarded. All copper plumbing pipes and fittings shall be removed and discarded. Plumbing fixtures with copper, silver, or aluminum components shall be removed and discarded.

Exception: Plumbing or fuel gas piping, fittings, fixtures, equipment, or components in areas not exposed to the corrosive effects of defective drywall shall be permitted to be left in place or reused.

P. Section 112.5.1.1.3.5 Mechanical systems. All heating, air-conditioning, and ventilation system components, including but not limited to ductwork, air-handling units, furnaces, heat pumps, refrigerant lines, and thermostats and associated wiring, shall be removed and discarded.

Exception: Mechanical system components in areas not exposed to the corrosive effects of defective drywall shall be permitted to be left in place or reused.

Q. Section 112.5.1.1.3.6 Cleaning. Following the removal of all materials and components in accordance with Sections 112.5.1.1.3.1 through 112.5.1.1.3.5, the building shall be thoroughly cleaned to remove any particulate matter and dust.

R. Section 112.5.1.1.3.7 Airing out. Following cleaning in accordance with Section 112.5.1.1.3.6, the building shall be thoroughly aired out with the use of open windows and doors and fans.

S. Section 112.5.1.1.3.8 Pre-rebuilding clearance testing. Following the steps outlined above for removal of all materials and components, cleaning and airing out, a pre-rebuilding clearance test shall be conducted with the use of copper or silver coupons and the methodology outlined in the April 2, 2010, joint report by the Consumer Products Safety Commission and the Department of Housing and Urban Development "Interim Remediation Guidance for Homes with Corrosion from Problem Drywall" or with the use of a copper probe and dosimeter. The clearance testing shall confirm that all airborne compounds associated with the defective drywall are at usual environmental background levels. The clearance testing report, certifying compliance, shall be submitted to the building official.

Notes:

1. Where the building is served by a well and prior to conducting clearance tests, all outlets in piping served by the well should be capped or otherwise plugged to prevent contamination of the air sample.

2. To prevent siphoning and evaporation of the trap seals, fixtures should be capped or otherwise plugged to prevent sewer gases from contaminating the air sample.

T. Section 112.5.1.1.3.9 Testing agencies and personnel. Agencies and personnel performing pre-rebuilding or post-rebuilding clearance testing shall be independent of those responsible for all other remediation work and the agencies and personnel shall be appropriately certified or accredited by the Council of Engineering and Scientific Specialty Boards, the American Indoor Air Quality Council, or the World Safety Organization.

Exception: Testing agencies and personnel shall be accepted if certified by an RDP or if the agency employs an RDP to be in responsible charge of the work.

U. Section 112.5.1.1.3.10 Rebuilding standards. The rebuilding of the building shall comply with the edition of the USBC that was in effect when the building was originally built.

V. Section 112.5.1.1.3.11 Post-rebuilding clearance testing. A post-rebuilding clearance test prior to reoccupancy of the building or structure shall be conducted with the use of copper or silver coupons and the methodology outlined in the April 2, 2010, joint report by the U.S. Consumer Products Safety Commission and by the Department of Housing and Urban Development "Interim Remediation Guidance for Homes with Corrosion from Problem Drywall" or with the use of a copper probe and dosimeter. The clearance testing shall confirm that all airborne compounds associated with the defective drywall are at usual environmental background levels. The clearance testing report certifying compliance shall be submitted to the building official.

Notes:

1. Where the building is served by a well and prior to conducting clearance tests, all outlets in piping served by the well should be capped or otherwise plugged to prevent contamination of the air sample.

2. To prevent siphoning and evaporation of the trap seals, fixtures should be capped or otherwise plugged to prevent sewer gases from contaminating the air sample.

W. Section 112.5.1.1.4 Final approval by the building official. Once remediation has been completed in accordance with this section, a certificate or letter of approval shall be issued by the building official. The certificate or letter shall state that the remediation and rebuilding is deemed to comply with this code.

X. Section 112.5.1.1.4.1 Approval of remediation occurring prior to these standards. The building official shall issue a

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certificate or letter of approval for remediation of defective drywall that occurred prior to the effective date of these standards provided post-rebuilding clearance testing has been performed in accordance with Section 112.5.1.1.3.11, by agencies and personnel complying with Section 112.5.1.1.3.9, and the clearance testing confirms that all airborne compounds associated with the defective drywall are at usual environmental background levels. The clearance testing report certifying compliance shall be submitted to the building official.

## **13VAC5-63-130. Section 113 Inspections.**

A. Section 113.1 General. In accordance with § 36-105 of the Code of Virginia, any building or structure may be inspected at any time before completion, and shall not be deemed in compliance until approved by the inspecting authority. Where the construction cost is less than \$2,500, however, the inspection may, in the discretion of the inspecting authority, be waived. The building official shall coordinate all reports of inspections for compliance with the USBC, with inspections of fire and health officials delegated such authority, prior to the issuance of an occupancy permit.

B. Section 113.1.1 Equipment required. Any ladder, scaffolding or test equipment necessary to conduct or witness a requested inspection shall be provided by the permit holder.

C. Section 113.1.2 Duty to notify. When construction reaches a stage of completion that requires an inspection, the permit holder shall notify the building official.

D. Section 113.1.3 Duty to inspect. Except as provided for in Section 113.7, the building official shall perform the requested inspection in accordance with Section 113.6 when notified in accordance with Section 113.1.2.

E. Section 113.2 Prerequisites. The building official may conduct a site inspection prior to issuing a permit. When conducting inspections pursuant to this code, all personnel shall carry proper credentials.

F. Section 113.3 Minimum inspections. The following minimum inspections shall be conducted by the building official when applicable to the construction or permit:

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

6. Inspection of energy conservation material prior to concealment.

7. Final inspection.

G. 113.3.1 Equipment changes. Upon the replacement or new installation of any fuel-burning appliances or equipment in existing Group R-5 occupancies, 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 the IRC.

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.

[ ~~H.~~ 113.3.2 Lowest floor elevation. In flood hazard areas, upon placement of the lowest floor, including the basement, and prior to further vertical construction, the elevation certification required in Section 1612.5 shall be submitted to the building official.

[ ~~I.~~ 113.3.3 Flood hazard documentation. If located in a flood hazard area, documentation of the elevation of the lowest floor as required in Section 1612.5 shall be submitted to the building official prior to the final inspection. ]

[ ~~H.~~ J. ] Section 113.4 Additional inspections. The building official may designate additional inspections and tests to be conducted during the construction of a building or structure and shall so notify the permit holder.

[ ~~I.~~ K. ] Section 113.5 In-plant and factory inspections. When required by the provisions of this code, materials, equipment or assemblies shall be inspected at the point of manufacture or fabrication. The building official shall require the submittal of an evaluation report of such materials, equipment or assemblies. The evaluation report shall indicate the complete details of the assembly including a description of the assembly and its components, and describe the basis upon which the assembly is being evaluated. In addition, test results and other data as necessary for the building official to determine conformance with the USBC shall be submitted. For factory inspections, an identifying label or stamp permanently affixed to materials, equipment or assemblies indicating that a factory inspection has been made shall be acceptable instead of a written inspection report, provided the intent or meaning of such identifying label or stamp is properly substantiated.

[ ~~J.~~ L. ] Section 113.6 Approval or notice of defective work. The building official shall either approve the work in writing or give written notice of defective work to the permit holder. Upon request of the permit holder, the notice shall reference the USBC section that serves as the basis for the defects and such defects shall be corrected and reinspected before any



work proceeds that would conceal such defects. A record of all reports of inspections, tests, examinations, discrepancies and approvals issued shall be maintained by the building official and shall be communicated promptly in writing to the permit holder. Approval issued under this section may be revoked whenever it is discovered that such approval was issued in error or on the basis of incorrect information, or where there are repeated violations of the USBC. Notices issued pursuant to this section shall be permitted to be communicated electronically, provided the notice is reasonably calculated to get to the permit holder.

[ ~~K~~. M. ] Section 113.7 Approved inspection agencies. The building official may accept reports of inspections and tests from individuals or inspection agencies approved in accordance with the building official's written policy required by Section 113.7.1. The individual or inspection agency shall meet the qualifications and reliability requirements established by the written policy. Under circumstances where the building official is unable to make the inspection or test required by Section 113.3 or 113.4 within two working days of a request or an agreed upon date or if authorized for other circumstances in the building official's written policy, the building official shall accept reports for review. The building official shall approve the report from such approved individuals or agencies unless there is cause to reject it. Failure to approve a report shall be in writing within two working days of receiving it stating the reason for the rejection. Reports of inspections conducted by approved third-party inspectors or agencies shall be in writing, shall indicate if compliance with the applicable provisions of the USBC have been met and shall be certified by the individual inspector or by the responsible officer when the report is from an agency. Reports of inspections conducted for the purpose of verifying compliance with the requirements of the USBC for elevators, escalators, and related conveyances shall include the name and certification number of the elevator mechanic performing the tests witnessed by the third-party inspector or agency.

Exception: The licensed mechanical contractor installing the mechanical system shall be permitted to perform duct tests required by Section R403.3.3 of the IECC or Section N1103.3.3 of the IRC. The contractor shall have been trained on the equipment used to perform the test.

Note: Photographs, videotapes or other sources of pertinent data or information may be considered as constituting such reports and tests.

[ ~~L~~. N. ] Section 113.7.1 Third-party inspectors. Each building official charged with the enforcement of the USBC shall have a written policy establishing the minimum acceptable qualifications for third-party inspectors. The policy shall include the format and time frame required for submission of reports, any prequalification or preapproval requirements before conducting a third-party inspection and

any other requirements and procedures established by the building official.

[ ~~M~~. O. ] Section 113.7.2 Qualifications. In determining third-party inspector qualifications, the building official may consider such items as DHCD inspector certification, other state or national certifications, state professional registrations, related experience, education and any other factors that would demonstrate competency and reliability to conduct inspections.

[ ~~N~~. P. ] Section 113.8 Final inspection. Upon completion of ~~a building or structure and before the issuance of a certificate of occupancy~~ construction for which a permit was issued, a final inspection shall be conducted to ensure that any defective work has been corrected and that all work complies with the USBC and has been approved, including any work associated with modifications under Section 106.3. The building official shall be permitted to require the electrical service to a building or structure to be energized prior to conducting the final inspection. ~~The approval~~ Approval of a the final inspection ~~shall be permitted to serve as the new certificate of occupancy required by Section 116.1 in the case of additions or alterations to existing buildings or structures that already have a certificate of~~ indicates that all work associated with the permit complies with this code and the permit is complete. Prior to occupancy or change of occupancy of a building or structure, a certificate of occupancy shall be issued in accordance with Section 116.

### 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~~ permit holder if any violations of this code or any directives or orders of the building official have not been corrected or complied with ~~in~~ within a reasonable time. The building official may also issue a notice of violation to other persons found to be responsible in addition to the permit holder. If the violations, directives, or orders involve work without a permit, the notice of violation shall be issued to the responsible party. The notice shall reference the code section upon which the notice is based and direct the correction of the violation or the compliance with such directive or order and specify a reasonable time period within which the corrections or compliance must occur. The notice shall be issued by either

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delivering a copy to the responsible party by mail to the last known address of the permit holder or responsible party, by 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.

Note: A notice of unsafe building or structure for structures that become unsafe during the construction process are issued in accordance with Section 118.

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~~ Upon failure to comply with the notice of violation, the building official may initiate legal proceedings by requesting 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.

## 13VAC5-63-160. Section 116 Certificates of occupancy.

A. Section 116.1 General; when to be issued. ~~A certificate Prior to occupancy or change of occupancy indicating completion of the work for which a permit was issued shall be obtained prior to the occupancy of any building or structure, except as provided for in this section generally and as specifically provided for in Section 113.8 for additions or alterations. The certificate shall be issued after completion a certificate of occupancy shall be obtained in accordance with this section. The building official shall issue the certificate of occupancy within five working days after approval of the final inspection and when the building or structure is in or portion thereof is determined to be in compliance with this code and any pertinent laws or ordinances, or when otherwise entitled. The building official shall, however, issue a certificate of occupancy within five working days after being requested to do so, provided the building or structure meets all of the requirements for a certificate.~~

### Exception Exceptions:

1. A certificate of occupancy is not required for an accessory structure as defined in the IRC.
2. A new certificate of occupancy is not required for an addition to an existing Group R-5 building that already has a certificate of occupancy.

B. Section 116.1.1 Temporary certificate of occupancy. Upon the request of a permit holder, a temporary certificate of occupancy may be issued before the completion of the work covered by a permit, provided that such portion or portions of a building of structure may be occupied safely prior to full completion of the building or structure without endangering life or public safety.

C. Section 116.2 Contents of certificate. A certificate of occupancy shall specify the following:

1. The edition of the USBC under which the permit is issued.
2. The group classification and occupancy in accordance with the provisions of Chapter 3.
3. The type of construction as defined in Chapter 6.
4. If an automatic sprinkler system is provided and whether or not such system was required.
5. Any special stipulations and conditions of the building permit and if any modifications were issued under the permit, there shall be a notation on the certificate that modifications were issued.

6. Group R-5 occupancies complying with Section R320.2 of the IRC shall have a notation of compliance with that section on the certificate.

D. Section 116.3 Suspension or revocation of certificate. A certificate of occupancy may be revoked or suspended whenever the building official discovers that such certificate was issued in error or on the basis of incorrect information, or where there are repeated violations of the USBC after the certificate has been issued or when requested by the code official under Section ~~105.7~~ 106.6 of the VMC. The revocation or suspension shall be in writing and shall state the necessary corrections or conditions for the certificate to be reissued or reinstated in accordance with Section 116.3.1.

E. Section 116.3.1 Reissuance or reinstatement of certificate of occupancy. When a certificate of occupancy has been revoked or suspended, it shall be reissued or reinstated upon correction of the specific condition or conditions cited as the cause of the revocation or suspension and the revocation or suspension of a certificate of occupancy shall not be used as justification for requiring a building or structure to be subject to a later edition of the code than that under which such building or structure was initially constructed.

F. Section 116.4 ~~Issuance of certificate for pre-USBC buildings or structures~~ When no certificate exists. When a ~~building or structure was constructed prior to being subject to the initial edition of the USBC and~~ the local building department does not have a certificate of occupancy for ~~the~~ a building or structure, the owner or owner's agent may submit a written request for a certificate to be created. The building official, after receipt of the request, shall issue a certificate provided a determination is made that there are no current violations of the VMC or the Virginia Statewide Fire Prevention Code (13VAC5-51) and the occupancy classification of the building or structure has not changed. Such buildings and structures shall not be prevented from continued use.

~~Exception: When no certificate exists, but the local building department has records indicating that a certificate did exist, then the~~ but does not have a copy of the certificate itself, then the building official may either verify in writing that a certificate did exist or issue a certificate based upon the records.

**[ 13VAC5-63-170. Section 117 Temporary and moved buildings and structures; demolition.**

A. Section 117.1 Temporary buildings and structures. The building official is authorized to issue a permit for temporary buildings or structures. Such permits shall be limited as to time of service, but shall not be permitted for more than one year, except that upon the permit holder's written request, the building official may grant one or more extensions of time, not to exceed one year per extension. The building official is authorized to terminate the approval and order the demolition

or removal of temporary buildings or structures during the period authorized by the permit when determined necessary.

B. Section 117.1.1 Temporary uses within existing buildings and structures. The building official shall review and may approve conditions or modifications for temporary uses, including hypothermia and hyperthermia shelters, that may be necessary as long as the use meets the spirit and functional intent intended by this code. The building official is authorized to terminate the approval and order the discontinuance of the temporary use during the period authorized by the permit when determined necessary. The building official shall notify the appropriate fire official or fire chief of the approved temporary use.

C. Section 117.2 Moved buildings and structures. Any building or structure moved into a locality or moved to a new location within a locality shall not be occupied or used until the flood hazard documentation, if required by Section 1612.5 has been approved by the building official and a certificate of occupancy is issued for the new location. Such moved buildings or structures shall be required to comply with the requirements of the VEBC.

D. Section 117.3 Demolition of buildings and structures. Prior to the issuance of a permit for the demolition of any building or structure, the owner or the owner's agent shall provide certification to the building official that all service connections of utilities have been removed, sealed or plugged satisfactorily and a release has been obtained from the associated utility company. The certification shall further provide that written notice has been given to the owners of adjoining lots and any other lots that may be affected by the temporary removal of utility wires or the temporary disconnection or termination of other services or facilities relative to the demolition. In addition, the requirements of Chapter 33 of the IBC for any necessary retaining walls or fences during demolition shall be applicable and when a building or structure is demolished or removed, the established grades shall be restored. ]

**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. The locality is responsible for maintaining a duly constituted LBBCA

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prepared to hear appeals within the time limits established in this section. The LBBCA shall meet as necessary 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.

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

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

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

E. Section 119.5 Right of appeal; filing of appeal application. Any person aggrieved by the local building department's application of the USBC or the refusal to grant a modification to the provisions of the USBC may appeal to the LBBCA. 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 period of up to 45 calendar days shall be permitted where the LBBCA has regularly scheduled monthly meetings. A longer time period shall be permitted if agreed to by all the parties involved in the appeal. ~~A notice~~ Notice indicating the time and place of the hearing shall be sent to the parties in writing to the addresses listed on the application if requested or by electronic means at least 14 calendar days prior to the date of the hearing, ~~except that unless~~ a lesser time period ~~shall be permitted if~~ is 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 explained in writing, signed by the chairman and retained as part of the record of the appeal. Copies of the written decision shall be sent to all parties by certified mail. In addition, the written decision 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 decision. Application forms are available from the Office of the State Review Board, 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 Section 36-114 of the Code of Virginia, the State Review Board shall have the power and duty to hear all appeals from decisions arising under the application of the USBC and to render its decision on any such appeal, which decision shall be final if no appeal is made

therefrom.] 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 written decision 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.~~

I. Section 119.9 Hearings and decision. All hearings before the State Review Board shall be open meetings and the chair shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings. The State Review Board shall have the power to uphold, reverse, or modify the decision of the LBBCA by a concurring vote of a majority of those present. Proceedings of the Review Board shall be governed by the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), except that an informal conference pursuant to § 2.2-4019 of the Code of Virginia shall not be required. Decisions of the State Review Board shall be final if no further appeal is made. The decision of the State Review Board shall be explained in writing, signed by the chair and retained as part of the record of the appeal. Copies of the written decision shall be sent to all parties by certified mail. In addition, the written decision shall contain the following wording: "As provided by Rule 2A:2 of the Supreme Court of Virginia, you have thirty (30) days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with the Secretary of the Review Board. In the event that this decision is served on you by mail, three (3) days are added to that period." ]

**13VAC5-63-200. Chapter 2 Definitions.**

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

Aboveground liquid fertilizer storage tank (ALFST). A device that contains an accumulation of liquid fertilizer (i) constructed of nonearthen materials, such as concrete, steel or plastic, that provide structural support; (ii) having a

capacity of 100,000 gallons (~~378,500~~ (378,500 L) or greater; and (iii) the volume of which is more than 90% above the surface of the ground. The term does not include any wastewater treatment or wastewater storage tank, utility or industry pollution control equipment.

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.

Chemical fume hood. A ventilated enclosure designed to contain and exhaust fumes, gases, vapors, mists, and particulate matter generated within the hood.

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

Day-night average sound level (Ldn). A 24-hour energy average sound level expressed in dBA, with a 10 decibel penalty applied to noise occurring between 10 p.m. and 7 a.m.

DHCD. The Virginia Department of Housing and Community Development.

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 to~~ fires, medical emergencies, violent crimes, and terrorist attacks.

Emergency supplemental hardware. Any approved hardware used only for emergency events or drills to keep intruders from entering the room during an active shooter or hostile threat event or drill.

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

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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.

Hospice facility. An institution, place, or building owned or operated by a hospice provider and licensed by the Virginia Department of Health as a hospice facility to provide room, board, and palliative and supportive medical and other health services to terminally ill patients and their families, including respite and symptom management, on a 24-hour basis to individuals requiring such care pursuant to the orders of a physician.

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.

Laboratory suite. A fire-rated enclosed laboratory area that will provide one or more laboratory spaces, within a Group B educational occupancy, that are permitted to include ancillary uses such as offices, bathrooms, and corridors that are contiguous with the laboratory area and are constructed in accordance with Section 430.3.

LBBCA. Local board of building code appeals.

Liquid fertilizer. A fluid in which a fertilizer is in true solution. This term does not include anhydrous ammonia or a solution used in pollution control.

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.

Marina. Any installation, operating under public or private ownership, that has a structure providing dockage or moorage for boats, other than paddleboats or rowboats, and provides, through sale, rental, fee, or on a free basis, any equipment, supply, or service, including fuel, electricity, or water, for the convenience of the public or its lessees, renters, or users of its facilities. A dock or pier with or without slips that exclusively serves a single-family residential lot for the use of the owner of the lot is not a marina.

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.

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

Short-term holding area. An area containing a holding cell ~~or cells~~, or a holding room ~~or rooms~~, including associated rooms or spaces where the occupants are restrained or detained by the use of security measures not under the occupant's control for less than 24 hours.

[ Permit Holder. The person to whom the permit is issued. ]

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

Slip. A berth or space where a boat may be secured to a fixed or floating structure, including a dock, finger pier, boat lift, or mooring buoy.

Sound transmission class (STC) rating. A single number characterizing the sound reduction performance of a material tested in accordance with ASTM E90-90, "Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions."

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 Behavioral Health and Developmental Services, the Virginia Department of Education [ , the Virginia Department of Health ] 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.

Teaching and research laboratory. A building or portion of a building where hazardous materials are stored, used, and handled for the purpose of testing, analysis, teaching, research, or developmental activities on a nonproduction basis rather than in a manufacturing process.

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, plans reviewers, and permit technicians. For the purpose of this definition, an extended contract shall be a contract with an aggregate term of 18 months or longer.

Tenable environmental. An environment in which the products of combustion, including smoke, toxic gases, particulates, and heat, are limited or otherwise restricted in order to maintain the impact on occupants, including those in the area of fire origin, to a level that is not life threatening and permits the rescue of occupants for a limited time.

Unsafe building or structure. Any building or structure that is under construction and has not received a permanent certificate of occupancy, final inspection, or for which a permit was never issued or has expired and has been determined by the building official to be of faulty construction that is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that partial or complete collapse is likely, or any unfinished construction that does not have a valid permit, or the permit has been revoked, and the condition of the unfinished construction presents an immediate serious and imminent threat to the life and safety of the occupants or the public.

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:

Addition. An extension or increase in floor area, number of stories, or height of a building or structure.

Ambulatory care facility. Buildings or portions thereof used to provide medical care on less than a 24-hour basis that are

licensed by the Virginia Department of Health as outpatient surgical hospitals.

Automatic fire-extinguishing system. An approved system of devices and equipment that automatically detects a fire and discharges an approved fire-extinguishing agent onto or in the area of a fire and includes among other systems an automatic sprinkler system, unless otherwise expressly stated.

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 706 shall be considered as a separate building (see Section 503.1).~~ ]

Change of occupancy. See Section 202 of the VEBC.

Clinic, outpatient. Buildings or portions thereof used to provide medical care on less than a 24-hour basis that are not licensed by the Virginia Department of Health as outpatient surgical hospitals.

Custodial care. Assistance with day-to-day living tasks, such as assistance with cooking, taking medication, bathing, using toilet facilities, and other tasks of daily living. In other than in hospice facilities, custodial care includes occupants that have the ability to respond to emergency situations and evacuate at a slower rate or who have mental and psychiatric complications, or both.

Existing structure. A structure (i) for which a legal building permit has been issued under any edition of the USBC, (ii) ~~which that~~ has been previously approved, or (iii) ~~which that~~ was built prior to the initial edition of the USBC. For application of provisions in flood hazard areas, an existing structure is any building or structure for which the start of construction commenced before the effective date of the community's first flood plain management code, ordinance, or standard.

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~~ 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.

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~~[ Substantial damage. For the purpose of determining compliance with the flood provisions of this code, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.~~

~~Substantial improvement. For the purpose of determining compliance with the flood provisions of this code, any improvement, including repair, reconstruction, rehabilitation, alteration, or addition, or other improvement of a building or structure or a portion thereof the cost of which equals or exceeds 50% of the market value of the building or structure before the improvement or repair is started. If the building or structure or portion thereof has sustained substantial damage, any improvements are considered substantial improvements regardless of the actual improvement performed. The term does not, however, include either:~~

- ~~1. Any project for improvement of a building or a structure or portion thereof required to correct existing health, sanitary, or safety code violations identified by the building official and that is the minimum necessary to assure safe living conditions ; or~~
- ~~2. Any alteration of a historic structure, provided that the alteration will not preclude the building or structure's continued designation as a historic building or structure. ]~~

~~Swimming pool. A pool or spa as defined in the International Swimming Pool and Spa Code (ISPSC).~~

~~Structure. An assembly of materials forming a construction for occupancy or use including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, storage tanks (underground and aboveground), trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature but excluding water wells. The word "structure" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. "Structure" shall not include roadway tunnels and bridges owned by the Virginia Department of Transportation, which shall be governed by construction and design standards approved by the Virginia Commonwealth Transportation Board.~~

~~Wall. A vertical element with a horizontal length-to-thickness ratio greater than three used to enclose space.~~

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

~~Agricultural building  
Approved  
Historic buildings~~

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

A. ~~[ Change Sections 302.1 to read of the IBC to read:~~

~~302.1 General. Structures or portions of structures shall be classified with respect to occupancy in one or more of the groups listed in this section. A room or space that is intended to be occupied at different times for different purposes shall comply with all of the requirements that are applicable to each of the purposes for which the room or space will be occupied. Structures with multiple occupancies or uses shall be classified in the group that the occupancy most nearly resembles, according to the fire safety and relative hazard involved.~~

- ~~1. Assembly (see Section 303): Groups A-1, A-2, A-3, A-4, and A-5.~~
- ~~2. Business (see Section 304): Group B.~~
- ~~3. Educational (see Section 305): Group E.~~
- ~~4. Factory and Industrial (see Section 306): Groups F-1 and F-2.~~
- ~~5. High Hazard (see Section 307): Groups H-1, H-2, H-3, H-4, and H-5.~~
- ~~6. Institutional (see Section 308 and Section 313 for SRCFs).~~
- ~~7. Mercantile (see Section 309): Group M.~~
- ~~8. Residential (see Section 310 and Section 313 for SRCFs): Groups R-1, R-2, R-3, R-4, and R-5.~~
- ~~9. Storage (see Section 311): Groups S-1 and S-2.~~
- ~~10. Utility and Miscellaneous (see Section 312): Group U.~~

B. ] ~~Change Sections 303.1.1 and 303.1.2 of the IBC to read:~~

~~303.1.1 Small buildings and tenant spaces. A building or tenant space used for assembly purposes with an occupant load of less than 50 persons shall be permitted to be classified as a Group B occupancy.~~

~~303.1.2 Small assembly spaces. The following rooms and spaces shall be permitted to be classified as Group B occupancies or as part of the assembly occupancy:~~

- ~~1. A room or space used for assembly purposes with an occupant load of less than 50 persons and ancillary to another occupancy.~~
- ~~2. A room or space used for assembly purposes that is less than 750 square feet (70 m<sup>2</sup>) in area and ancillary to another occupancy.~~

~~[ B C. ] Change Section 303.6 of the IBC to read:~~

~~303.6 Assembly Group A-5. Assembly uses intended for participation in or viewing outdoor activities including, ~~but not limited to:~~~~

~~Amusement park structures  
Bleachers~~



Grandstands

Stadiums

Swimming pools

[ ~~C. D.~~ ] Add Section 304.1.1 to the IBC to read:

304.1.1 Day support and day treatment facilities. Day support and day treatment facilities licensed by the Virginia Department of Behavioral Health and Developmental Services shall be permitted to be classified as Group B occupancies provided all of the following conditions are met:

1. Participants who may require physical assistance from staff to respond to an emergency situation shall be located on the level of exit discharge.
2. Any change in elevation within the exit access on the level of exit discharge shall be made by means of a ramp or sloped walkway.
3. Where the facilities are located more than two stories above grade, an automatic sprinkler system shall be

provided throughout the building in accordance with Section 903.3.1.1.

[ ~~D. E.~~ ] Change ~~exception~~ Exception 14 of Section 307.1.1 of the IBC and add ~~exception 15~~ Exception 18 to Section 307.1.1 of the IBC to read:

14. 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 IFC, as amended in Section 307.9.

~~15. 18.~~ The storage of distilled spirits and wines in wooden barrels and casks. Distillation, blending, bottling, and other hazardous materials storage or processing shall be in separate control areas complying with Section 414.2.

[ ~~E. F.~~ ] Change the "Flammable liquid, combination (IA, IB, IC)" row in Table 307.1(1), add a new "Permissible fireworks" row to Table 307.1(1) of the IBC, and add footnote "r" to Table 307.1(1) of the IBC to read:

|  |      |            |                      |                      |    |    |                    |    |    |                     |
|--|------|------------|----------------------|----------------------|----|----|--------------------|----|----|---------------------|
| Flammable liquid, combination (IA, IB, IC) | NA   | H-2 or H-3 | NA                   | 120 <sup>d,e,h</sup> | NA | NA | 120 <sup>d,h</sup> | NA | NA | 30 <sup>d,h,r</sup> |
| Permissible fireworks                      | 1.4G | H-3        | 125 <sup>d,e,l</sup> | NA                   | NA | NA | NA                 | NA | NA | NA                  |

r. The tabular value for distilled spirit distillation and blending rooms is 120 gallons.

[ ~~F. G.~~ ] Add Section 307.9 to the IBC to read:

307.9 Amendments. The following changes shall be made to the IFC for the use of Exception 14 in Section 307.1.1:

1. Change the following definition in Section 202 of the IFC to read:

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.

2. 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.

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

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

1. The amount of smokeless powder each [ ~~vendor~~ vendor ] may store is limited to the storage arrangements and storage amounts established in Section 5606.5.2.1.

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 5606.5.2.3.

4. Change Exception 4 and add Exceptions 10 and 11 to Section 5601.1 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

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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.

5. Change Section 5606.4 of the IFC to read as follows:

5606.4 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 Groups~~ 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 5606.4.1 and 5606.4.2 of the IFC.

7. Change Section 5606.5.1.1 of the IFC to read as follows:

5606.5.1.1 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 5606.5.1.3 of the IFC.

9. Change Section 5606.5.2.1 of the IFC as follows:

5606.5.2.1 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 warehouse or storage room is ~~inaccessible~~ not open 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 (~~42-192~~ (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 5604 and NFPA 495.

~~G. Add the following to the list of terms in Section 308.2 of the IBC:~~

~~Hospice facility~~

[ ~~H. G.~~ ] Change Section ~~308.3~~ 308.2 of the IBC to read:

~~308.3~~ 308.2 Institutional Group I-1. This occupancy shall include buildings, structures or portions thereof for more than 16 persons, excluding staff, who reside on a 24-hour basis in a supervised environment and receive custodial care. Buildings of Group I-1 [ ~~, other than assisted living facilities licensed by the Virginia Department of Social Services~~ ], shall be classified as the occupancy condition indicated in Section ~~308.3.1~~ 308.2.1 [ ~~or 308.2.2~~ ]. Assisted living facilities licensed by the Virginia Department of Social Services shall be classified as one of the occupancy conditions indicated in Section ~~308.3.1~~ 308.2.1 or ~~308.3.2~~ 308.2.2. [ ~~This group shall include, but not be limited to, the following:~~

~~Alcohol and drug centers~~

~~Assisted living facilities~~

~~Congregate care facilities~~

~~Group homes~~

~~Halfway houses~~

~~Residential board and care facilities~~

~~Social rehabilitation facilities ]~~

[ I. ~~H~~ ] Change Sections ~~308.3.1~~ 308.2.1 and ~~308.3.2~~ 308.2.2 of the IBC to read:

~~308.3.1~~ 308.2.1 Condition 1. This occupancy condition shall include buildings in which all persons receiving custodial care who, without any assistance, are capable of responding to an emergency situation to complete building evacuation. Not more than five of the residents may require physical assistance from staff to respond to an emergency situation when all residents who may require the physical assistance reside on a [ ~~single~~ ] level of exit discharge [ and the path of egress to the exit does not include steps ].

~~308.3.2~~ 308.2.2 Condition 2. This occupancy condition shall include buildings in which there are persons receiving custodial care who require assistance by not more than one staff member while responding to an emergency situation to complete building evacuation. Five of the residents may require physical assistance from more than one staff member to respond to an emergency.

[ J. ~~I~~ ] Change Section ~~308.4~~ 308.3 of the IBC to read:

~~308.4~~ 308.3 Institutional Group I-2. This occupancy shall include buildings and structures used for medical care on a 24-hour basis for more than five persons who are incapable of self-preservation. [ ~~This group shall include, but not be limited to, the following:~~

- ~~Convalescent facilities~~
- ~~Detoxification facilities~~
- ~~Foster care facilities~~
- ~~Hospice facilities~~
- ~~Hospitals~~
- ~~Nursing homes~~
- ~~Psychiatric hospitals~~

~~Exception: Hospice facilities occupied by 16 or less occupants, excluding staff, are permitted to be classified as Group R-4. ]~~

[ K. ~~J~~ ] Add an exception to Section ~~308.6~~ 308.5 of the IBC to read:

Exception: Family day homes under Section ~~340.9~~ 313.3.

[ L. ~~K~~ ] Change Section ~~340.3~~ [ 310.2 ] of the IBC to read:

~~340.3~~ [ 310.2 ] Residential Group R-1. Residential occupancies containing sleeping units [ ~~where the occupants are primarily transient in nature, including~~ or more than two dwelling units, and ]:

- ~~[ Boarding houses (transient) with more than 10 occupants~~
- ~~Congregate living facilities (transient) with more than 10 occupants~~
- ~~Hotels (transient)~~
- ~~Motels (transient)~~

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 R-5 provided that smoke alarms are installed in compliance with Section 907.2.11.2 907.2.10.2 for Group R-3 or Section R314 of the IRC 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 907.2.11.2 907.2.10.2 for Group R-3 or Section R314 of the IRC for Group R-5.~~

1. The occupants are primarily transient, and
2. There are more than 10 occupants. ]

[ M. ~~L~~ Change Section 310.3 of the IBC to read:

Residential Group R-2. Residential occupancies containing sleeping units or more than two dwelling units where the occupants are not primarily transient.

N. ] Change [ ~~Section~~ ] 340.6 [ ~~340.5~~ Sections 310.4, 310.4.1, 310.4.2, 310.5, and 310.5.1 and add Section 310.5.3 ] of the IBC to read:

340.6 [ 310.4 Residential Group R-3. Residential occupancies containing no more than two dwelling units and where the occupancy is not classified as Group R-1, R-2, R-4, R-5, or I, and:

1. The occupants are not primarily transient, or
2. There are no more than 10 transient occupants per dwelling unit.

310.4.1 Radon-resistant construction. Group R-3 buildings and structures shall be subject to the radon-resistant construction requirements in Appendix F of the IRC in localities enforcing such requirements pursuant to Section R327 of the IRC.

310.4.2 Lodging houses. Owner-occupied or proprietor-occupied lodging houses and other transient boarding facilities not more than three stories above grade plane in height, with five or fewer guest rooms and 10 or fewer total occupants shall be permitted to be classified as either Group R-3 or R-5, provided that smoke alarms are installed in compliance with Section 907.2.11.2 for Group R-3 or Section R314 of the IRC for Group R-5. ]

310.5 Residential Group R-4. [ This occupancy shall include buildings, structures or portions thereof for Residential occupancies with ] more than five but not more than 16 persons, excluding staff, who reside on a 24-hour basis in a

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supervised environment and receive custodial care. Buildings of Group R-4, other than assisted living facilities licensed by the Virginia Department of Social Services, shall be classified as the occupancy condition indicated in Section 310.6.1 [ ~~310.5.1~~ 310.5 ]. Assisted living facilities licensed by the Virginia Department of Social Services shall be classified as one of the occupancy conditions indicated in Section 310.6.1 310.5.1 or 310.6.2 310.5.2. [ ~~This group shall include, but not be limited to the following:~~

- ~~Alcohol and drug centers~~
- ~~Assisted living facilities~~
- ~~Congregate care facilities~~
- ~~Group homes~~
- ~~Halfway houses~~
- ~~Residential board and care facilities~~
- ~~Social rehabilitation facilities~~

~~This occupancy shall also include hospice facilities with 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.~~

~~Exceptions:~~

- ~~1. Group homes licensed by the Virginia Department of Behavioral Health and Developmental 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.~~
- ~~2. In Group R-4 occupancies classified as the occupancy condition indicated in Section ] 310.6.1 [ ~~310.5.1~~ ], other than in hospice facilities, not more than five of the residents may require physical assistance from staff to respond to an emergency situation when all residents who may require the physical assistance from staff reside on a single level of exit discharge and other than using a ramp, a change of elevation using steps or stairs is not within the path of egress to an exit door.~~
- ~~3. Assisted living facilities licensed by the Virginia Department of Social Services that house no more than eight persons, with one or more resident counselors, and all of the residents are capable of responding to an emergency situation without physical assistance from staff, may be classified as Group R-2, R-3 or R-5.~~
- ~~4. Assisted living facilities licensed by the Virginia Department of Social Services that house no more than eight persons, with one or more resident counselors, may be classified as Group R-5 when in compliance with all of the following:~~

~~4.1. The building is protected by an automatic sprinkler system installed in accordance with Section 903.3 or Section P2904 of the IRC.~~

~~4.2. Not more than five of the residents may require physical assistance from staff to respond to an emergency situation.~~

~~4.3. All residents who may require physical assistance from staff to respond to an emergency situation reside on a single level of exit discharge and other than using a ramp, a change in elevation using steps or stairs is not within the path of egress to an exit door.~~

~~5. Hospice facilities with five or fewer occupants are permitted to comply with the IRC provided the building is protected by an automatic sprinkler system in accordance with IRC Section P2904 or IBC Section 903.3.~~

310.5.1 Condition 1. This occupancy condition shall include buildings in which all persons receiving custodial care who, without any assistance, are capable of responding to an emergency situation to complete building evacuation or, in which not more than five of the residents may require physical assistance from staff to respond to an emergency situation when all residents who may require the physical assistance from staff reside on a level of exit discharge and the path of egress to the exit does not include steps.

310.5.3 Radon-resistant construction. Group R-4 buildings and structures shall be subject to the radon-resistant construction requirements in Appendix F of the VRC in localities enforcing such requirements pursuant to Section R327 of the VRC.

~~N. [ ~~M. Change Sections~~ ] 310.6.1 [ ~~310.5.1~~ and ] 310.6.2 [ ~~310.5.2~~ to the IBC to read: ]~~

~~310.6.1 [ ~~310.5.1~~ Condition 1. This occupancy condition shall include buildings in which all persons receiving custodial care who, without any assistance, are capable of responding to an emergency situation to complete building evacuation and hospice facilities. ]~~

~~310.6.2 [ ~~310.5.2~~ Condition 2. This occupancy condition shall include buildings in which there are persons receiving custodial care who require assistance by not more than one staff member while responding to an emergency situation to complete building evacuation. ]~~

~~[ O. ~~N.~~ ] Add Section 310.7 310.6 to the IBC to read:~~

310.7 310.6 Residential Group R-5. Residential occupancies [ in detached single-family and two-family dwellings, townhouses and accessory structures within the scope of the IRC, within the scope of the VRC, other occupancies specifically permitted in this code to be classified as Group R-5, and manufactured homes in accordance with the Virginia Manufactured Home Safety Regulations (23VAC5-91).

The provisions of the International Residential Code for One- and Two-family Dwellings shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of the following when classified as Group R-5:

1. Detached single-family and two-family dwellings.
2. Townhouses.
3. Care facilities for five or fewer people.
4. Owner-occupied or proprietor-occupied lodging houses with no more than five guest rooms and 10 or fewer total occupants.
5. Accessory structures of Group R-5 occupancies.

The amendments to the IRC set out in Section 310.9 shall be made to the IRC for its use as part of this code. In addition, all references to the IRC and the IBC shall be considered to be references to this section. ]

~~P. [ Q. Add Section ] 310.8 [ 310.7 to the IBC to read:~~

~~310.8 Group R-5. The construction of Group R-5 structures shall comply with the IRC. The amendments to the IRC set out in Section ] 310.11 [ 310.10 shall be made to the IRC for its use as part of this code. In addition, all references to the IRC in the IBC shall be considered to be references to this section. ]~~

~~Q. P. Add Section 310.8.1 [ 310.7.1 310.6.1 ] to the IBC to read:~~

~~310.8.1 [ 310.7.1 310.6.1 ] 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.~~

~~R. [ Q. Add Section ] 310.9 [ 310.8 to the IBC to read: ]~~

~~310.9 [ 310.8 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.~~

~~S. [ R. Q. ] Add Section 310.10 [ 310.9 310.7 ] to the IBC to read:~~

~~310.10 [ 310.9 310.7 ] Radon-resistant construction in Groups R-3 and R-4 structures. Groups R-3 and R-4 structures shall be subject to the radon-resistant construction requirements in Appendix F of the IRC in localities enforcing such requirements pursuant to Section R324 of the IRC.~~

~~T. [ S. R. ] Add Section 310.11 [ 310.10 310.8 ] to the IBC to read:~~

~~310.11 [ 310.10 310.8 ] 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 read:~~

~~[ Accessory dwelling unit. A dwelling unit in a two-family dwelling that is accessory to the primary dwelling unit. An accessory dwelling unit provides for separate living, sleeping, eating, cooking, and sanitation facilities for one or more occupants but may share living space, means of egress, utilities, or other components. An accessory dwelling unit fully complies with the requirements of this code for a dwelling unit except where specified otherwise. ]~~

~~Living area. Space within a dwelling unit utilized for living and entertainment, including family rooms, great rooms, living rooms, dens, media rooms, and similar spaces.~~

~~Nonpotable fixtures and outlets. Fixtures and outlets that are not dependent on potable water for the safe operation to perform their intended use. Such fixtures and outlets may include, but are not limited to water closets, urinals, irrigation, mechanical equipment, and hose connections to perform operations, such as vehicle washing and lawn maintenance.~~

~~Nonpotable water systems. Water systems for the collection, treatment, storage, distribution, and use or reuse of nonpotable water. Nonpotable systems include reclaimed water, rainwater, and gray water systems.~~

~~Rainwater. Natural precipitation, including snow melt, from roof surfaces only.~~

~~Stormwater. Precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.~~

~~[ Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. Substantial Improvement. Any repair, reconstruction, rehabilitation, alteration, addition or other improvement of a building or structure, the cost of which equals or exceeds 50% of the market value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:~~

- ~~1. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations~~

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identified by the building official and that are the minimum necessary to assure safe living conditions.

2. Any alteration of a historic structure, provided that the alteration will not preclude the building or structure's continued designation as a historic structure.

Two-family dwelling. A dwelling that includes two dwelling units or one dwelling unit and one accessory dwelling unit. ]

2. Change the following definitions to read:

Attic, habitable. A finished or unfinished area, not considered a story, complying with all of the following requirements:

1. The occupiable floor area is at least 70 square feet (17 m<sup>2</sup>), in accordance with Section R304,
2. The occupiable floor area has a ceiling height in accordance with Section R305, and

3. The occupiable space is enclosed by the roof assembly above, knee walls (if applicable) on the sides and the floor-ceiling assembly below.

Habitable attics greater than two-thirds of the area of the story below or over 400 square feet (37.16 m<sup>2</sup>) shall not be permitted in dwellings or townhouses that are three stories above grade plane in height.

Gray water. Water discharged from lavatories, bathtubs, showers, clothes washers, and laundry trays.

[ Dwelling. Any building that contains one or two dwelling units, or one dwelling unit and one accessory dwelling unit, used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.

3. Change table R301.2(2) to read:

Table R301.2(2)

**COMPONENT AND CLADDING LOADS FOR A BUILDING WITH A MEAN ROOF HEIGHT OF 30 FEET LOCATED IN EXPOSURE B (ASD) (psf)<sup>a,b,c,d,e,f,g</sup>**

| Zone                | Effective Wind Areas (feet <sup>2</sup> ) | Ultimate Design Wind Speed, V <sub>M</sub> |           |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |       |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|---------------------|---|--|-----------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|--------|-------|-----|-----|-----|-----|-----|-----|-----|-----|--|--|--|-----|--|--|--|-----|--|--|--|-----|--|--|--|
|                     |   | 90   |           |       |       | 95    |       |       |       | 100   |       |       |       | 105   |       |       |       | 110   |       |       |       | 115   |       |       |       | 120   |       |       |        | 130   |     |     |     | 140 |     |     |     | 150 |  |  |  | 160 |  |  |  | 170 |  |  |  | 180 |  |  |  |
|                     |   | Pos  | Neg       | Pos   | Neg   | Pos   | Neg   | Pos   | Neg   | Pos   | Neg   | Pos   | Neg   | Pos   | Neg   | Pos   | Neg   | Pos   | Neg   | Pos   | Neg   | Pos   | Neg   | Pos   | Neg   | Pos   | Neg   | Pos   | Neg    | Pos   | Neg | Pos | Neg | Pos | Neg | Pos | Neg |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
| Flat and Gable Roof | 1   | 10   | 3.6       | -13.9 | 4.0   | -15.5 | 4.4   | -17.2 | 4.8   | -19.0 | 5.3   | -20.8 | 5.8   | -22.7 | 6.3   | -24.8 | 7.4   | -29.1 | 8.6   | -33.7 | 9.9   | -38.7 | 11.2  | -44.0 | 12.7  | -49.7 | 14.2  | -55.7 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | 20   | 3.3       | -13.0 | 3.7   | -14.5 | 4.1   | -16.0 | 4.5   | -17.7 | 5.0   | -19.4 | 5.4   | -21.2 | 5.9   | -23.1 | 7.0   | -27.1 | 8.1   | -31.4 | 9.3   | -36.1 | 10.5  | -41.1 | 11.9  | -46.4 | 13.3  | -52.0 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | 50   | 3.0       | -11.8 | 3.4   | -13.1 | 3.8   | -14.5 | 4.1   | -16.0 | 4.5   | -17.6 | 5.0   | -19.2 | 5.4   | -20.9 | 6.3   | -24.5 | 7.4   | -28.4 | 8.4   | -32.6 | 9.6   | -37.1 | 10.8  | -41.9 | 12.2  | -47.0 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | 100  | 2.8       | -10.8 | 3.1   | -12.1 | 3.5   | -13.4 | 3.8   | -14.7 | 4.2   | -16.2 | 4.6   | -17.7 | 5.0   | -19.2 | 5.9   | -22.6 | 6.8   | -26.2 | 7.8   | -30.0 | 8.9   | -34.2 | 10.1  | -38.6 | 11.3  | -43.3 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | 2  | 10        | 3.6   | -18.4 | 4.0   | -20.5 | 4.4   | -22.7 | 4.8   | -25.0 | 5.3   | -27.4 | 5.8   | -30.0 | 6.3   | -32.7 | 7.4   | -38.3 | 8.6   | -44.5 | 9.9   | -51.0 | 11.2  | -58.1 | 12.7  | -65.6 | 14.2  | -73.5  |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | 20   | 3.3       | -17.2 | 3.7   | -19.2 | 4.1   | -21.2 | 4.5   | -23.4 | 5.0   | -25.7 | 5.4   | -28.1 | 5.9   | -30.6 | 7.0   | -35.9 | 8.1   | -41.6 | 9.3   | -47.8 | 10.5  | -54.3 | 11.9  | -61.4 | 13.3  | -68.8 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | 50   | 3.0       | -15.6 | 3.4   | -17.4 | 3.8   | -19.3 | 4.1   | -21.3 | 4.5   | -23.3 | 5.0   | -25.5 | 5.4   | -27.8 | 6.3   | -32.6 | 7.4   | -37.8 | 8.4   | -43.4 | 9.6   | -49.4 | 10.8  | -55.8 | 12.2  | -62.5 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | 100  | 2.8       | -14.4 | 3.1   | -16.1 | 3.5   | -17.8 | 3.8   | -19.7 | 4.2   | -21.6 | 4.6   | -23.6 | 5.0   | -25.7 | 5.9   | -30.1 | 6.8   | -35.0 | 7.8   | -40.1 | 8.9   | -45.7 | 10.0  | -51.5 | 11.3  | -57.8 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | 3  | 10        | 3.6   | -25.0 | 4.0   | -27.9 | 4.4   | -30.9 | 4.8   | -34.1 | 5.3   | -37.4 | 5.8   | -40.9 | 6.3   | -44.5 | 7.4   | -52.2 | 8.6   | -60.6 | 9.9   | -69.6 | 11.2  | -79.1 | 12.7  | -89.4 | 14.2  | -100.2 |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | 20   | 3.3       | -22.6 | 3.7   | -25.2 | 4.1   | -28.0 | 4.5   | -30.8 | 5.0   | -33.8 | 5.4   | -37.0 | 5.9   | -40.3 | 7.0   | -47.2 | 8.1   | -54.8 | 9.3   | -62.9 | 10.5  | -71.6 | 11.9  | -80.8 | 13.3  | -90.6 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | 50   | 3.0       | -19.4 | 3.4   | -21.7 | 3.8   | -24.0 | 4.1   | -26.5 | 4.5   | -29.0 | 5.0   | -31.7 | 5.4   | -34.6 | 6.3   | -40.6 | 7.4   | -47.0 | 8.4   | -54.0 | 9.6   | -61.4 | 10.8  | -69.4 | 12.2  | -77.8 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | 100  | 2.8       | -17.4 | 3.1   | -19.0 | 3.5   | -21.0 | 3.8   | -23.2 | 4.2   | -25.5 | 4.6   | -27.8 | 5.0   | -30.3 | 5.9   | -35.6 | 6.8   | -41.2 | 7.8   | -47.3 | 8.9   | -53.9 | 10.0  | -60.8 | 11.3  | -68.2 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | Gable Roof                                 | 1, 2e     | 10    | 5.4   | -16.2 | 6.0   | -18.0 | 6.7   | -19.9 | 7.4   | -22.0 | 8.1   | -24.1 | 8.8   | -26.4 | 9.6   | -28.7 | 11.3  | -33.7 | 13.1  | -39.1 | 15.0  | -44.9 | 17.1  | -51.0 | 19.3  | -57.6 | 21.6   | -64.6 |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   |  |           | 20    | 4.9   | -16.2 | 5.4   | -18.0 | 6.0   | -19.9 | 6.6   | -22.0 | 7.2   | -24.1 | 7.9   | -26.4 | 8.6   | -28.7 | 10.1  | -33.7 | 11.7  | -39.1 | 13.5  | -44.9 | 15.3  | -51.0 | 17.3  | -57.6 | 19.4   | -64.6 |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
| 50                  | 4.1                                       |  |           | -9.9  | 4.6   | -11.0 | 5.1   | -12.2 | 5.6   | -13.4 | 6.1   | -14.7 | 6.7   | -16.1 | 7.3   | -17.5 | 8.6   | -20.6 | 10.0  | -23.8 | 11.4  | -27.4 | 13.0  | -31.1 | 14.7  | -35.2 | 16.4  | -39.4 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
| 100                 | 3.6                                       |  |           | -5.0  | 4.0   | -5.6  | 4.4   | -6.2  | 4.8   | -6.9  | 5.3   | -7.5  | 5.8   | -8.2  | 6.3   | -9.0  | 7.4   | -10.5 | 8.6   | -12.2 | 9.9   | -14.0 | 11.2  | -15.9 | 12.7  | -18.0 | 14.2  | -20.2 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
| 2n, 2r, 3e          | 10  |  |           | 5.4   | -23.6 | 6.0   | -26.3 | 6.7   | -29.1 | 7.4   | -32.1 | 8.1   | -35.2 | 8.8   | -38.5 | 9.6   | -41.9 | 11.3  | -49.2 | 13.1  | -57.0 | 15.0  | -65.0 | 17.1  | -74.5 | 19.3  | -84.1 | 21.6  | -94.2  |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
| 20                  | 4.9                                       |  |           | -20.3 | 5.4   | -22.7 | 6.0   | -25.1 | 6.6   | -27.7 | 7.2   | -30.4 | 7.9   | -33.2 | 8.6   | -36.2 | 10.1  | -42.4 | 11.7  | -49.2 | 13.5  | -56.5 | 15.3  | -64.3 | 17.3  | -72.6 | 19.4  | -81.4 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
| 50                  | 4.1                                       |  |           | -16.0 | 4.6   | -17.9 | 5.4   | -19.8 | 5.6   | -21.8 | 6.1   | -24.0 | 6.7   | -26.2 | 7.3   | -28.5 | 8.6   | -33.5 | 10.0  | -38.8 | 11.4  | -44.6 | 13.0  | -50.7 | 14.7  | -57.2 | 16.4  | -64.2 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
| 100                 | 3.6                                       |  |           | -12.8 | 4.0   | -14.3 | 4.4   | -15.8 | 4.8   | -17.4 | 5.3   | -19.1 | 5.8   | -20.9 | 6.3   | -22.8 | 7.4   | -26.7 | 8.6   | -31.0 | 9.9   | -35.6 | 11.2  | -40.5 | 12.7  | -45.7 | 14.2  | -51.3 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
| 3r                  | 10  |  |           | 5.4   | -28.0 | 6.0   | -30.2 | 6.7   | -34.6 | 7.4   | -38.1 | 8.1   | -41.8 | 8.8   | -45.7 | 9.6   | -49.8 | 11.3  | -58.4 | 13.1  | -67.8 | 15.0  | -77.8 | 17.1  | -88.5 | 19.3  | -99.9 | 21.6  | -112.0 |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
| 20                  | 4.9                                       |  |           | -24.0 | 5.4   | -26.7 | 6.0   | -29.6 | 6.6   | -32.7 | 7.2   | -35.9 | 7.9   | -39.2 | 8.6   | -42.7 | 10.1  | -50.1 | 11.7  | -58.1 | 13.5  | -66.7 | 15.3  | -75.9 | 17.3  | -85.6 | 19.4  | -96.1 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
| 50                  | 4.1                                       |  |           | -18.7 | 4.6   | -20.8 | 5.1   | -23.1 | 5.6   | -25.4 | 6.1   | -27.9 | 6.7   | -30.5 | 7.3   | -33.2 | 8.6   | -39.0 | 10.0  | -45.2 | 11.4  | -51.9 | 13.0  | -59.0 | 14.7  | -66.6 | 16.4  | -74.7 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
| 100                 | 3.6                                       |  |           | -14.7 | 4.0   | -16.3 | 4.4   | -18.1 | 4.8   | -20.0 | 5.3   | -21.9 | 5.8   | -24.0 | 6.3   | -26.1 | 7.4   | -30.6 | 8.6   | -35.5 | 9.9   | -40.8 | 11.2  | -46.4 | 12.7  | -52.3 | 14.2  | -58.7 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
| Gable Roof          | 1, 2e                                     |  |           | 10    | 6.5   | -12.4 | 7.3   | -13.9 | 8.0   | -15.4 | 8.9   | -16.9 | 9.7   | -18.6 | 10.6  | -20.3 | 11.6  | -22.1 | 13.6  | -26.0 | 15.8  | -30.1 | 18.1  | -34.6 | 20.6  | -39.3 | 23.3  | -44.4 | 26.1   | -49.9 |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   |  |           | 20    | 5.6   | -12.4 | 6.3   | -13.9 | 7.0   | -15.4 | 7.7   | -16.9 | 8.4   | -18.6 | 9.2   | -20.3 | 10.0  | -22.1 | 11.7  | -26.0 | 13.6  | -30.1 | 15.6  | -34.6 | 17.8  | -39.3 | 20.1  | -44.4 | 22.5   | -49.8 |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | 50   | 4.4       | -10.6 | 5.0   | -11.8 | 5.5   | -13.1 | 6.1   | -14.4 | 6.6   | -15.8 | 7.3   | -17.3 | 7.9   | -18.8 | 9.3   | -22.1 | 10.8  | -25.6 | 12.3  | -29.4 | 14.0  | -33.5 | 15.9  | -37.8 | 17.8  | -42.4 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | 100  | 3.6       | -9.1  | 4.0   | -10.2 | 4.4   | -11.3 | 4.8   | -12.4 | 5.3   | -13.6 | 5.8   | -14.9 | 6.3   | -16.2 | 7.4   | -19.0 | 8.6   | -22.1 | 9.9   | -25.3 | 11.2  | -28.8 | 12.7  | -32.5 | 14.2  | -36.5 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | 2n, 2r, 3e                                 | 10        | 6.5   | -19.9 | 7.3   | -22.1 | 8.0   | -24.5 | 8.9   | -27.0 | 9.7   | -29.7 | 10.6  | -32.4 | 11.6  | -35.3 | 13.6  | -41.4 | 15.8  | -48.0 | 18.1  | -55.2 | 20.6  | -62.8 | 23.3  | -70.8 | 26.1  | -79.4  |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | 20   | 5.6       | -17.4 | 6.3   | -19.4 | 7.0   | -21.5 | 7.7   | -23.7 | 8.4   | -26.0 | 9.2   | -28.4 | 10.0  | -31.0 | 11.7  | -36.3 | 13.6  | -42.1 | 15.6  | -48.4 | 17.8  | -55.0 | 20.1  | -62.1 | 22.5  | -69.6 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | 50   | 4.4       | -14.2 | 5.0   | -15.8 | 5.5   | -17.5 | 6.1   | -19.3 | 6.6   | -21.1 | 7.3   | -23.1 | 7.9   | -25.2 | 9.3   | -29.5 | 10.8  | -34.2 | 12.3  | -39.3 | 14.0  | -44.7 | 15.9  | -50.5 | 17.8  | -56.6 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | 100  | 3.6       | -11.7 | 4.0   | -13.0 | 4.4   | -14.5 | 4.8   | -15.9 | 5.3   | -17.5 | 5.8   | -19.1 | 6.3   | -20.8 | 7.4   | -24.4 | 8.6   | -28.3 | 9.9   | -32.5 | 11.2  | -37.0 | 12.7  | -41.8 | 14.2  | -46.8 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | 3r   | 10        | 6.5   | -23.6 | 7.3   | -26.3 | 8.0   | -29.1 | 8.9   | -32.1 | 9.7   | -35.2 | 10.6  | -38.5 | 11.6  | -41.9 | 13.6  | -49.2 | 15.8  | -57.0 | 18.1  | -65.4 | 20.6  | -74.5 | 23.3  | -84.1 | 26.1  | -94.2  |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | 20   | 5.6       | -19.9 | 6.3   | -22.1 | 7.0   | -24.5 | 7.7   | -27.0 | 8.4   | -29.7 | 9.2   | -32.4 | 10.0  | -35.3 | 11.7  | -41.4 | 13.6  | -48.0 | 15.6  | -55.2 | 17.8  | -62.8 | 20.1  | -70.8 | 22.5  | -79.4 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | 50   | 4.4       | -14.7 | 5.0   | -16.3 | 5.5   | -18.1 | 6.1   | -20.0 | 6.6   | -21.9 | 7.3   | -24.0 | 7.9   | -26.1 | 9.3   | -30.6 | 10.8  | -35.5 | 12.3  | -40.8 | 14.0  | -46.4 | 15.9  | -52.3 | 17.8  | -58.7 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | 100  | 3.6       | -14.7 | 4.0   | -16.3 | 4.4   | -18.1 | 4.8   | -20.0 | 5.3   | -21.9 | 5.8   | -24.0 | 6.3   | -26.1 | 7.4   | -30.6 | 8.6   | -35.5 | 9.9   | -40.8 | 11.2  | -46.4 | 12.7  | -52.3 | 14.2  | -58.7 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   | Gable Roof                                 | 1, 2e, 2r | 10    | 8.0   | -14.7 | 8.9   | -16.3 | 9.9   | -18.1 | 10.9  | -20.0 | 12.0  | -21.9 | 13.1  | -24.0 | 14.2  | -26.1 | 16.7  | -30.6 | 19.4  | -35.5 | 22.2  | -40.8 | 25.3  | -46.4 | 28.5  | -52.3 | 32.0   | -58.7 |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
|                     |   |  |           | 20    | 7.1   | -12.7 | 7.9   | -13.9 | 8.8   | -15.4 | 9.7   | -16.9 | 10.6  | -18.6 | 11.6  | -20.3 | 12.6  | -22.1 | 14.8  | -26.0 | 17.2  | -30.1 | 19.8  | -34.6 | 22.5  | -39.3 | 25.4  | -44.4 | 28.5   | -49.8 |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
| 50                  | 5.9                                       |  |           | -9.5  | 6.6   | -10.6 | 7.3   | -11.7 | 8.1   | -12.9 | 8.9   | -14.2 | 9.7   | -15.5 | 10.5  | -16.9 | 12.4  | -19.8 | 14.3  | -22.9 | 16.5  | -26.3 | 18.7  | -30.0 | 21.1  | -33.8 | 23.7  | -37.9 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
| 100                 | 5.0                                       |  |           | -7.3  | 5.6   | -8.1  | 6.2   | -9.0  | 6.9   | -9.9  | 7.5   | -10.8 | 8.2   | -11.9 | 9.0   | -12.9 | 10.5  | -15.1 | 12.2  | -17.6 | 14.0  | -20.2 | 15.9  | -22.9 | 18.0  | -25.9 | 20.2  | -29.0 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
| 2n, 3r              | 10  |  |           | 8.0   | -16.2 | 8.9   | -18.0 | 9.9   | -19.9 | 10.9  | -22.0 | 12.0  | -24.1 | 13.1  | -26.4 | 14.2  | -28.7 | 16.7  | -33.7 | 19.4  | -39.1 | 22.2  | -44.9 | 25.3  | -51.0 | 28.5  | -57.6 | 32.0  | -64.6  |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
| 20                  | 7.1                                       |  |           | -14.4 | 7.9   | -16.1 | 8.8   | -17.8 | 9.7   | -19.7 | 10.6  | -21.6 | 11.6  | -23.6 | 12.6  | -25.7 | 14.8  | -30.1 | 17.2  | -34.9 | 19.8  | -40.1 | 22.5  | -45.6 | 25.4  | -51.5 | 28.5  | -57.8 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
| 50                  | 5.9                                       |  |           | -12.2 | 6.6   | -13.5 | 7.3   | -15.0 | 8.1   | -16.5 | 8.9   | -18.2 | 9.7   | -19.9 | 10.5  | -21.6 | 12.4  | -25.4 | 14.3  | -29.4 | 16.5  | -33.8 | 18.7  | -38.4 | 21.1  | -43.4 | 23.7  | -48.6 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
| 100                 | 5.0                                       |  |           | -10.4 | 5.6   | -11.6 | 6.2   | -12.9 | 6.9   | -14.2 | 7.5   | -15.6 | 8.2   | -17.1 | 9.0   | -18.6 | 10.5  | -21.8 | 12.2  | -25.3 | 14.0  | -29.0 | 15.9  | -33.0 | 18.0  | -37.3 | 20.0  | -41.8 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
| 3e                  | 10  |  |           | 8.0   | -19.9 | 8.9   | -22.1 | 9.9   | -24.5 | 10.9  | -27.0 | 12.0  | -29.7 | 13.1  | -32.4 | 14.2  | -35.3 | 16.7  | -41.4 | 19.4  | -48.0 | 22.2  | -55.2 | 25.3  | -62.8 | 28.5  | -70.8 | 32.0  | -79.4  |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |
| 20                  | 7.1                                       |  |           | -17.6 | 7.9   | -19.6 | 8.8   | -21.8 | 9.7   | -24.0 | 10.6  | -26.3 | 11.6  | -28.8 | 12.6  | -31.3 | 14.8  | -36.8 | 17.2  | -42.7 | 19.8  | -49.0 | 22.5  | -55.7 | 25.4  | -62.9 | 28.5  | -70.5 |        |       |     |     |     |     |     |     |     |     |  |  |  |     |  |  |  |     |  |  |  |     |  |  |  |

# Regulations

|                   |           |     |     |       |     |       |      |       |      |       |      |       |      |       |      |       |      |       |      |       |      |       |      |       |      |       |      |       |
|-------------------|-----------|-----|-----|-------|-----|-------|------|-------|------|-------|------|-------|------|-------|------|-------|------|-------|------|-------|------|-------|------|-------|------|-------|------|-------|
|                   | 3e        | 50  | 5.9 | -14.7 | 6.6 | -16.3 | 7.3  | -18.1 | 8.1  | -20.0 | 8.9  | -21.9 | 9.7  | -24.0 | 10.5 | -26.1 | 12.4 | -30.6 | 14.3 | -35.5 | 16.5 | -40.8 | 18.7 | -46.4 | 21.1 | -52.3 | 23.7 | -58.7 |
|                   | 3e        | 100 | 5.0 | -12.4 | 5.5 | -13.9 | 6.2  | -15.4 | 6.9  | -16.9 | 7.5  | -18.6 | 8.2  | -20.3 | 9.0  | -22.1 | 10.5 | -26.0 | 12.2 | -30.1 | 14.0 | -34.6 | 15.9 | -39.3 | 18.0 | -44.4 | 20.2 | -49.8 |
| Hipped Roof       | 1         | 10  | 6.5 | -14.7 | 7.3 | -16.3 | 8.0  | -18.1 | 8.9  | -20.0 | 9.7  | -21.9 | 10.6 | -24.0 | 11.6 | -26.1 | 13.6 | -30.6 | 15.8 | -35.5 | 18.1 | -40.8 | 20.6 | -46.4 | 23.3 | -52.3 | 26.1 | -58.7 |
|                   | 1         | 20  | 5.6 | -14.7 | 6.3 | -16.3 | 7.0  | -18.1 | 7.7  | -20.0 | 8.4  | -21.9 | 9.2  | -24.0 | 10.0 | -26.1 | 11.7 | -30.6 | 13.6 | -35.5 | 15.6 | -40.8 | 17.8 | -46.4 | 20.1 | -52.3 | 22.5 | -58.7 |
| >7 to 20 degree   | 1         | 50  | 4.4 | -11.3 | 5.0 | -12.6 | 5.5  | -14.0 | 6.1  | -15.4 | 6.6  | -16.9 | 7.3  | -18.5 | 7.9  | -20.2 | 9.3  | -23.7 | 10.8 | -27.4 | 12.3 | -31.5 | 14.0 | -35.8 | 15.9 | -40.4 | 17.8 | -45.3 |
|                   | 1         | 100 | 3.6 | -8.7  | 4.0 | -9.7  | 4.4  | -10.8 | 4.8  | -11.9 | 5.3  | -13.1 | 5.8  | -14.3 | 6.3  | -15.5 | 7.4  | -18.2 | 8.6  | -21.2 | 9.9  | -24.3 | 11.2 | -27.6 | 12.7 | -31.2 | 14.2 | -35.0 |
|                   | 2r        | 10  | 6.5 | -19.1 | 7.3 | -21.3 | 8.0  | -23.6 | 8.9  | -26.0 | 9.7  | -28.6 | 10.6 | -31.2 | 11.6 | -34.0 | 13.6 | -39.9 | 15.8 | -46.3 | 18.1 | -53.1 | 20.6 | -60.4 | 23.3 | -68.2 | 26.1 | -76.5 |
|                   | 2r        | 20  | 5.6 | -17.2 | 6.3 | -19.2 | 7.0  | -21.3 | 7.7  | -23.4 | 8.4  | -25.7 | 9.2  | -28.1 | 10.0 | -30.6 | 11.7 | -35.9 | 13.6 | -41.7 | 15.6 | -47.9 | 17.8 | -54.4 | 20.1 | -61.5 | 22.1 | -68.9 |
|                   | 2r        | 50  | 4.4 | -14.7 | 5.0 | -16.4 | 5.5  | -18.2 | 6.1  | -20.0 | 6.6  | -22.0 | 7.3  | -24.0 | 7.9  | -26.1 | 9.3  | -30.7 | 10.8 | -35.6 | 12.3 | -40.9 | 14.0 | -46.5 | 15.9 | -52.5 | 17.8 | -58.8 |
|                   | 2r        | 100 | 3.6 | -12.8 | 4.0 | -14.3 | 4.4  | -15.8 | 4.8  | -17.4 | 5.3  | -19.1 | 5.8  | -20.9 | 6.3  | -22.8 | 7.4  | -26.7 | 8.6  | -31.0 | 9.9  | -35.6 | 11.2 | -40.5 | 12.7 | -45.7 | 14.2 | -51.3 |
|                   | 2e, 3     | 10  | 6.5 | -20.6 | 7.3 | -22.9 | 8.0  | -25.4 | 8.9  | -28.0 | 9.7  | -30.8 | 10.6 | -33.6 | 11.6 | -36.6 | 13.6 | -43.0 | 15.8 | -49.8 | 18.1 | -57.2 | 20.6 | -65.1 | 23.3 | -73.5 | 26.1 | -82.4 |
|                   | 2e, 3     | 20  | 5.6 | -18.5 | 6.3 | -20.6 | 7.0  | -22.9 | 7.7  | -25.2 | 8.4  | -27.7 | 9.2  | -30.3 | 10.0 | -32.9 | 11.7 | -38.7 | 13.6 | -44.8 | 15.6 | -51.5 | 17.8 | -58.6 | 20.1 | -66.1 | 22.5 | -74.1 |
|                   | 2e, 3     | 50  | 4.4 | -15.8 | 5.0 | -17.6 | 5.5  | -19.5 | 6.1  | -21.5 | 6.6  | -23.6 | 7.3  | -25.8 | 7.9  | -28.0 | 9.3  | -32.7 | 10.8 | -38.2 | 12.3 | -43.8 | 14.0 | -49.9 | 15.9 | -56.3 | 17.8 | -63.1 |
|                   | 2e, 3     | 100 | 3.6 | -13.7 | 4.0 | -15.3 | 4.4  | -16.9 | 4.8  | -18.7 | 5.3  | -20.5 | 5.8  | -22.4 | 6.3  | -24.4 | 7.4  | -28.6 | 8.6  | -33.2 | 9.9  | -38.1 | 11.2 | -43.3 | 12.7 | -48.9 | 14.2 | -54.8 |
| Hipped Roof       | 1         | 10  | 6.5 | -11.7 | 7.3 | -13.0 | 8.0  | -14.5 | 8.9  | -15.9 | 9.7  | -17.5 | 10.6 | -19.1 | 11.6 | -20.8 | 13.6 | -24.4 | 15.8 | -28.3 | 18.1 | -32.5 | 20.6 | -37.0 | 23.3 | -41.8 | 26.1 | -46.8 |
|                   | 1         | 20  | 5.6 | -10.4 | 6.3 | -11.6 | 7.0  | -12.8 | 7.7  | -14.1 | 8.4  | -15.5 | 9.2  | -16.9 | 10.0 | -18.4 | 11.7 | -21.6 | 13.6 | -25.1 | 15.6 | -28.8 | 17.8 | -32.8 | 20.1 | -37.0 | 22.5 | -41.5 |
| >20 to 27 degrees | 1         | 50  | 4.4 | -8.6  | 5.0 | -9.6  | 5.5  | -10.6 | 6.1  | -11.7 | 6.6  | -12.8 | 7.3  | -14.0 | 7.9  | -15.3 | 9.3  | -17.9 | 10.8 | -20.8 | 12.3 | -23.9 | 14.0 | -27.2 | 15.9 | -30.7 | 17.8 | -34.4 |
|                   | 1         | 100 | 3.6 | -7.3  | 4.0 | -8.1  | 4.4  | -9.0  | 4.8  | -9.9  | 5.3  | -10.8 | 5.8  | -11.9 | 6.3  | -12.9 | 7.4  | -15.1 | 8.6  | -17.6 | 9.9  | -20.2 | 11.2 | -22.9 | 12.7 | -25.9 | 14.2 | -29.0 |
|                   | 2e, 2r, 3 | 10  | 6.5 | -16.2 | 7.3 | -18.0 | 8.0  | -19.9 | 8.9  | -22.0 | 9.7  | -24.1 | 10.2 | -26.4 | 11.6 | -28.7 | 13.6 | -33.7 | 15.8 | -39.1 | 18.1 | -44.9 | 20.6 | -51.0 | 23.3 | -57.6 | 26.1 | -64.6 |
|                   | 2e, 2r, 3 | 20  | 5.6 | -14.4 | 6.3 | -16.1 | 7.0  | -17.8 | 7.7  | -19.7 | 8.4  | -21.6 | 8.9  | -23.6 | 10.0 | -25.7 | 11.7 | -30.1 | 13.6 | -34.9 | 15.6 | -40.1 | 17.8 | -45.6 | 20.1 | -51.5 | 22.5 | -57.8 |
|                   | 2e, 2r, 3 | 50  | 4.4 | -12.2 | 5.0 | -13.5 | 5.5  | -15.0 | 6.1  | -16.5 | 6.6  | -18.2 | 7.3  | -19.9 | 7.9  | -21.6 | 9.3  | -25.4 | 10.8 | -29.4 | 12.3 | -33.8 | 14.0 | -38.4 | 15.9 | -43.4 | 17.8 | -48.6 |
|                   | 2e, 2r, 3 | 100 | 3.6 | -10.4 | 4.0 | -11.6 | 4.4  | -12.9 | 4.8  | -14.2 | 5.3  | -15.6 | 5.8  | -17.1 | 6.3  | -18.6 | 7.4  | -21.8 | 8.6  | -25.3 | 9.9  | -29.0 | 11.2 | -33.0 | 12.7 | -37.3 | 14.2 | -41.8 |
| Hipped Roof       | 1         | 10  | 6.2 | -12.4 | 6.9 | -13.9 | 7.7  | -15.4 | 8.5  | -16.9 | 9.3  | -18.6 | 10.2 | -20.3 | 11.1 | -22.1 | 13.0 | -26.0 | 15.1 | -30.1 | 17.3 | -34.6 | 19.7 | -39.3 | 22.2 | -44.4 | 24.9 | -49.8 |
|                   | 1         | 20  | 5.4 | -11.0 | 6.0 | -12.3 | 6.7  | -13.6 | 7.4  | -15.0 | 8.1  | -16.5 | 8.9  | -18.0 | 9.6  | -19.6 | 11.3 | -23.0 | 13.1 | -26.7 | 15.1 | -30.7 | 17.1 | -34.9 | 19.4 | -39.4 | 21.7 | -44.2 |
| >27 to 45 degrees | 1         | 50  | 4.4 | -9.2  | 4.9 | -10.2 | 5.4  | -11.3 | 5.9  | -12.5 | 6.5  | -13.7 | 7.1  | -15.0 | 7.7  | -16.3 | 9.1  | -19.2 | 10.5 | -22.2 | 12.1 | -25.5 | 13.8 | -29.0 | 15.5 | -32.8 | 17.4 | -36.7 |
|                   | 1         | 100 | 3.6 | -7.8  | 4.0 | -8.7  | 4.4  | -9.6  | 4.8  | -10.6 | 5.3  | -11.6 | 5.8  | -12.7 | 6.3  | -13.8 | 7.4  | -16.2 | 8.6  | -18.8 | 9.9  | -21.6 | 11.2 | -24.6 | 12.7 | -27.8 | 14.2 | -31.1 |
|                   | 2e        | 10  | 6.2 | -14.8 | 6.9 | -16.5 | 7.7  | -18.3 | 8.5  | -20.2 | 9.3  | -22.1 | 10.2 | -24.2 | 11.1 | -26.3 | 13.0 | -30.9 | 15.1 | -35.9 | 17.3 | -41.2 | 19.7 | -46.8 | 22.2 | -52.9 | 24.9 | -59.3 |
|                   | 2e        | 20  | 5.4 | -11.7 | 6.0 | -13.0 | 6.7  | -14.5 | 7.4  | -15.9 | 8.1  | -17.5 | 8.9  | -19.1 | 9.6  | -20.8 | 11.3 | -24.4 | 13.1 | -28.3 | 15.1 | -32.5 | 17.1 | -37.0 | 19.4 | -41.8 | 21.7 | -46.8 |
|                   | 2e        | 50  | 4.4 | -7.3  | 4.9 | -8.1  | 5.4  | -9.0  | 5.9  | -9.9  | 6.5  | -10.8 | 7.1  | -11.9 | 7.7  | -12.9 | 9.1  | -15.1 | 10.5 | -17.6 | 12.1 | -20.2 | 13.8 | -22.9 | 15.5 | -25.9 | 17.4 | -29.0 |
|                   | 2e        | 100 | 3.6 | -7.3  | 4.0 | -8.1  | 4.4  | -9.0  | 4.8  | -9.9  | 5.3  | -10.8 | 5.8  | -11.9 | 6.3  | -12.9 | 7.4  | -15.1 | 8.6  | -17.6 | 9.9  | -20.2 | 11.2 | -22.9 | 12.7 | -25.9 | 14.2 | -29.0 |
|                   | 2r        | 10  | 6.2 | -18.7 | 6.9 | -20.9 | 7.7  | -23.1 | 8.5  | -25.5 | 9.3  | -28.0 | 10.2 | -30.6 | 11.1 | -33.3 | 13.0 | -39.1 | 15.1 | -45.4 | 17.3 | -52.1 | 19.7 | -59.2 | 22.2 | -66.9 | 24.9 | -75.0 |
|                   | 2r        | 20  | 5.4 | -15.7 | 6.0 | -17.5 | 6.7  | -19.4 | 7.4  | -21.4 | 8.1  | -23.5 | 8.9  | -25.7 | 9.6  | -28.0 | 11.3 | -32.8 | 13.1 | -38.1 | 15.1 | -43.7 | 17.1 | -49.8 | 19.4 | -56.2 | 21.7 | -63.0 |
|                   | 2r        | 50  | 4.4 | -11.7 | 4.9 | -13.1 | 5.4  | -14.5 | 5.9  | -16.0 | 6.5  | -17.5 | 7.1  | -19.2 | 7.7  | -20.9 | 9.1  | -24.5 | 10.5 | -28.4 | 12.1 | -32.6 | 13.8 | -37.1 | 15.5 | -41.9 | 17.4 | -47.0 |
|                   | 2r        | 100 | 3.6 | -8.7  | 4.0 | -9.7  | 4.4  | -10.8 | 4.8  | -11.9 | 5.3  | -13.1 | 5.8  | -14.3 | 6.3  | -15.5 | 7.4  | -18.2 | 8.6  | -21.2 | 9.9  | -24.3 | 11.2 | -27.6 | 12.7 | -31.2 | 14.2 | -35.0 |
|                   | 3         | 10  | 6.2 | -20.0 | 6.9 | -22.3 | 7.7  | -24.7 | 8.5  | -27.2 | 9.3  | -29.9 | 10.2 | -32.7 | 11.1 | -35.6 | 13.0 | -41.7 | 15.1 | -48.4 | 17.3 | -55.6 | 19.7 | -63.2 | 22.2 | -71.4 | 24.9 | -80.0 |
|                   | 3         | 20  | 5.4 | -15.0 | 6.0 | -16.8 | 6.7  | -18.6 | 7.4  | -20.5 | 8.1  | -22.5 | 8.9  | -24.6 | 9.6  | -26.7 | 11.3 | -31.4 | 13.1 | -36.4 | 15.1 | -41.8 | 17.1 | -47.5 | 19.4 | -53.8 | 21.7 | -60.2 |
|                   | 3         | 50  | 4.4 | -8.7  | 4.9 | -9.7  | 5.4  | -10.8 | 5.9  | -11.9 | 6.5  | -13.1 | 7.1  | -14.3 | 7.7  | -15.5 | 9.1  | -18.2 | 10.5 | -21.2 | 12.1 | -24.3 | 13.8 | -27.6 | 15.5 | -31.2 | 17.4 | -35.0 |
|                   | 3         | 100 | 3.6 | -8.7  | 4.0 | -9.7  | 4.4  | -10.8 | 4.8  | -11.9 | 5.3  | -13.1 | 5.8  | -14.3 | 6.3  | -15.5 | 7.4  | -18.2 | 8.6  | -21.2 | 9.9  | -24.3 | 11.2 | -27.6 | 12.7 | -31.2 | 14.2 | -35.0 |
| Wall              | 4         | 10  | 8.7 | -9.5  | 9.7 | -10.6 | 10.8 | -11.7 | 11.9 | -12.9 | 13.1 | -14.2 | 14.3 | -15.5 | 15.5 | -16.9 | 18.2 | -19.8 | 21.2 | -22.9 | 24.3 | -26.3 | 27.6 | -30.0 | 31.2 | -33.8 | 35.0 | -37.9 |
|                   | 4         | 20  | 8.3 | -9.1  | 9.3 | -10.1 | 10.3 | -11.2 | 11.4 | -12.4 | 12.5 | -13.6 | 13.6 | -14.8 | 14.8 | -16.2 | 17.4 | -19.0 | 20.2 | -22.0 | 23.2 | -25.3 | 26.4 | -28.7 | 29.8 | -32.4 | 33.4 | -36.4 |
|                   | 4         | 50  | 7.8 | -8.6  | 8.7 | -9.5  | 9.7  | -10.6 | 10.7 | -11.7 | 11.7 | -12.8 | 12.8 | -14.0 | 13.9 | -15.2 | 16.3 | -17.9 | 18.9 | -20.7 | 21.7 | -23.8 | 24.7 | -27.1 | 27.9 | -30.6 | 31.3 | -34.3 |
|                   | 4         | 100 | 7.4 | -8.2  | 8.3 | -9.1  | 9.2  | -10.1 | 10.1 | -11.1 | 11.1 | -12.2 | 12.1 | -13.3 | 13.2 | -14.5 | 15.5 | -17.1 | 18.0 | -19.8 | 20.6 | -22.7 | 23.5 | -25.8 | 26.5 | -29.2 | 29.7 | -32.7 |
|                   | 4         | 500 | 6.5 | -7.3  | 7.3 | -8.1  | 8.0  | -9.0  | 8.9  | -9.9  | 9.7  | -10.8 | 10.6 | -11.9 | 11.6 | -12.9 | 13.5 | -15.1 | 15.8 | -17.6 | 18.1 | -20.2 | 20.6 | -22.9 | 23.3 | -25.9 | 26.1 | -29.0 |
|                   | 5         | 10  | 8.7 | -11.8 | 9.7 | -13.0 | 10.8 | -14.5 | 11.9 | -15.9 | 13.1 | -17.5 | 14.3 | -19.1 | 15.5 | -20.8 | 18.2 | -24.4 |      |       |      |       |      |       |      |       |      |       |



For SI: 1 foot = 304.8mm, 1 square foot = 0.0929m<sup>2</sup>, 1 mile per hour = 0.447 m/s, 1 pound per square foot = 0.0479 kPa

- a. The effective wind area shall be equal to the span length multiplied by an effective width. This shall be permitted to be not less than one-third the span length. For cladding fasteners, the effective wind area shall not be greater than the area that is tributary to an individual fastener.
- b. For effective areas between those given, the load shall be interpolated or the load associated with the lower effective area shall be used.
- c. Table values shall be adjusted for height and exposure by multiplying the adjustment coefficient in Table R301.2(3).
- d. See Figure R301.2(7) for location of zones.
- e. Plus and minus signs signify pressures acting toward and away from the building surfaces.
- f. Positive and negative design wind pressures shall be not less than 10 psf.
- g. Where the ratio of the building mean roof height to the building length or width is less than 0.8, uplift loads shall be permitted to be calculated in accordance with ASCE 7.

4. Change table R301.2(3) to read:

Table R301.2(3)

HEIGHT AND EXPOSURE ADJUSTMENT COEFFICIENTS FOR TABLE R301.2(2)

| <u>MEAN ROOF HEIGHT</u> | <u>EXPOSURE</u> |             |             |
|-------------------------|-----------------|-------------|-------------|
|                         | <u>B</u>        | <u>C</u>    | <u>D</u>    |
| <u>15</u>               | <u>0.82</u>     | <u>1.21</u> | <u>1.47</u> |
| <u>20</u>               | <u>0.89</u>     | <u>1.29</u> | <u>1.55</u> |
| <u>25</u>               | <u>0.94</u>     | <u>1.35</u> | <u>1.61</u> |
| <u>30</u>               | <u>1.00</u>     | <u>1.40</u> | <u>1.66</u> |
| <u>35</u>               | <u>1.05</u>     | <u>1.45</u> | <u>1.70</u> |
| <u>40</u>               | <u>1.09</u>     | <u>1.49</u> | <u>1.74</u> |
| <u>45</u>               | <u>1.12</u>     | <u>1.53</u> | <u>1.78</u> |
| <u>50</u>               | <u>1.16</u>     | <u>1.56</u> | <u>1.81</u> |
| <u>55</u>               | <u>1.19</u>     | <u>1.59</u> | <u>1.84</u> |
| <u>60</u>               | <u>1.22</u>     | <u>1.62</u> | <u>1.87</u> |

3- 5. ] Change Section R301.2.1 to read:

R301.2.1 Wind design criteria. Buildings and portions thereof shall be constructed in accordance with the wind provisions of this code using the ultimate design wind speed in Table R301.2(1) as determined from Figure ~~R301.2(4)A~~ R301.2(5)A. The structural provisions of this code for wind loads are not permitted where wind design is required as specified in Section R301.2.1.1. 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 not otherwise specified, the wind 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 R905.2.4. A continuous load path shall be provided to transmit the applicable uplift forces in Section R802.11.1 from the roof assembly to the foundation. [~~Where ultimate design wind speeds in Figure R301.2(4)A are less than the lowest wind speed indicated in the prescriptive provisions of this code, the lowest wind speed indicated in the prescriptive provisions of this code shall be used.~~] 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 the nominal design wind speed of [~~110 mph (48.4 m/s)~~ 140 mph (62.6 m/s)] and areas under 4,000 feet in elevation shall use nominal design wind speed of [~~90 mph (39.6 m/s)~~ 110 mph (49.2 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 [~~26.5.1 of~~ 26.5.2 of] ASCE 7.

[ 4- 6. Change section R 301.2.1.1 to read:

R301.2.1.1 Wind limitations and wind design required. The wind provisions of this code shall not apply to the design of buildings where wind design is required in accordance with Figure R301.2(5)B or where the ultimate design wind speed,  $V_{ult}$  in Figure R301.2(5)A equals or exceeds 140 mph in a special wind region.

Exceptions:

1. For concrete construction, the wind provisions of this code shall apply in accordance with the limitations of Sections R404 and R608.
2. For structural insulated panels, the wind provisions of this code shall apply in accordance with the limitations of Section R610.
3. For cold-formed steel light-frame construction, the wind provisions of this code shall apply in accordance with the limitations of Sections R505, R603, and R804.

In regions where wind design is required in accordance with Figure R301.2(5)B or where the ultimate design wind speed  $V_{ult}$  in Figure R301.2(5)A equals or exceeds 140 mph in a special wind region, the design of buildings for wind loads shall be in accordance with one or more of the following methods:

1. AWC Wood Frame Construction Manual (WFCM).
2. ICC Standard for Residential Construction in High-Wind Regions (ICC 600).
3. ASCE Minimum Design Loads for Buildings and Other Structures (ASCE 7).

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4. AISI Standard for Cold-Formed Steel Framing - Prescriptive Method for One- and Two-Family Dwellings (AISI S230).

5. International Building Code.

The elements of design not addressed by the methods in Items 1 through 5 shall be in accordance with the provisions of this code.

Where ASCE 7 or the International Building Code is used for the design of the building, the wind speed map and exposure category requirements as specified in ASCE 7 and the International Building Code shall be used.

7. Change Figure R301.2(5)A to read:

Note: Crosshatching on map indicates Special Wind Region

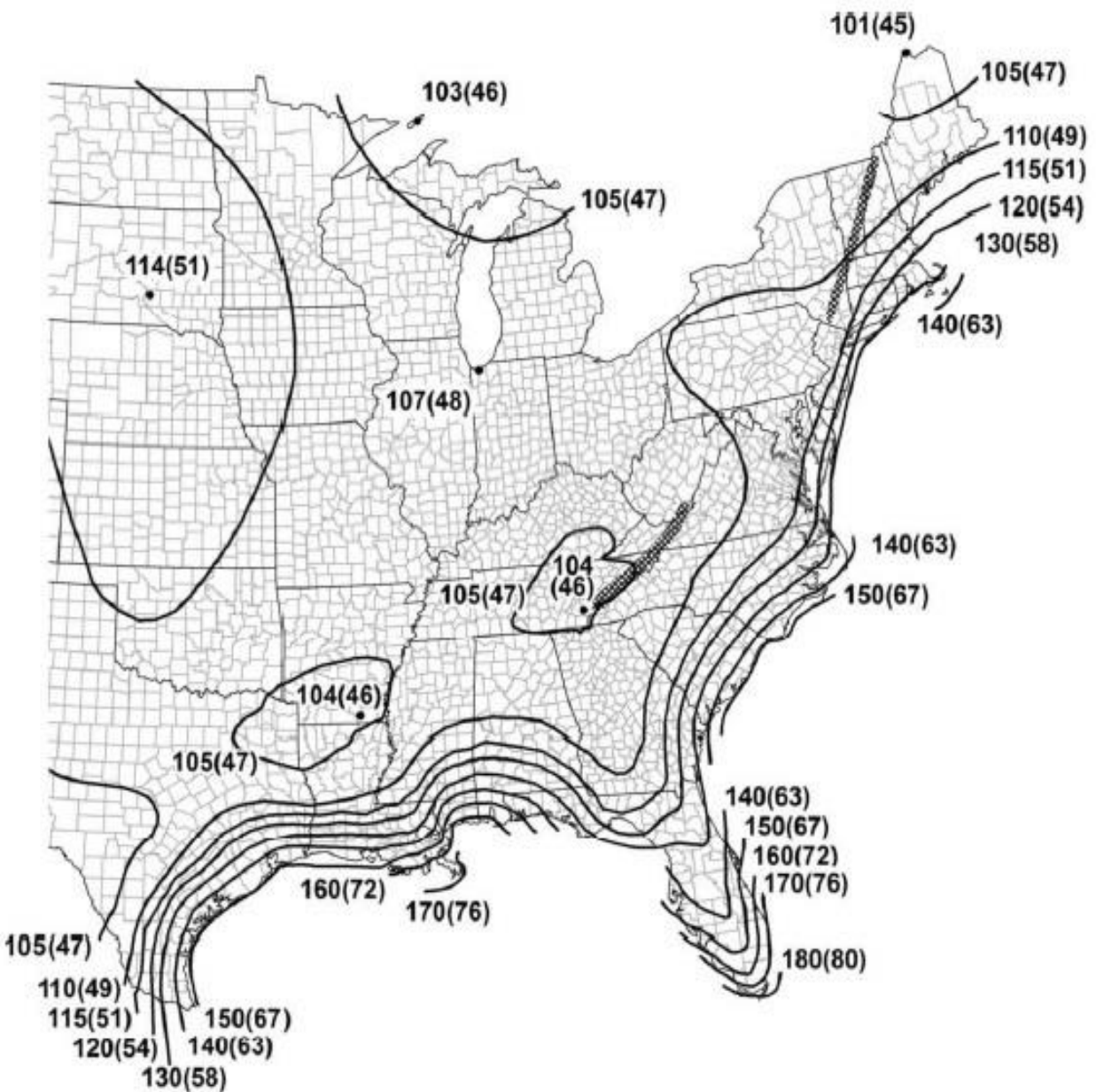


Figure R301.2(5)A ULTIMATE DESIGN WIND SPEEDS

8. Change Figure R301.2(5)B to read:

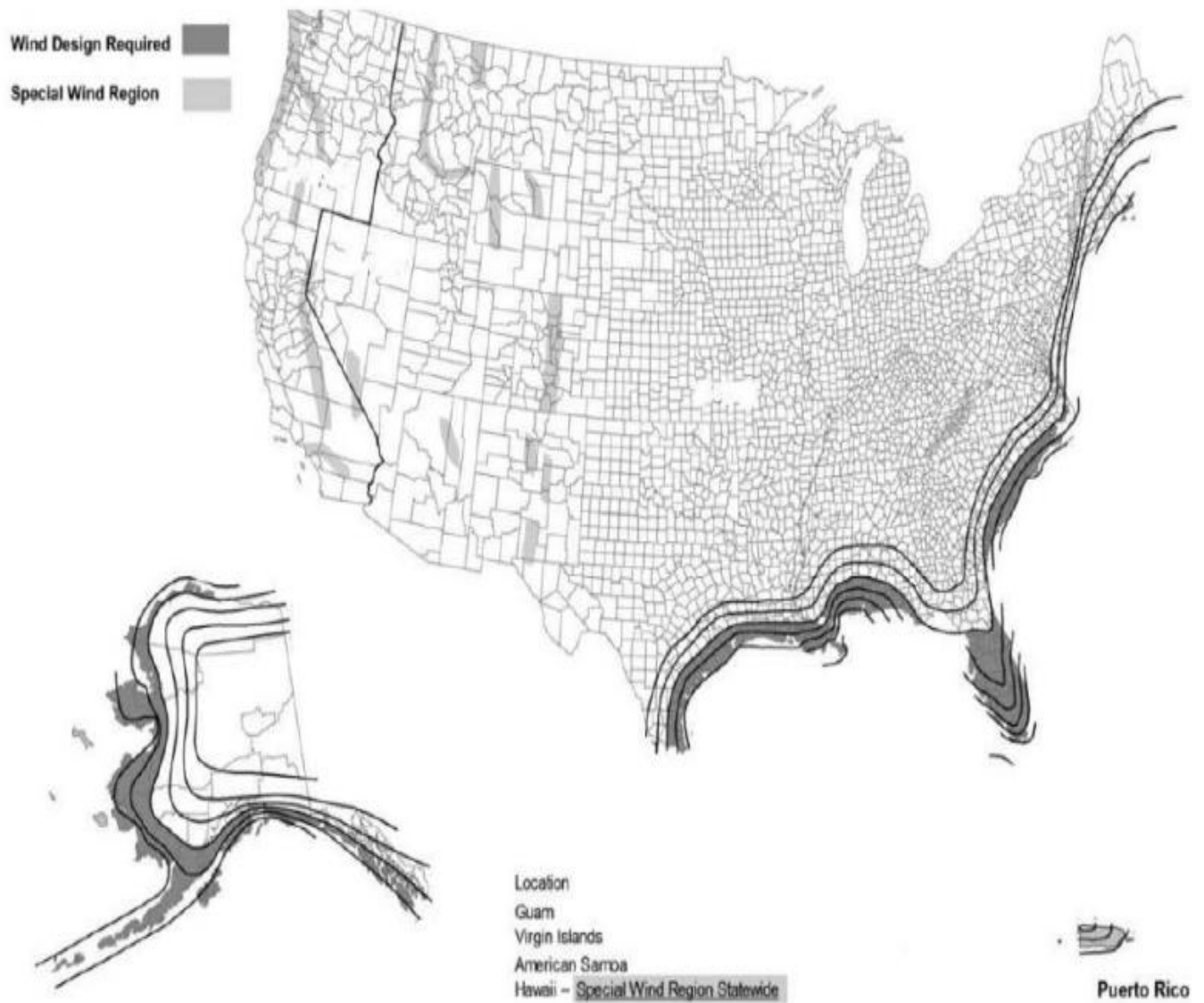
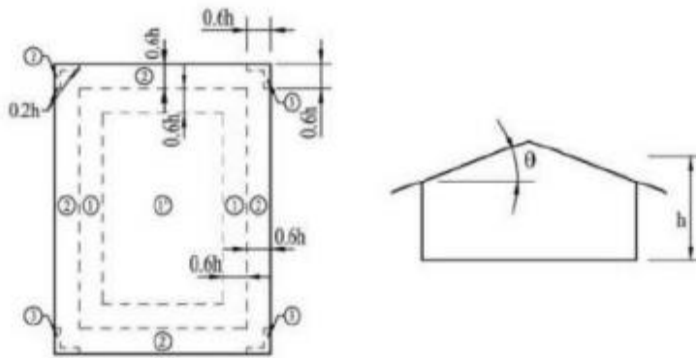


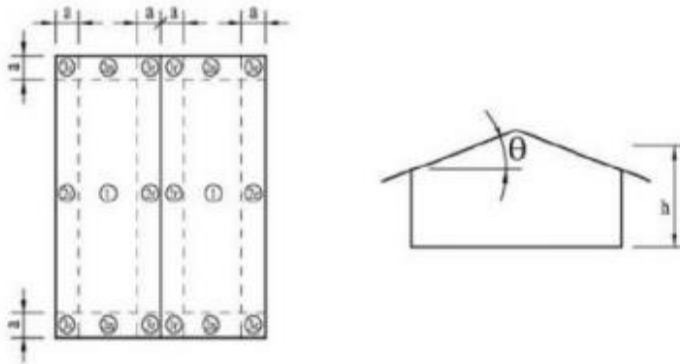
Figure R301.2(5)B REGIONS WHERE WIND DESIGN IS REQUIRED

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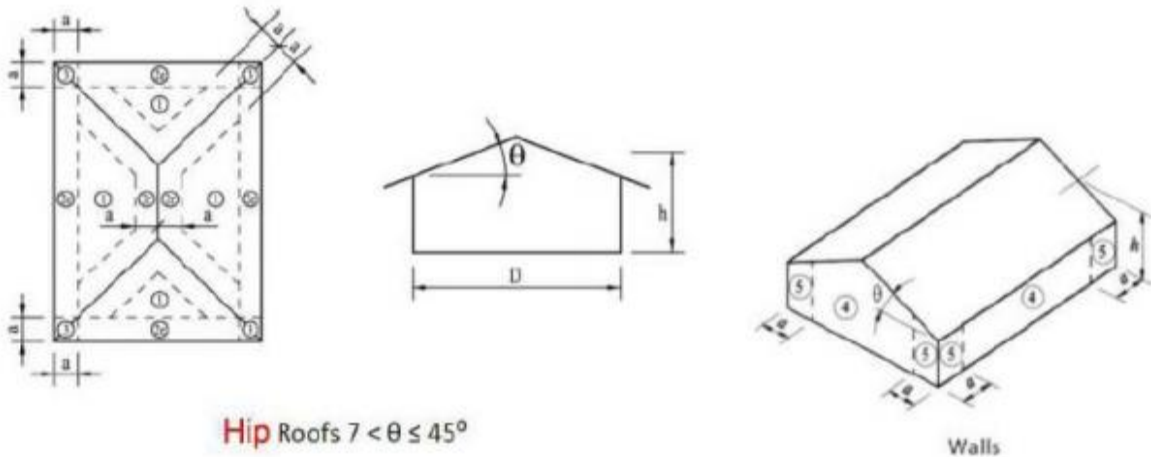
9. Change Figure R301.2(8) to read:



Gable and Flat Roofs  $\theta \leq 7^\circ$



Gable Roofs  $7 < \theta \leq 45^\circ$



Hip Roofs  $7 < \theta \leq 45^\circ$

Walls

## Figure R301.2(8) COMPONENT AND CLADDING PRESSURE ZONES

10. ] Add Exceptions 6 and 7 to Section R302.1 to read:

6. Decks and open porches.

7. Walls of dwellings and accessory structures located on lots in subdivisions or zoning districts where building setbacks established by local ordinance prohibit the walls of the structures on adjacent lots from being closer than 10 feet (3048 mm) to each other at any point along the exterior walls.

[ ~~5~~ 11. Change the Projections row of table R302.1(1) to remove the top row and change the Minimum Fire Separation Distance for Fire-resistance rated Exterior Wall Elements to less than five feet.

12. Change Section R302.2 to read:

R302.2 Townhouses. Wall separating townhouse units shall be constructed in accordance with Section R302.2.1 or R302.2.2 and shall comply with Sections 302.2.3 through 302.2.5.

13. Change Section R302.2.2 to read:

R302.2.2 Common walls. Common walls separating townhouses shall be assigned a fire-resistance rating in accordance with Item 1 or 2. The common wall shared by two townhouses shall be constructed without plumbing or mechanical equipment, ducts or vents, other than water-filled fire sprinkler piping, in the cavity of the common wall. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against exterior walls and the underside of the roof sheathing. Electrical installations shall be in accordance with Chapters 34 through 43. Penetrations of the membrane of common walls for electrical outlet boxes shall be in accordance with Section R302.4.

1. Where a fire sprinkler system in accordance with Section P2904 is provided, the common wall shall be not less than a one-hour fire-resistance-rated wall assembly tested in accordance with ASTM E119, UL 263, or Section 703.3 of the International Building Code.

2. Where a fire sprinkler system in accordance with Section P2904 is not provided, the common wall shall be not less than a two-hour fire-resistance-rated wall assembly in accordance with ASTM E119, UL 263, or Section 703.3 of the International Building Code.

14. Add exception 6 to Section R302.2.6 to read:

6. Townhouses protected by a fire sprinkler system complying with Section P2904, NFPA 13, NFPA 13R, or NFPA 13D.

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

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

[ ~~6~~ 16. Change the first exception in R302.3 to read:

1. A fire-resistance rating of 1/2 hour shall be permitted in buildings equipped throughout with an automatic sprinkler system installed in accordance with NFPA 13, NFPA 13R, or Section P2904.

17. Add a third exception in R302.3 to read:

3. Fire resistant rated assemblies are not required to separate a dwelling unit and accessory dwelling unit where

both units are located on the same lot and comply with Sections R314.7 and R315.5.

18. Change the exceptions to R302.4.1 to read:

Exceptions:

1. Where the penetrating items are steel, ferrous, or copper pipes, tubes, or conduits, the annular space shall be protected as follows:

1.1 In Concrete or masonry wall or floor assemblies, concrete, grout, or mortar shall be permitted where installed to the full thickness of the wall or floor assembly or the thickness required to maintain the fire-resistance rating, provided both of the following are complied with:

1.1.1 The nominal diameter of the penetrating item is not more than 6 inches (152 mm).

1.1.2 The area of the opening through the wall does not exceed 144 square inches (92,900 mm<sup>2</sup>).

1.2 The material used to fill the annular space shall prevent the passage of flame and hot gasses sufficient to ignite cotton waste where subjected to ASTM E119 or UL 263 time temperature fire conditions under a positive pressure differential of not less than 0.01 inch of water (3 Pa) at the location of the penetration for the time period equivalent to the fire-resistance rating of the construction penetrated.

2. The annular space created by the penetration of water-filled fire sprinkler piping, provided the annular space is filled using a material complying with Exception 1.2.

~~15~~ 19. Change exception 3 of Section R302.4.2 to read:

3. The annular space created by the penetration of a fire sprinkler or water-filled fire sprinkler piping, provided that the annular space is covered by a metal escutcheon plate.

~~20.]~~ Change Section R302.5.1 to read ~~and delete Section R302.13 in its entirety:~~

R302.5.1 Opening protection. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 1-3/8 inches (35 mm) thickness, solid or honeycomb-core steel doors not less than 1-3/8 inches (35 mm) thick, or 20-minute fire-rated doors.

[ ~~7~~ 21. Delete Section R302.13 in its entirety.

~~22.]~~ Change Section R303.4 to read:

R303.4 Mechanical ventilation. Dwelling units shall be provided with mechanical ventilation in accordance with Section ~~M1507~~ M1505.

~~8~~ [ ~~9~~ 23.] Add an exception to Section R303.10 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.

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9. [ ~~10.~~ 24. ] Add Section R303.10.1 to read:

R303.10.1 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 ~~R303.9~~ R303.10 during the period from October 15 to May 1.

10. [ ~~11.~~ 25. ] Add Section R303.11 to read:

R303.11 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.

11. [ ~~12.~~ 26. ] 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 103.5 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 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.

12. [ ~~13.~~ 27. ] Change Section R308.4.5 to read:

R308.4.5 Glazing and wet surfaces. Glazing in walls, enclosures, or fences containing or facing hot tubs, spas, whirlpools, saunas, steam rooms, bathtubs, showers, and indoor or outdoor swimming pools shall be considered a hazardous location if located less than 60 inches (1524 mm) measured horizontally, in a straight line, from the water's edge and the bottom exposed edge of the glazing is less than 60 inches (1524 mm) measured vertically above any standing or walking surface. This shall apply to single glazing and each pane in multiple glazing.

[ ~~28.~~ Change section R309.3 to read:

R309.3 Flood hazard areas. Garages and carports located in flood hazard areas as established by Table R301.2(1) shall be constructed in accordance with Section R322.]

13. [ ~~14.~~ 29. ] Change Section R310.1 to read:

R310.1 Emergency escape and rescue opening required. Basements, habitable attics, and every sleeping room designated on the construction documents shall have not less than one operable emergency escape and rescue opening. Where basements contain one or more sleeping rooms, an emergency egress and rescue opening shall be

required in each sleeping room. Emergency escape and rescue openings shall open directly into a public way, or to a yard or court that opens to a public way.

Exceptions:

1. Dwelling units equipped throughout with an approved automatic sprinkler system installed in accordance with NFPA 13, 13R, or 13D or Section P2904.

2. Storm shelters and basements used only to house mechanical equipment and not exceeding total floor area of 200 square feet (18.58 m<sup>2</sup>).

14. [ ~~15.~~ 30. ] Change Section R310.2.1 to read:

R310.2.1 Minimum opening area. Emergency and escape rescue openings shall have a net clear opening of not less than 5.7 square feet (0.530 m<sup>2</sup>). 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, including the tilting or removal of the sash as the normal operation. The net clear height opening shall be not less than 24 inches (610 mm), and the net clear width shall be not less than 20 inches (508 mm).

Exception: Grade floor or below grade openings shall have a net clear opening of not less than 5 square feet (0.465 m<sup>2</sup>).

[ ~~31.~~ Change Section R311.1 to read:

R311.1 Means of egress. Dwellings, and each dwelling unit in a two-family dwelling, shall be provided with a means of egress in accordance with this section. The means of egress shall provide a continuous and unobstructed path of vertical and horizontal egress travel from all portions of the dwelling to the required egress door without requiring travel through a garage. The required egress door shall open directly into a public way or to a yard or court that opens to a public way. ]

15. [ ~~16.~~ 32. ] Change the exception ~~in~~ to Section R311.3.1 to read:

Exception: The landing or floor on the exterior side shall not be more than 8-1/4 inches (210 mm) below the top of the threshold provided the door does not swing over the landing or floor.

16. [ ~~17.~~ 33. ] Change Section R311.3.2 to read:

R311.3.2 Floor elevations for other exterior doors. Doors other than the required egress door shall be provided with landings or floors not more than 8-1/4 inches (210 mm) below the top of the threshold.

Exception: A top landing is not required where a stairway of not more than two risers is located on the exterior side of the door, provided that the door does not swing over the stairway.

[ ~~18~~, ~~34~~. ] Change Section R311.7.5.1 to read:

R311.7.5.1 Risers. The riser height shall be not more than 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). Risers shall be vertical or sloped from the underside of the nosing of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted provided that the openings located more than 30 inches (763 mm), as measured vertically, to the floor or grade below do not permit the passage of a 4-inch-diameter (102 mm) sphere.

Exceptions:

1. The opening between adjacent treads is not limited on spiral stairways.
2. The riser height of spiral stairways shall be in accordance with Section R311.7.10.1.

~~17~~: [ ~~19~~, ~~35~~. ] Change Section R311.7.5.2 to read:

R311.7.5.2 Treads. The tread depth shall be not less than 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).

~~18~~: [ ~~20~~, ~~36~~. ] Change Section R311.7.7 to read:

R311.7.7 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 units horizontal (2.0% slope).

~~19~~: [ ~~21~~, ~~37~~. ] Change Section R312.2.1 to read:

R312.2.1 Window sills. In dwelling units, where the top of the sill of an operable window opening is located less than 18 inches (457 mm) above the finished floor and greater than 72 inches (1829 mm) above the finished grade or other surface below on the exterior of the building, the operable window shall comply with one of the following:

1. Operable windows with openings that will not allow a 4-inch-diameter (102 mm) sphere to pass through the opening where the opening is in its largest opened position.
2. Operable windows that are provided with window fall prevention devices that comply with ASTM F 2090.
3. Operable windows that are provided with window opening control devices that comply with Section R312.2.2.

~~20~~: [ ~~22~~, ~~38~~. ] Replace Section R313 with the following:

Section R313.

Automatic Fire Sprinkler Systems.

R313.1 Townhouse automatic fire sprinkler systems. Notwithstanding the requirements of Section 103.3, 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.

[ ~~39~~. Change Section R13.1.1 to read:

R313.1.1 Design and installation. Automatic residential fire sprinkler systems for townhouses shall be designed and installed in accordance with Section P2904 or NFPA 13D, 13, or 13R. ]

R313.2 One-family and two-family dwellings automatic fire sprinkler systems. Notwithstanding the requirements of Section 103.3, where installed, an automatic residential fire sprinkler system shall be designed and installed in accordance with NFPA 13D [ , 13, 13R, or ] 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.

[ ~~40~~. Change section R313.2.1 to read:

R313.2.1 Design and installation. Automatic residential fire sprinkler systems shall be designed and installed in accordance with Section P2904 or NFPA 13D, 13, or 13R. ]

~~21~~: [ ~~23~~, ~~41~~. ] Delete Section R314.2.2.

[ ~~42~~. Change R314.6 to read:

R314.6 Power source. Smoke alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and, where primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection.

Exception:

Smoke alarms shall be permitted to be battery operated with a minimum 10-year battery where installed in buildings without commercial power.

~~43~~. Change Section R314.7 to read:

R314.7 Fire alarm systems. A fire alarm system complying with Sections R314.7.1 through R314.7.4 shall be installed within a two-family dwelling that is constructed without fire separations in accordance with Exception 3 of Section R302.3 and shall be installed in such a manner that the actuation of an alarm will activate all notification appliances within both dwelling units. Fire alarm systems shall be permitted to be used in other

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dwelling units in lieu of smoke alarms and shall comply with Sections R314.7.1 through R314.7.4. ]

~~22.~~ [ ~~24.~~ 44. ] Change Section R314.7.3 to read:1

R314.7.3 Permanent fixture. Where a household fire alarm system is installed, it shall become a permanent fixture of the dwelling unit.

~~23.~~ [ ~~25.~~ 45. ] Change Section R315.1.1 to read:

R315.1.1 Listings. Carbon monoxide alarms shall be hard wired, plug-in or battery type; listed as complying with UL 2034; and installed in accordance with this code and the manufacturer's installation instructions. Combination carbon monoxide and smoke alarms shall be listed in accordance with UL 2034 and UL 217.

~~24.~~ [ ~~26.~~ 46. ] Change Section R315.2 to read:

R315.2 Where required. Carbon monoxide alarms shall be provided in accordance with this section.

~~25.~~ [ ~~27.~~ 47. ] Delete Section R315.2.2.

[ ~~48.~~ Change Section R315.5 to read:

R315.5 Interconnectivity. Where more than one carbon monoxide alarm is required to be installed within an individual dwelling unit in accordance with Section R315.3, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the dwelling. Alarm devices within a two-family dwelling constructed without fire separations in accordance with Exception 3 of Section R302.3 shall be interconnected in such a manner that the actuation of one alarm within either unit will activate all alarms within both dwelling units. Physical interconnection of carbon monoxide alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

Exception: Interconnection of carbon monoxide alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space, or basement available that could provide access for interconnection without the removal of interior finishes. ]

~~26.~~ [ ~~28.~~ 49. ] Delete Section ~~R315.5~~ R315.6.

~~27.~~ [ ~~29.~~ 50. ] Change Section ~~R315.6.3~~ R315.7.3 to read:

~~R315.6.3~~ R315.7.3 Permanent fixture. Where a household carbon monoxide detection system is installed, it shall become a permanent fixture of the occupancy.

~~28.~~ [ ~~30.~~ 51. ] Add Section R320.2 to read:

R320.2 Universal design features for accessibility in dwellings. Dwellings constructed under the IRC not subject to Section R320.1 may comply with Section 1109.16 of the USBC and be approved by the local

building department as dwellings containing universal design features for accessibility.

[ ~~52.~~ Change section R322.2.1 to read:

R.322.2.1 Elevation requirements.

1. Buildings and structures in floor hazard areas, including flood hazard areas not designated as Coastal A Zones, shall have the lowest floors elevated to or above the base flood elevation plus 1 foot (305 mm), or the design flood elevation, whichever is higher.

2. In areas of shallow flooding (AO Zones), buildings and structures shall have the lowest floor (including basement) elevated to a height above the highest adjacent grade of not less than the depth number specified in feet (mm) on the FIRM plus 1 foot (305 mm), or not less than 3 feet (915 mm) if a depth number is not specified.

3. Basement floors that are below grade on all sides shall be elevated to or above base flood elevation plus 1 foot (305 mm), or the design flood elevation, whichever is higher.

4. Garage and carport floors shall comply with one of the following:

4.1 They shall be elevated to or above the elevations required in Item 1 or Item 2, as applicable

4.2 They shall be at or above grade on not less than one side. Where a garage or carport is enclosed by walls, the garage or carport shall be used solely for parking, building access or storage.

Exception: Enclosed areas below the elevation required by this section, including basements with floors that are not below grade on all sides, shall meet the requirements of Section R322.2.2

~~53.~~ Change section R322.3.2 to read:

R322.3.2 Elevation Requirements.

1. Buildings and structures erected within coastal high-hazard areas and Coastal A Zones, shall be elevated so that the bottom of the lowest horizontal structural members supporting the lowest floor, with the exception of piling, pile caps, columns, grade beams and bracing, is elevated to or above the base flood elevation plus 1 foot (305 mm) or the design flood elevation, whichever is higher.

2. Basement floors that are below grade on all sides are prohibited.

3. Garages used solely for parking, building access or storage and carports, shall comply with Item 1 or shall be at or above grade on not less than one side, and where enclosed with walls. Such walls shall comply with Item 6.

4. The use of fill or structural support is prohibited.

5. Minor grading, and the placement of minor quantities of fill, shall be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios, and walkways.



6. Walls and partitions enclosing areas below the elevation required in this section shall meet the requirements of Sections R322.3.5 and R322.3.6

54. Change R322.3.3 to read:

R322.3.3 Foundations. Buildings and structures erected in coastal high-hazard areas and Coastal A Zones shall be supported on pilings or columns and shall be adequately anchored to such pilings or columns.

1. The space below the elevated building shall be either free of obstruction or, if enclosed with walls, the walls shall meet the requirements of Section R322.3.5.

2. Pilings shall have adequate soil penetrations to resist the combined wave and wind loads (lateral and uplift). Pile embedment shall include consideration of decreased resistance capacity caused by scour of soil strata surrounding the piling.

3. Columns and their supporting foundations shall be designed to resist combined wave and wind loads, lateral and uplift, and shall include consideration of decreased resistance capacity caused by scour of soil strata surrounding the columns. Spread footing, mat, raft, or other foundations that support columns shall not be permitted where soil investigations that are required in accordance with Section R401.4 indicate that soil material under the spread footing, mat, raft, or other foundation is subject to scour or erosion from wave-velocity flow conditions. If permitted, spread footing, mat, raft, or other foundations that support columns shall be designed in accordance with ASCE 24.

4. Flood and wave loads shall be associated with the design flood. Wind loads shall be those required by this code.

5. Foundation designs and construction documents shall be prepared and sealed in accordance with Section R322.3.9.

Exception: In Coastal A zones, stem wall foundations supporting a floor system above and backfilled with soil or gravel to the underside of the floor system shall be permitted provided that the foundations are designed to account for wave action, debris impact, erosion and local scour. Where soils are susceptible to erosion and local scour, stem wall foundations shall have deep footings to account for the loss of soil.

55. Change R324.6.2.1 to read:

R324.6.2.1 Alternative setback at ridge. Where an automatic sprinkler system is installed within the dwelling in accordance with NFPA 13D, 13.13R, or Section P2904, setbacks at ridges shall comply with one of the following:

1. For photovoltaic arrays occupying not more than 66% of the plan view total roof area, not less than an 18-inch (457 mm) clear setback is required on both sides of a horizontal ridge.

2. For photovoltaic arrays occupying more than 66% of the plan view total roof area, not less than a 36-inch (914 mm) clear setback is required on both sides of a horizontal ridge. ]

29. [ ~~31.~~ 56. ] Add Section R326.1.1 to read:

R326.1.1 Changes to the ISPSC. The following change shall be made to the ISPSC:

1. Change Section 305.2.9 to read:

305.2.9 Equipment clear zone. Equipment, including pool equipment such as pumps, filters, and heaters shall not be installed within 36 inches (914 mm) of the exterior of the barrier when located on the same property.

30. [ ~~32.~~ 57. ] Add Section ~~R327~~ R328 Radon-Resistant Construction.

34. [ ~~33.~~ 58. ] Add Section ~~R327.1~~ R328.1 to read:

~~R327.1~~ R328.1 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.

Exception: Buildings or portions thereof with crawl space foundations which are ventilated to the exterior, shall not be required to provide radon-resistant construction.

32. [ ~~34.~~ 59. ] Add Section ~~R328~~ R329 Patio Covers.

33. [ ~~35.~~ 60. ] Add Section ~~R328.1~~ R329.1 to read:

~~R328.1~~ R329.1 Use of Appendix H for patio covers. Patio covers shall comply with the provisions in Appendix H.

34. [ ~~36.~~ 61. ] Add Section ~~R329~~ R330 Sound Transmission.

35. [ ~~37.~~ 62. ] Add Section ~~R329.1~~ R330.1 to read:

~~R329.1~~ R330.1 Sound transmission between dwelling units. Construction assemblies separating dwelling units shall provide airborne sound insulation as required in Appendix K.

36. [ ~~38.~~ 63. ] Add Section ~~R329.2~~ R330.2 to read:

~~R329.2~~ R330.2 Airport noise attenuation. This section applies to the construction of the exterior envelope of detached one-family and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress within airport noise zones when enforced by a locality pursuant to § 15.2-2295 of the Code of Virginia. The exterior envelope of such structures shall comply with Section ~~1207.4~~ 1206.4 of the state amendments to the IBC.

37. [ ~~39.~~ 64. ] Add Section ~~R330~~ R331 Fire Extinguishers.

38. [ ~~40.~~ 65. ] Add Section ~~R330.1~~ R331.1 to read:

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~~R330.4~~ R331.1 Kitchen areas. Other than where the dwelling is equipped with an approved sprinkler system in accordance with Section R313, a fire extinguisher having a rating of 2-A:10-B:C or an approved equivalent type of fire extinguisher shall be installed in the kitchen area.

~~39.~~ [ ~~41.~~ 66. ] Add Section ~~R331~~ R332 Interior Passage.

~~40.~~ [ ~~42.~~ 67. ] Add Sections ~~R331.1~~ R332.1 through ~~R331.6~~ R332.6 to read:

~~R331.1~~ R332.1 General. This section applies to new dwelling units that have both a kitchen and a living area on the same floor level as the egress door required by Section R311.2. This section is not applicable to additions, reconstruction, alteration, or repair.

~~R331.2~~ R332.2 Kitchen. One interior passage route from the egress door to the kitchen shall comply with ~~R331.6~~ R332.6.

~~R331.3~~ R332.3 Living area. One interior passage route from the egress door to at least one living area shall comply with ~~R331.6~~ R332.6.

~~R331.4~~ R332.4 Bedroom. Where the dwelling unit has a bedroom on the same floor level as the egress door, one interior passage route from the egress door to at least one bedroom shall comply with ~~R331.6~~ R332.6.

~~R331.5~~ R332.5 Bathroom. Where a dwelling unit has a bathroom on the same floor level as the egress door, and the bathroom contains a water closet, lavatory, and bathtub or shower, one interior passage route from the egress door to at least one bathroom shall comply with ~~R331.6~~ R332.6. Bathroom fixture clearances shall comply with R307 and access to fixtures is not required to comply with ~~R331.6~~ R332.6.

~~R331.6~~ R332.6 Opening widths. Opening widths along the interior passage route required by this section shall comply with the following:

1. Cased openings shall provide a minimum 34 inch (864 mm) clear width.
2. Doors shall be a nominal 34 inch (864 mm) minimum width. Double doors are permitted to be used to meet this requirement.

[ ~~43.~~ 68. ] Add Section R333 Tiny Houses.

[ ~~44.~~ 69. ] Add Section R333.1 to read:

R333.1 General. Appendix Q may be used as an alternative to the requirements of this code where a dwelling is 400 square feet (37 m<sup>2</sup>) or less in floor area.

~~41.~~ [ ~~45.~~ 70. ] Change Section R401.3 to read:

R401.3 Drainage. Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection that does not create a hazard to the dwelling unit. Lots shall be graded to drain surface water away from

foundation walls. The grade shall fall a minimum of six inches (152 mm) within the first 10 feet (3048 mm).

Exception: Where lot lines, walls, slopes or other physical barriers prohibit six inches (152 mm) of fall within 10 feet (3048 mm), drains or swales shall be constructed to ensure drainage away from the structure. Impervious surfaces within 10 feet (3048 mm) of the building foundation shall be sloped a minimum of ~~2.0%~~ 1.0% away from the building.

~~42.~~ [ ~~46.~~ 71. ] Add the following exceptions to Section R403.1 to read:

Exceptions:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, not exceeding 256 square feet (23.7824 m<sup>2</sup>) of building area, provided all of the following conditions are met:

- 1.1. The building eave height is 10 feet or less.
- 1.2. The maximum height from the finished floor level to grade does not exceed 18 inches.
- 1.3. 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.
- 1.4. The structure is anchored to withstand wind loads as required by this code.

1.5. 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.

2. Footings are not required for ramps serving dwelling units in ~~Group~~ Groups R-3 and R-5 occupancies where the height of the entrance is no more than 30 inches (762 mm) above grade.

[ ~~47.~~ 72. ] Change Section R403.1.6 to read:

R403.1.6 Foundation anchorage. Wood sill plates and wood walls supported directly on continuous foundations shall be anchored to the foundation in accordance with this section.

Cold-formed steel framing shall be anchored directly to the foundation or fastened to wood sill plates in accordance with Section R505.3.1 or R603.3.1, as applicable. Wood sill plates supporting cold-formed steel framing shall be anchored to the foundation in accordance with this section.

Wood foundation plates or sills shall be bolted or anchored to the foundation with not less than 1/2-inch-diameter (12.7 mm) steel bolts or approved anchors spaced to provide equivalent anchorage as the steel bolts. Bolts shall be embedded not less than 7 inches (178 mm) into concrete or grouted cells of concrete masonry units. The

[ centerline of the ] bolts shall be located [ ~~in the middle third of the width of the~~ a minimum of 1.75 inches (44.5mm) from the edge of the sill ] plate. Bolts shall be spaced not more than 6 feet (1829 mm) on center and there shall be not less than two bolts or anchor straps per piece with one bolt or anchor strap located not more than 12 inches (305 mm) or less than 4 inches (102 mm) from each end of each piece. A properly sized nut and washer shall be tightened on each bolt to the plate. Interior bearing wall sole plates on monolithic slab foundation that are not part of a braced wall panel shall be positively anchored with approved fasteners. Sill plates and sole plates shall be protected against decay and termites where required by Sections R317 and R318.

Exceptions:

1. Walls 24 inches (610 mm) total length or shorter connecting offset braced wall panels shall be anchored to the foundation with not fewer than one anchor bolt located in the center third of the plate section and shall be attached to adjacent braced wall panels at corners as shown in Item 9 of Table R602.3(1).
2. Connection of walls 12 inches (305 mm) total length or shorter connecting offset braced wall panels to the foundation without anchor bolts shall be permitted. The wall shall be attached to adjacent braced wall panels at corners as shown in Item 9 of Table R602.3(1).

43. [ ~~48- 73.~~ ] Delete Section R404.1.9.2.

[ ~~49- 74.~~ ] Change Sections R408.1, R408.2, and R408.3 to read:

R408.1 Moisture control. The under-floor space between the bottom of the floor joists and the earth under any building (except space occupied by a basement) shall comply with Section R408.2 or R408.3.

R408.2 Openings for under-floor ventilation. Ventilation openings through foundation or exterior walls surrounding the under-floor space shall be provided in accordance with this section. The minimum net area of ventilation openings shall be not less than 1 square foot (0.0929 m<sup>2</sup>) for each 150 square feet (14 m<sup>2</sup>) of under-floor area. One ventilation opening shall be within 3 feet (915 mm) of each external corner of the under-floor space. 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), and operational louvers are permitted:

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) thick.

Exceptions:

1. The total area of ventilation openings shall be permitted to be reduced to 1/1,500 of the under-floor area where the ground surface is covered with an approved Class I vapor retarder material.

2. Where the ground surface is covered with an approved Class I vapor retarder material, ventilation openings are not required to be within 3 feet (915 mm) of each external corner of the under-floor space provided the openings are placed to provide cross ventilation of the space.

R408.3 Unvented crawl space. For unvented under-floor spaces the following items shall be provided:

1. Exposed earth shall be covered with a continuous Class I vapor retarder. Joints of the vapor retarder shall overlap by 6 inches (152 mm) and shall be sealed or taped. The edges of the vapor retarder shall extend not less than 6 inches (152 mm) up the stem wall and shall be attached and sealed to the stem wall or insulation.

2. One of the following shall be provided for the under-floor space:

2.1. Continuously operated mechanical exhaust ventilation at a rate equal to 1 cubic foot per minute (0.47 L/s) for each 50 square feet (4.7 m<sup>2</sup>) of crawl space floor area, including an air pathway to the common area (such as a duct or transfer grille), and perimeter walls insulated in accordance with Section N1102.2.11 of this code.

2.2. Conditioned air supply sized to deliver at a rate equal to 1 cubic foot per minute (0.47 L/s) for each 50 square feet (4.7 m<sup>2</sup>) of under-floor area, including a return air pathway to the common area (such as a duct or transfer grille), and perimeter walls insulated in accordance with Section N1102.2.11 of this code.

2.3. Plenum in existing structures complying with Section M1601.5, if under-floor space is used as a plenum.

2.4. Dehumidification sized to provide 70 pints (33 liters) of moisture removal per day for every 1,000 square feet (93 m<sup>2</sup>) of crawl space floor area.

44. [ ~~50- 75.~~ ] Change the exception to Section R408.2 to read:

Exception: The total area of ventilation openings shall be permitted to be reduced to 1/1,500 of the under-floor area where the ground surface is covered with an approved Class I vapor retarder material and the required openings are placed to provide cross ventilation of the space. The installation of operable louvers shall not be prohibited nor shall the required openings need to be within three feet (915 mm) of each corner provided there is cross ventilation of the space.

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**45. [ ~~51, 76.~~ ] Add Section R408.3.1 to read:**

R408.3.1 Termite inspection. Where an unvented crawl space is installed and meets the criteria in Section R408, the vertical face of the sill plate shall be clear and unobstructed and an inspection gap shall be provided below the sill plate along the top of any interior foundation wall covering. The gap shall be a minimum of one inch (25.4 mm) and a maximum of two inches (50.8 mm) in width and shall extend throughout all parts of any foundation that is enclosed. Joints between the sill plate and the top of any interior wall covering may be sealed.

Exceptions:

1. In areas not subject to damage by termites as indicated by Table R301.2(1).
2. Where other approved means are provided to inspect for potential damage.

Where pier and curtain foundations are installed as depicted in Figure R404.1.5(1), the inside face of the rim joist and sill plate shall be clear and unobstructed except for construction joints which may be sealed.

Exception: Fiberglass or similar insulation may be installed if easily removable.

**46. [ ~~52, 77.~~ ] 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.

**47. [ ~~53, 78.~~ ] 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.

**48. Change Item 4 in Table R602.3(1) to read:**

|   |   |                   |           |
|---|---|-------------------|-----------|
| 4 | Ceiling joist attached to parallel rafter (heel joint) (see Sections R802.3.1 and R802.3.2 and Table R802.5.1(9)) | Table<br>R802.5.2 | Face nail |
|---|---|-------------------|-----------|

**49. Change Table R602.7(1) to read:**

**EDITOR'S NOTE:** Table R602.7(1), Girder Spans and Header Spans for Exterior Bearing Walls, is deleted in its entirety; therefore, the text of Table R602.7(1) is not set out.

**50. Change Table R602.7(2) to read:**

**EDITOR'S NOTE:** Table R602.7(2), Girder Spans and Header Spans for Interior Bearing Walls, is deleted in its entirety; therefore, the text of Table R602.7(2) is not set out.

**51. [ ~~54, 79.~~ ] Change Section R602.10 to read:**

R602.10 Wall bracing. Buildings shall be braced in accordance with this section or Section R602.12. 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 Section R301.1.

The building official shall be permitted to require the permit applicant to identify braced wall lines and braced wall panels on the construction documents as described in this section and provide associated analysis. The building official shall be permitted to waive the analysis of the upper floors where the cumulative length of wall openings of each upper floor wall is less than or equal to the length of the openings of the wall directly below.

**52. [ ~~55, 80.~~ ] Change Section R602.10.9 to read:**

R602.10.9 Braced wall panel support. Braced wall panel support shall be provided as follows:

1. Cantilevered floor joists complying with Section R502.3.3 shall be permitted to support braced wall panels.
2. Raised floor system post or pier foundations supporting braced wall panels shall be designed in accordance with accepted engineering practice.
3. Masonry stem walls with a length of 48 inches (1219 mm) or less supporting braced wall panels shall be reinforced in accordance with Figure R602.10.9. Masonry stem walls with a length greater than 48 inches (1219 mm) supporting braced wall panels shall be constructed in accordance with Section R403.1 Methods ABW and PFH shall not be permitted to attach to masonry stem walls.
4. Concrete stem walls with a length of 48 inches (1219 mm) or less, greater than 12 inches (305 mm) tall and less than 6 inches (152 mm) thick shall have reinforcement sized and located in accordance with Figure R602.10.9.

Exception: For masonry stem walls, an approved post-installed adhesive anchoring system shall be permitted as an alternative to the Optional Stem Wall Reinforcement detail in Figure R602.10.9. A minimum of two anchors shall be installed as indicated in Figure R602.10.9. Anchors shall be located not more than 4 inches (102 mm) from each end of the stem wall. Anchors shall be installed into the concrete footing as follows:

1. Five-eighth inch (16 mm) treaded rod using a 3/4 inch (19 mm) diameter drilled hole with a minimum embedment of 6 inches (152 mm).

2. Number 4 size reinforcing bar using a 5/8-inch (16 mm) diameter drilled hole with a minimum embedment of 4-1/2 inches (114 mm).

A minimum footing thickness of 8 inches (203 mm) is required and the minimum distance from each anchor to the edge of the footing shall be 3-3/4 inches (95 mm). The anchoring adhesive and anchors shall be installed in accordance with the manufacturer's instructions and have a minimum tensile capacity of 5,000 lbs. (22 kN). The bond beam reinforcement and attachment of braced wall panels to the stem wall shall be as shown in Figure R602.10.9.

53- [56, 81.] Replace Section R602.12, including all subsections, with the following:

R602.12 Practical wall bracing. All buildings in Seismic Design Categories A and B and detached buildings in Seismic Design Category C shall be permitted to be braced in accordance with this section as an alternative to the requirements of Section R602.10. 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 Section R301.1. The use of other bracing provisions of Section R602.10, except as specified herein, shall not be permitted.

The building official shall be permitted to require the permit applicant to identify bracing on the construction documents and provide associated analysis. The building official shall be permitted to waive the analysis of the upper floors where the cumulative length of wall openings of each upper floor wall is less than or equal to the length of the openings of the wall directly below.

R602.12.1 Sheathing materials. The following materials shall be permitted for use as sheathing for wall bracing. Exterior walls shall be sheathed on all sheathable surfaces, including infill areas between bracing locations, above and below wall openings, and on gable end walls.

1. Wood structural panels with a minimum thickness of 7/16 inch (9.5 mm) fastened in accordance with Table R602.3(3).

2. Structural fiberboard sheathing with a minimum thickness of 1/2 inch (12.7 mm) fastened in accordance with Table R602.3(1).

3. Gypsum board with a minimum thickness of 1/2 inch (12.7 mm) fastened in accordance with Table R702.3.5 on interior walls only.

R602.12.2 Braced wall panels. Braced wall panels shall be full-height wall sections sheathed with the materials listed in Section R602.12.1 and complying with the following:

1. Exterior braced wall panels shall have a minimum length based on the height of the adjacent opening as specified in Table R602.12.2. Panels with openings on both sides of differing heights shall be governed by the taller opening when determining panel length.

2. Interior braced wall panels shall have a minimum length of 48 inches (1220 mm) when sheathing material is applied to one side. Doubled-sided applications shall be permitted to be considered two braced wall panels.

3. Braced wall panels shall be permitted to be constructed of Methods ABW, PFH, PFG, and CS-PF in accordance with Section R602.10.4.

4. Exterior braced wall panels, other than the methods listed in Item 3 above shall have a finish material installed on the interior. The finish material shall consist of 1/2 inch (12.7 mm) gypsum board or equivalent and shall be permitted to be omitted where the required length of bracing, as determined in Section R602.12.4, is multiplied by 1.40, unless otherwise required by Section R302.6.

5. Vertical sheathing joints shall occur over and be fastened to common studs.

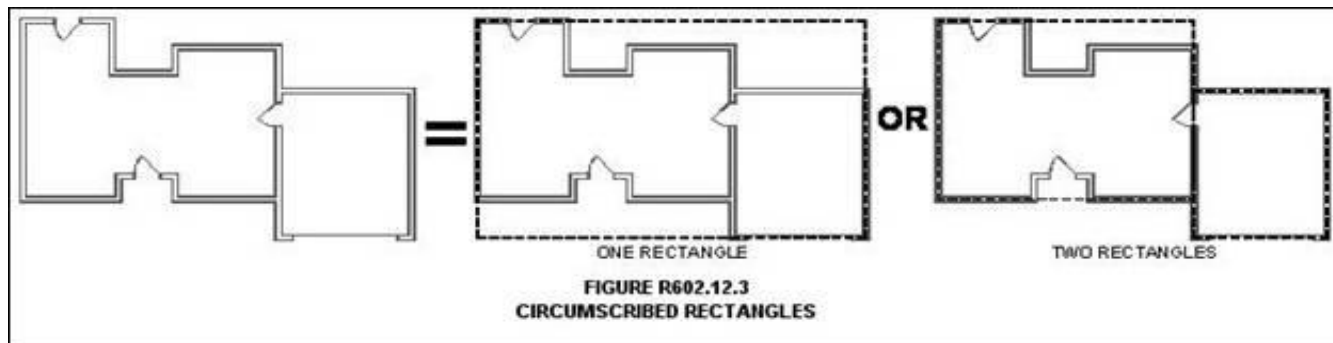
6. Horizontal sheathing joints shall be edge nailed to 1-1/2 inch (38 mm) minimum thick common blocking.

| Location   | Wall Height (feet)            |    |    |    |    |
|--|-------------------------------|----|----|----|----|
|  | 8                             | 9  | 10 | 11 | 12 |
|  | Minimum Panel Length (inches) |    |    |    |    |
| Adjacent garage door of one-story garage <sup>a</sup>                | 24                            | 27 | 30 | 33 | 36 |
| Adjacent all other openings <sup>b</sup>                             |                               |    |    |    |    |
| Clear opening height (inches) ≤ 64                                   | 24                            | 27 | 30 | 33 | 36 |
| Clear opening height (inches) ≤ 72                                   | 27                            | 27 | 30 | 33 | 36 |
| Clear opening height (inches) ≤ 80                                   | 30                            | 30 | 30 | 33 | 36 |
| Clear opening height (inches) > 80                                   | 36                            | 36 | 36 | 40 | 40 |
| For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm.                         |                               |    |    |    |    |
| a. Braced wall panels supporting a gable end wall or roof load only. |                               |    |    |    |    |
| b. Interpolation shall be permitted.                                 |                               |    |    |    |    |

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R602.12.3 Circumscribed rectangle. Required length of bracing shall be determined by circumscribing one or more rectangles around the entire building or portions thereof as shown in Figure R602.12.3. Rectangles shall surround all enclosed offsets and projections such as sunrooms and attached garages. Chimneys, partial height projections, and open structures, such as carports and

decks, shall be excluded from the rectangle. Each rectangle shall have no side greater than 80 feet (24,384 (24,384 mm) with a maximum 3:1 ratio between the long and short side. Rectangles shall be permitted to be skewed to accommodate angled projections as shown in Figure R602.12.4.3.



R602.12.4 Required length of bracing. The required length of bracing for each side of a circumscribed rectangle shall be determined using Table R602.12.4. Where multiple rectangles share a common side or sides, the required length of bracing shall equal the sum of the required lengths from all shared rectangle sides.

| Wind Speed | Eave-to-Ridge Height (feet) | Number of Floor Levels Above <sup>e,f</sup> | Required Length of Bracing on Front/Rear Side (feet) |      |      |      |      |      |      |      | Required Length of Bracing on Left/Right Side (feet) |      |      |      |      |      |      |      |
|------------|-----------------------------|---|--|------|------|------|------|------|------|------|--|------|------|------|------|------|------|------|
|            |                             |   | Length of Left/Right Side (feet)                     |      |      |      |      |      |      |      | Length of Front/Rear Side (feet)                     |      |      |      |      |      |      |      |
|            |                             |   | 10   | 20   | 30   | 40   | 50   | 60   | 70   | 80   | 10   | 20   | 30   | 40   | 50   | 60   | 70   | 80   |
| 115        | 10                          | 0   | 2.0  | 3.5  | 5.0  | 6.0  | 7.5  | 9.0  | 10.5 | 12.0 | 2.0  | 3.5  | 5.0  | 6.0  | 7.5  | 9.0  | 10.5 | 12.0 |
|            |                             | 1 <sup>d</sup>                              | 3.5  | 6.5  | 9.0  | 12.0 | 14.5 | 17.0 | 19.8 | 22.6 | 3.5  | 6.5  | 9.0  | 12.0 | 14.5 | 17.0 | 19.8 | 22.6 |
|            |                             | 2 <sup>d</sup>                              | 5.0  | 9.5  | 13.5 | 17.5 | 21.5 | 25.0 | 29.2 | 33.4 | 5.0  | 9.5  | 13.5 | 17.5 | 21.5 | 25.0 | 29.2 | 33.4 |
|            | 15                          | 0   | 2.6  | 4.6  | 6.5  | 7.8  | 9.8  | 11.7 | 13.7 | 15.7 | 2.6  | 4.6  | 6.5  | 7.8  | 9.8  | 11.7 | 13.7 | 15.7 |
|            |                             | 1 <sup>d</sup>                              | 4.0  | 7.5  | 10.4 | 13.8 | 16.7 | 19.6 | 22.9 | 26.2 | 4.0  | 7.5  | 10.4 | 13.8 | 16.7 | 19.6 | 22.9 | 26.2 |
|            |                             | 2 <sup>d</sup>                              | 5.5  | 10.5 | 14.9 | 19.3 | 23.7 | 27.5 | 32.1 | 36.7 | 5.5  | 10.5 | 14.9 | 19.3 | 23.7 | 27.5 | 32.1 | 36.7 |
|            | 20                          | 0   | 2.9  | 5.2  | 7.3  | 8.8  | 11.1 | 13.2 | 15.4 | 17.6 | 2.9  | 5.2  | 7.3  | 8.8  | 11.1 | 13.2 | 15.4 | 17.6 |
|            |                             | 1 <sup>d</sup>                              | 4.5  | 8.5  | 11.8 | 15.6 | 18.9 | 22.1 | 25.8 | 29.5 | 4.5  | 8.5  | 11.8 | 15.6 | 18.9 | 22.1 | 25.8 | 29.5 |
|            |                             | 2 <sup>d</sup>                              | 6.2  | 11.9 | 16.8 | 21.8 | 27.3 | 31.1 | 36.3 | 41.5 | 6.2  | 11.9 | 16.8 | 21.8 | 27.3 | 31.1 | 36.3 | 41.5 |
| 130        | 10                          | 0   | 2.5  | 4.0  | 6.0  | 7.5  | 9.5  | 11.0 | 12.8 | 14.6 | 2.5  | 4.0  | 6.0  | 7.5  | 9.5  | 11.0 | 12.8 | 14.6 |
|            |                             | 1 <sup>d</sup>                              | 4.5  | 8.0  | 11.0 | 14.5 | 18.0 | 21.0 | 24.5 | 28.0 | 4.5  | 8.0  | 11.0 | 14.5 | 18.0 | 21.0 | 24.5 | 28.0 |
|            |                             | 2 <sup>d</sup>                              | 6.0  | 11.5 | 16.5 | 21.5 | 26.5 | 31.0 | 36.2 | 41.4 | 6.0  | 11.5 | 16.5 | 21.5 | 26.5 | 31.0 | 36.2 | 41.4 |
|            | 15                          | 0   | 3.4  | 5.2  | 7.8  | 9.8  | 12.4 | 14.3 | 16.7 | 19.1 | 3.4  | 5.2  | 7.8  | 9.8  | 12.4 | 14.3 | 16.7 | 19.1 |
|            |                             | 1 <sup>d</sup>                              | 5.2  | 9.2  | 12.7 | 16.7 | 20.7 | 24.2 | 28.2 | 32.2 | 5.2  | 9.2  | 12.7 | 16.7 | 20.7 | 24.2 | 28.2 | 32.2 |
|            |                             | 2 <sup>d</sup>                              | 6.6  | 12.7 | 18.2 | 23.7 | 29.2 | 34.1 | 39.8 | 45.5 | 6.6  | 12.7 | 18.2 | 23.7 | 29.2 | 34.1 | 39.8 | 45.5 |
|            | 20                          | 0   | 3.8  | 5.9  | 8.8  | 11.1 | 14.0 | 16.2 | 18.9 | 21.6 | 3.8  | 5.9  | 8.8  | 11.1 | 14.0 | 16.2 | 18.9 | 21.6 |

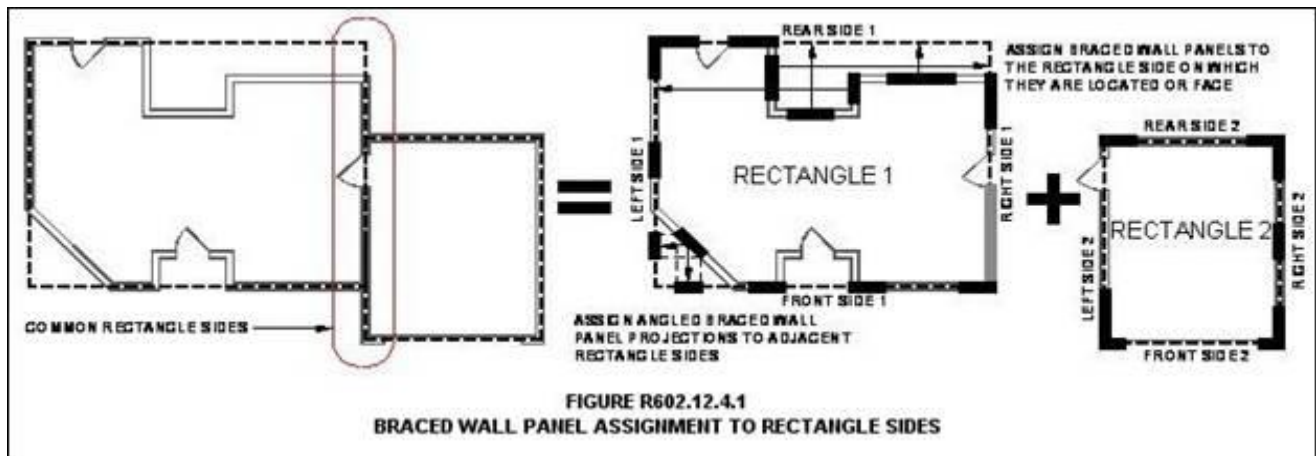
|  |                |     |      |      |      |      |      |      |      |     |      |      |      |      |      |      |      |
|--|----------------|-----|------|------|------|------|------|------|------|-----|------|------|------|------|------|------|------|
|  | 1 <sup>d</sup> | 5.9 | 10.4 | 14.4 | 18.9 | 23.4 | 27.3 | 31.8 | 36.3 | 5.9 | 10.4 | 14.4 | 18.9 | 23.4 | 27.3 | 31.8 | 36.3 |
|  | 2 <sup>d</sup> | 7.5 | 14.4 | 20.6 | 26.8 | 33.0 | 38.5 | 44.9 | 51.3 | 7.5 | 14.4 | 20.6 | 26.8 | 33.0 | 38.5 | 44.9 | 51.3 |

For SI: 1 ft = 304.8 mm.

- a. Interpolation shall be permitted; extrapolation shall be prohibited.
- b. For Exposure Category C, multiply the required length of bracing by a factor of 1.20 for a one-story building, 1.30 for a two-story building, and 1.40 for a three-story building.
- c. For wall height adjustments multiply the required length of bracing by the following factors: 0.90 for 8 feet (2438 mm), 0.95 for 9 feet (2743 mm), 1.0 for 10 feet (3048 mm), 1.05 for 11 feet (3353 mm), and 1.10 for 12 feet (3658 mm).
- d. Where braced wall panels supporting stories above have been sheathed in wood structural panels with edge fasteners spaced at 4 inches (102 mm) on center, multiply the required length of bracing by 0.83.
- e. A floor level, habitable or otherwise, contained wholly within the roof rafters or trusses shall not be considered a floor level for purposes of determining the required length of bracing.
- f. A rectangle side with differing number of floor levels above shall use the greatest number when determining the required length of bracing.

**R602.12.4.1 Braced wall panel assignment to rectangle sides.** Braced wall panels shall be assigned to the applicable rectangle side and contribute to its required length of bracing. Panels shall be assigned as specified below and as shown in Figure R602.12.4.1.

- 1. Exterior braced wall panels shall be assigned to the parallel rectangle side on which they are located or in which they face.
- 2. Interior braced wall panels shall be assigned to the parallel rectangle side on which they are located or in which they face up to 4 feet (1220 mm) away. Interior braced wall panels more than 4 feet (1220 mm) away from a parallel rectangle side shall not contribute.
- 3. The projections of angled braced wall panels shall be assigned to the adjacent rectangle sides.

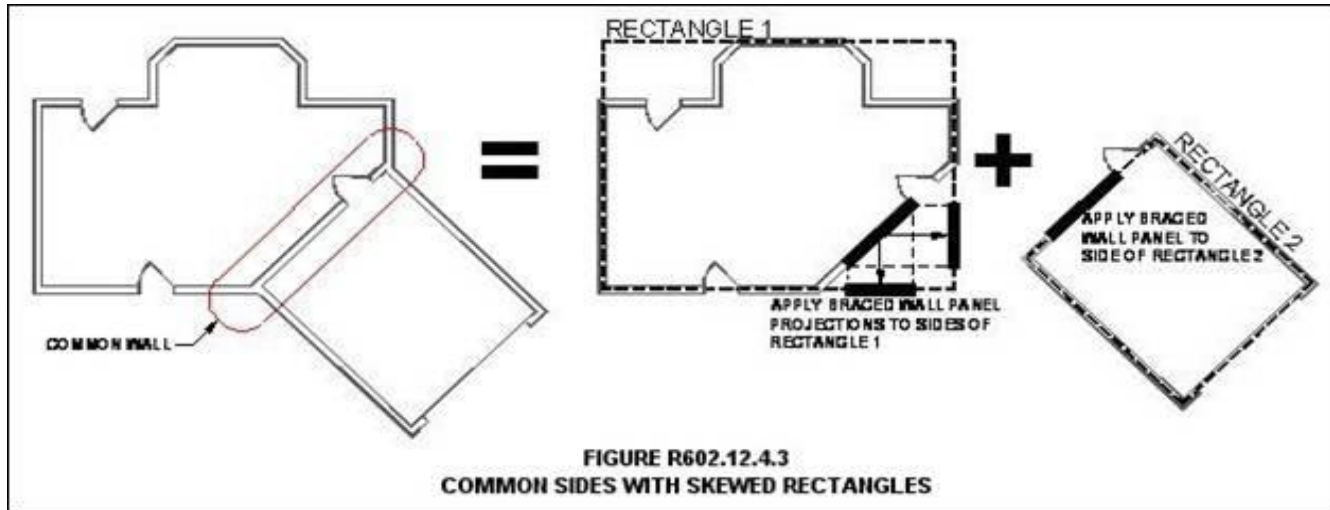


**R602.12.4.2 Contributing length.** The cumulative contributing length of braced wall panels assigned to a rectangle side shall be greater than or equal to the required length of bracing as determined in Section R602.12.4. The contributing length of a braced wall panel shall be as specified below. When applying contributing length to angled braced wall panels, apply the requirements below to each projection:

- 1. Exterior braced wall panels shall contribute their actual length.
- 2. Interior braced wall panels shall contribute one-half of their actual length.
- 3. The contributing length of Methods ABW, PFH, PFG, and CS-PF shall be in accordance with Table R602.10.5.

**R602.12.4.3 Common sides with skewed rectangles.** Braced wall panels located on a common wall where skewed rectangles intersect, as shown in Figure R602.12.4.3, shall be permitted to be assigned to the parallel rectangle side, and their projections shall be permitted to be assigned to the adjacent skewed rectangle sides.

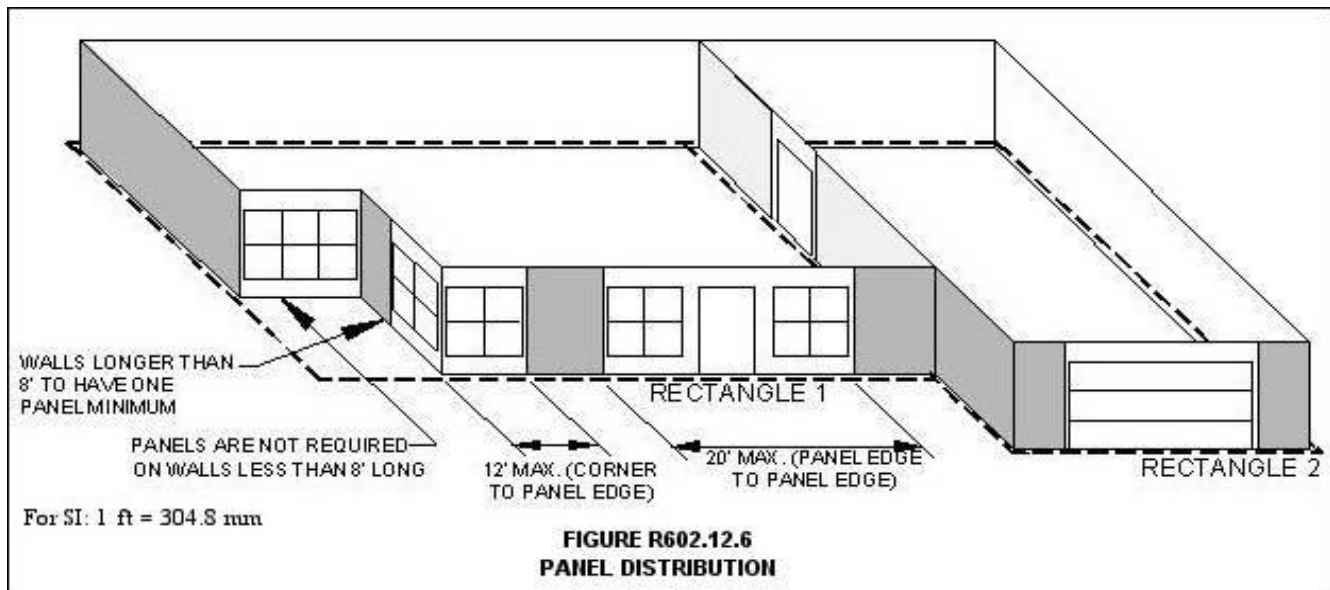
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R602.12.5 Cripple walls and framed walls of walk-out basements. For rectangle sides with cripple walls having a maximum height of 48 inches (1220 mm), the required length of bracing shall be as determined in Section R602.12.4. For rectangle sides with cripple walls having a height greater than 48 inches (1220 mm) at any location or framed walls of a walk-out basement, the required length of bracing shall be determined using Table R602.12.4. Braced wall panels within cripple walls and walls of walk-out basements shall comply with Item 4 of Section R602.12.2.

R602.12.6 Distribution of braced wall panels. Braced wall panels shall be distributed in accordance with the following requirements as shown in Figure R602.12.6.

1. The edge of a braced wall panel shall be no more than 12 feet (3658 mm) from any building corner or rectangle corner.
2. The distance between adjacent edges of braced wall panels shall be no more than 20 feet (6096 mm).
3. Segments of exterior walls greater than 8 feet (2438 mm) in length shall have a minimum of one braced wall panel.
4. Segments of exterior wall 8 feet (2438 mm) or less in length shall be permitted to have no braced wall panels.



R602.12.6.1 Panels adjacent to balloon framed walls. Braced wall panels shall be placed on each side of each story adjacent to balloon framed walls designed in accordance with Section R602.3 with a maximum height of two stories.

R602.12.7 Braced wall panel connection. Braced wall panels shall be connected to other structural elements in accordance with Section R602.10.8.

R602.12.8 Braced wall panel support. Braced wall panels shall be supported in accordance with Section R602.10.9.



## 54. Change Sections R802.2 and R802.3 to read:

~~R802.2 Design and construction. The roof and ceiling assembly shall provide continuous ties across the structure to prevent roof thrust from being applied to the supporting walls. The assembly shall be designed and constructed in accordance with the provisions of this chapter and Figures R606.11(1), R606.11(2) and R606.11(3) or in accordance with AWC NDS.~~

~~R802.3 Ridge. A ridge board used to connect opposing rafters shall be not less than 1 inch (25 mm) nominal thickness and not less in depth than the cut end of the rafter. Where ceiling joist or rafter ties do not provide a continuous ties across the structure, a ridge beam shall be provided and supported on each end by a wall or girder.~~

## 55. Delete Sections R802.3.1, R802.3.2 and R802.3.3.

## 56. Change Section R802.4 and add Section R802.4.1 to read:

~~R802.4 Rafters. Rafters shall be in accordance with this section.~~

~~R802.4.1 Rafter size. Rafters shall be sized based on the rafter spans in Tables R802.4.1(1) through R802.4.1(8). Rafter spans shall be measured along the horizontal projection of the rafter. For other grades and species and for other loading conditions, refer to the AWC STJR.~~

## 57. Change the titles of Tables R802.4(1) and R802.4(2) to Tables R802.5.1(1) and R802.5.1(2), respectively, and change the titles of Tables R802.5.1(1) through R802.5.1(8) to Tables R802.4.1(1) through R802.4.1(8), respectively.

## 58. Add Sections R802.4.2 through R802.4.5 to read:

~~R802.4.2 Framing details. Rafters shall be framed not more than 1 1/2 inches (38 mm) offset from each other to a ridge board or directly opposite from each other with a collar tie, gusset plate or ridge strap in accordance with Table R602.3(1). Rafters shall be nailed to the top wall plates in accordance with Table R602.3(1) unless the roof assembly is required to comply with the uplift requirements of Section R802.11.~~

~~R802.4.3 Hips and valleys. Hip and valley rafters shall be not less than 2 inches (51 mm) nominal in thickness and not less in depth than the cut end of the rafter. Hip and valley rafters shall be supported at the ridge by a brace to a bearing partition or be designed to carry and distribute the specific load at that point.~~

~~R802.4.4 Rafter supports. Where the roof pitch is less than 3:12 (25% slope), structural members that support rafters, such as ridges, hips and valleys, shall be designed as beams, and bearing shall be provided for rafters in accordance with Section R802.6.~~

~~R802.4.5 Purlins. Installation of purlins to reduce the span of rafters is permitted as shown in Figure R802.4.5. Purlins shall be sized not less than the required size of the~~

~~rafters that they support. Purlins shall be continuous and shall be supported by 2 inch by 4 inch (51 mm by 102 mm) braces installed to bearing walls at a slope not less than 45 degrees (0.79 rad) from the horizontal. The braces shall be spaced not more than 4 feet (1219 mm) on center and the unbraced length of braces shall not exceed 8 feet (2438 mm).~~

## 59. Add Figure R802.4.5 to read:

|  |
|--|
| EDITOR'S NOTE: Figure R802.4.5 is being deleted. |
|--|

## 60. Add Section R802.4.6 to read:

~~R802.4.6 Collar ties. Where collar ties are used to connect opposing rafters, they shall be located in the upper third of the attic space and fastened in accordance with Table R602.3(1). Collar ties shall be not less than 1 inch by 4 inches (25 mm by 102 mm) nominal, spaced not more than 4 feet (1219 mm) on center. Ridge straps in accordance with Table R602.3(1) shall be permitted to replace collar ties.~~

## 61. Change Sections R802.5 and R802.5.1 to read:

~~R802.5 Ceiling joists. Ceiling joists shall be continuous across the structure or securely joined where they meet over interior partitions in accordance with Table R802.5.2.~~

~~R802.5.1 Ceiling joist size. Ceiling joists shall be sized based on the joist spans in Tables R802.4(1) and R802.4(2). For other grades and species and for other loading conditions, refer to the AWC STJR.~~

## 62. Delete Figure R802.5.1 and change the title of Table R802.5.1(9) to Table R802.5.2.

## 63. Add Section R802.5.2 to read:

~~R802.5.2 Ceiling joist and rafter connections. Where ceiling joists run parallel to rafters, they shall be connected to rafters at the top wall plate in accordance with Table R802.5.2. Where ceiling joists are not connected to the rafters at the top wall plate, they shall be installed in the bottom third of the rafter height in accordance with Figure R802.4.5 and Table R802.5.2. Where the ceiling joists are installed above the bottom third of the rafter height, the ridge shall be designed as a beam. Where ceiling joists do not run parallel to rafters, the ceiling joists shall be connected to top plates in accordance with Table R602.3(1). Each rafter shall be tied across the structure with a rafter tie or a 2 inch by 4 inch (51 mm x 102 mm) kicker connected to the ceiling diaphragm with nails equivalent in capacity to Table R802.5.2.~~

## 64. Add Sections R802.5.2.1 through R802.5.2.3 to read:

~~R802.5.2.1 Ceiling joists lapped. Ends of ceiling joists shall be lapped a minimum of 3 inches (76 mm) or butted over bearing partitions or beams and toenailed to the bearing member. Where ceiling joists are used to provide resistance to rafter thrust, lapped joists shall be nailed~~

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together in accordance with ~~Table R802.5.2~~, and butted joists shall be tied together in a manner to resist such thrust. Joists that do not resist thrust shall be permitted to be nailed in accordance with ~~Table R602.3(1)~~. Wood structural panel roof sheathing, in accordance with ~~Table R503.2.1.1(1)~~, shall not cantilever more than 9 inches (229 mm) beyond the gable endwall unless supported by gable overhang framing.

~~R802.5.2.2 Rafter ties. Wood rafter ties shall be not less than 2 inches by 4 inches (51 mm by 102 mm) installed in accordance with Table R802.5.2 at each rafter. Other approved rafter tie methods shall be permitted.~~

~~R802.5.2.3 Blocking. Blocking shall be not less than utility grade lumber.~~

[ ~~82.~~ Change Section R609.4 to read:

R609.4 Garage doors. Garage doors shall be tested in accordance with either ASTM E330 or ANSI/DASMA 108, and shall meet the pass/fail criteria of ANSI/DASMA 108.

83. Add Section R609.4.1 to read:

R609.4.1 Garage door labeling. Garage doors shall be labeled with a permanent label affixed to the garage door by the manufacturer. The label shall identify the garage door manufacturer, the garage door model/series number, the positive and negative design wind pressure rating, the installation instruction drawing reference number, and the applicable test standard. ]

~~65.~~ [ ~~57.~~ ~~84.~~ ] Delete Section R905.2.8.5.

~~66.~~ [ ~~58.~~ ~~85.~~ ] Change Section R1001.8 to read:

R1001.8 Smoke chamber. Smoke chamber walls shall be constructed of solid masonry units, hollow masonry units grouted solid, stone, or concrete. The total minimum thickness of front, back, and side walls shall be 8 inches (203 mm) of solid masonry. When the inside surface of the smoke chamber is formed by corbelled masonry, the inside surface shall be parged smooth. When a lining of firebrick at least 2 inches (51 mm) thick, or a lining of vitrified clay at least 5/8 inch (16 mm) thick, is provided, the total minimum thickness of front, back, and side walls shall be 6 inches (152 mm) of solid masonry, including the lining. Firebrick shall conform to ASTM C 1261 and shall be laid with medium duty refractory mortar conforming to ASTM C 199. Vitrified clay linings shall conform to ASTM C 315.

~~67.~~ [ ~~59.~~ ~~86.~~ ] Change Section N1101.13 (R401.2) to read:

N1101.13 (R401.2) Compliance. Projects shall comply with all provisions of Chapter 11 labeled "Mandatory" and one of the following:

1. Sections N1101.14 through N1104.
2. Section N1105.
3. Section N1106.

4. The most recent version of REScheck, keyed to the ~~2015~~ 2018 IECC.

Note: See ~~REScheck compliance guidance issued by DHCD, available at the Department's website.~~

~~68.~~ Delete [ ~~60.~~ ~~87.~~ ] Change Section N1101.14 (R401.3). to read:

N1101.14 (R401.3) Certificate mandatory. A permanent certificate shall be completed by the builder or other approved party and posted on a wall in the space where the furnace is located, a utility room or an approved location inside the building. Where located on an electrical panel, the certificate shall not cover or obstruct the visibility of the circuit directory label, service disconnect label, or other required labels. The certificate shall indicate the predominant R-values of insulation installed in or on ceilings, roofs, walls, or foundation components, such as slabs, basement walls, crawl space walls, and floors and ducts outside conditioned spaces; U-factors of fenestration and the solar heat gain coefficient (SHGC) of fenestration; and the results from any required duct system and building envelope air leakage testing performed on the building. Where there is more than one value for each component, the certificate shall indicate the value covering the largest area. The certificate shall indicate the types and efficiencies of heating, cooling, and service water heating equipment. Where a gas-fired unvented room heater, electric furnace, or baseboard electric heater is installed in the residence, the certificate shall indicate "gas-fired unvented room heater," "electric furnace," or "baseboard electric heater," as appropriate. An efficiency shall not be indicated for gas-fired unvented room heaters, electric furnaces, and electric baseboard heaters.

~~69.~~ [ ~~61.~~ ~~88.~~ ] Change the [ ~~ceiling R-value and~~ ] wood frame wall R-value categories for climate zone "4 except Marine" in Table N1102.1.2 (R402.1.2) to read:

| [ <del>Ceiling R-Value</del> ] | Wood Frame Wall R-Value |
|--------------------------------|-------------------------|
| [ <del>38</del> ]              | 15 or 13 1 <sup>h</sup> |

~~70.~~ [ ~~62.~~ ~~89.~~ ] Change the [ ~~ceiling U-factor and~~ ] frame wall U-factor categories for climate zone "4 except Marine" in Table N1102.1.4 (R402.1.4) to read:

| [ <del>Ceiling U-Factor</del> ] | Frame Wall U-Factor |
|---------------------------------|---------------------|
| [ <del>0.030</del> ]            | 0.079               |

~~71.~~ [ ~~63.~~ ~~90.~~ ] Change Section N1102.2.4 (R402.2.4) to read:

N1102.2.4 (R402.2.4) Access hatches and doors. Access doors from conditioned spaces to unconditioned spaces (e.g., attics and crawl spaces) shall be weatherstripped and insulated in accordance with the following values:

1. Hinged vertical doors shall have a minimum overall R-5 insulation value;

2. Hatches and scuttle hole covers shall be insulated to a level equivalent to the insulation on the surrounding surfaces; and

3. Pull down stairs shall have a minimum of 75% of the panel area having R-5 rigid insulation.

Access shall be provided to all equipment that prevents damaging or compressing the insulation. A wood framed or equivalent baffle or retainer is required to be provided when loose fill insulation is installed, the purpose of which is to prevent the loose fill insulation from spilling into the living space when the attic access is opened, and to provide a permanent means of maintaining the installed R-value of the loose fill insulation.

72- [ 64, 91. ] Change Sections N1102.4 (R402.4) and N1102.4.1.1 (R402.4.1.1) to read:

N1102.4 (R402.4) Air leakage. The building thermal envelope shall be constructed to limit air leakage in accordance with the requirements of Sections N1102.4.1 through [ N1102.4.4 N1102.4.5 ].

N1102.4.1.1 (R402.4.1.1) Installation (Mandatory). The components of the building thermal envelope as listed in Table N1102.4.1.1 shall be installed in accordance with the manufacturer's instructions and the criteria listed in Table N1102.4.1.1, as applicable to the method of construction. Where required by the code official, an approved third party shall inspect all components and verify compliance.

73- [ 65, 92. ] Change the title of the "Insulation Installation Criteria" category of Table N1102.4.1.1 (R402.4.1.1); change the "Shower/tub on exterior wall" category of Table N1102.4.1.1 (R402.4.1.1), and add footnotes "b" and "c" to Table N1102.4.1.1 (R402.4.1.1) to read:

| Component                                | Air Barrier Criteria  | Insulation Installation Criteria <sup>b</sup>                   |
|--|---|---|
| Shower/tub on exterior wall <sup>c</sup> | The air barrier installed at exterior walls adjacent to showers and tubs shall be installed on the interior side and separate the exterior walls from the showers and tubs. | Exterior walls adjacent to showers and tubs shall be insulated. |

b. Structural integrity of headers shall be in accordance with the applicable building code.

c. Air barriers used behind showers and tubs on exterior walls shall be of a permeable material that does not cause the entrapment of moisture in the stud cavity.

74- [ 66, 93. ] Change Section N1102.4.1.2 (R402.4.1.2) and add Sections N1102.4.1.2.1 (R402.4.1.2.1), N1102.4.1.2.2 (R402.4.1.2.2), and N1102.4.1.3 (R402.4.1.3) to read:

N1102.4.1.2 (R402.4.1.2) ~~Air sealing. Building envelope air tightness shall be demonstrated to comply with either Section N1102.4.1.2.1 or N1102.4.1.2.2.~~

N1102.4.1.2.1 (R402.4.1.2.1) ~~Testing option.~~ The building or dwelling unit shall be tested ~~for~~ and verified as having an air leakage rate not exceeding five air changes per hour in Climate Zone 4. Testing shall be conducted in accordance with a blower door RESNET/ICC 380, ASTM E 779, or ASTM E 1827 and reported at a pressure of 0.2 inches w.g. (50 Pa). ~~Where required by the building official, testing shall be conducted by an approved third party.~~ A written report of the results of the test shall be signed by the party conducting the test and provided to the building official. Testing shall be conducted by a Virginia licensed general contractor, a Virginia licensed HVAC contractor, a Virginia licensed home inspector, a Virginia registered design professional, a certified BPI Envelope Professional, a certified HERS rater, or a certified duct and envelope tightness rater. The party conducting the test shall have been trained on the equipment used to perform the test. Testing shall be performed at any time after creation of all penetrations of the building thermal envelope.

Note: Should additional sealing be required as a result of the test, consideration may be given to the issuance of temporary certificate of occupancy in accordance with Section 116.1.1.

During testing:

1. Exterior windows and doors and fireplace and stove doors shall be closed, but not sealed beyond the intended weatherstripping or other infiltration control measures;
2. Dampers, including exhaust, intake, makeup air, backdraft, and flue dampers shall be closed, but not sealed beyond intended infiltration control measures;
3. Interior doors, if installed at the time of the test, shall be open;
4. Exterior doors for continuous ventilation systems and heat recovery ventilators shall be closed and sealed;
5. Heating and cooling systems, if installed at the time of the test, shall be turned off; and
6. Supply and return registers, if installed at the time of the test, shall be fully open.

N1102.4.1.2.2 (R402.4.1.2.2) ~~Visual inspection option. Building envelope tightness shall be considered acceptable when the items listed in Table N1102.4.1.1, applicable to the method of construction, are field verified. Where required by the building official, an approved party, independent from the installer, shall inspect the air barrier. When this option is chosen, whole house~~

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~~mechanical ventilation shall be provided in accordance with Section M1507.3.~~

~~N1102.4.1.3 (R402.4.1.3) Leakage rate (Prescriptive). The building or dwelling unit shall have an air leakage rate less than 5 changes per hour as verified in accordance with Section N1102.4.1.2.~~

75. [ ~~67~~, 94. ] Change Section N1103.3.3 (R403.3.3) to read:  
N1103.3.3 (R403.3.3) Duct testing (Mandatory). Ducts shall be pressure tested to determine air leakage by one of the following methods:

1. Rough-in test: Total leakage shall be measured with a pressure differential of 0.1 inch w.g. (25 Pa) across the system, including the manufacturer's air handler enclosure if installed at the time of the test. All registers shall be taped or otherwise sealed during the test.

2. Postconstruction test: Total leakage shall be measured with a pressure differential of 0.1 inch w.g. (25 Pa) across the entire system, including the manufacturer's air handler enclosure. Registers shall be taped or otherwise sealed during the test.

Exception: A duct air leakage test shall not be required where the ducts and air handlers are located entirely within the building thermal envelope.

A written report of the results of the test shall be signed by the party conducting the test and provided to the code official. The licensed mechanical contractor installing the mechanical system shall be permitted to perform the duct testing. The contractor shall have been trained on the equipment used to perform the test.

[ ~~68~~, 95. ] ~~Delete Section N1103.3.5 (R403.3.5).~~

76. [ ~~69~~, 96. ] Change Section N1103.7 (R403.7) to read:

N1103.7 (R403.7) Equipment and appliance sizing. Heating and cooling equipment and appliances shall be sized in accordance with ACCA Manual S or other approved sizing methodologies based on building loads calculated in accordance with ACCA Manual J or other approved heating and cooling calculation methodologies.

Exception: Heating and cooling equipment and appliance sizing shall not be limited to the capacities determined in accordance with Manual S or other approved sizing methodologies where any of the following conditions apply:

1. The specified equipment or appliance utilizes multi-stage technology or variable refrigerant flow technology and the loads calculated in accordance with the approved heating and cooling methodology fall within the range of the manufacturer's published capacities for that equipment or appliance.

2. The specified equipment or appliance manufacturer's published capacities cannot satisfy both the total and sensible heat gains calculated in accordance with the

approved heating and cooling methodology and the next larger standard size unit is specified.

3. The specified equipment or appliance is the lowest capacity unit available from the specified manufacturer.

77. [ ~~70~~, 97. ] Change footnote for Table N1106.4 (R406.4) to read:

| <del>Climate Zone</del> | <del>Energy Rating Index</del> |
|-------------------------|--------------------------------|
| <del>1</del>            | <del>52</del>                  |
| <del>2</del>            | <del>52</del>                  |
| <del>3</del>            | <del>51</del>                  |
| <del>4</del>            | <del>62</del>                  |
| <del>5</del>            | <del>55</del>                  |
| <del>6</del>            | <del>54</del>                  |
| <del>7</del>            | <del>53</del>                  |
| <del>8</del>            | <del>53</del>                  |

a. When onsite renewable energy is included for compliance using the ERI analysis per Section N1106.4 (R406.4), the building shall meet the mandatory requirements of Section N1106.2 (R406.2) and the building thermal envelope shall be greater than or equal to levels of energy efficiency and solar heat gain coefficient in Table N1102.1.2 (R402.1.2), with a ceiling R-value of 49 and a wood frame wall R-value of 20 or 13 5, or Table N1102.1.4 (R402.1.4), with a ceiling U-factor of 0.026 and a frame wall U-factor of 0.060.

~~78. [ ~~71~~, 98. Change Section N1107.1 (R501.1) and delete Sections N1107.1.1 (R501.1.1) through N1107.6 (R501.6).~~

~~N1107.1 (R501.1) Scope. The provisions of the Virginia Existing Building Code shall control the alteration, repair, addition, and change of occupancy of existing buildings and structures.~~

~~99. Change Section N1108.1 (R502.1) and delete Sections N1108.1.1 (R502.1.1) through N1108.1.2 (R502.1.2).~~

~~N1108.1 (R502.1.1) General. Additions to an existing building, building system or portion thereof shall conform to the provisions of Section 811 of the VEBC.~~

~~100. Change Section N1109.1 (R503.1) and delete Sections N1109.1.1 (R503.1.1) through N1109.2 (R503.2).~~

~~N1109.1 (R503.1) General. Alterations to any building or structure shall comply with the requirements of Chapter 6 of the VEBC.~~

101. Change Section N1110.1 (R504.1) and delete Section N1110.2 (R504.2).

N1110.1 (R504.1) General. Buildings and structures, and parts thereof, shall be repaired in compliance with Section 510 of the VEBC.

102. ] Delete Section N1109.1.1.1 (R503.1.1.1).

79. [ ~~72~~, 103. ] Change Section M1401.3 to read:

M1401.3 Equipment and appliance sizing. Heating and cooling equipment and appliances shall be sized in accordance with ACCA Manual S or other approved sizing methodologies based on building loads calculated in accordance with ACCA Manual J or other approved heating and cooling calculation methodologies.

Exception: Heating and cooling equipment and appliance sizing shall not be limited to the capacities determined in accordance with Manual S or other approved sizing methodologies where any of the following conditions apply:

1. The specified equipment or appliance utilizes multi-stage technology or variable refrigerant flow technology and the loads calculated in accordance with the approved heating and cooling methodology fall within the range of the manufacturer's published capacities for that equipment or appliance.
2. The specified equipment or appliance manufacturer's published capacities cannot satisfy both the total and sensible heat gains calculated in accordance with the approved heating and cooling methodology, and the next larger standard size unit is specified.
3. The specified equipment or appliance is the lowest capacity unit available from the specified manufacturer.

80. [ ~~73~~, 104. ] Add Section M1501.2 to read:

M1501.2 Transfer air. Air transferred from occupiable spaces other than kitchens, baths, and toilet rooms shall not be prohibited from serving as makeup air for exhaust systems. Transfer openings between spaces shall be of the same cross-sectional area as the free area of the makeup air openings. Where louvers and grilles are installed, the required size of openings shall be based on the net free area of each opening. Where the design and free area of louvers and grilles are not known, it shall be assumed that wood louvers will have 25% free area and metal louvers and grilles will have 75% free area.

81. [ ~~74~~, 105. ] Change Section M1502.4.2 to read:

M1502.4.2 Duct installation. Exhaust ducts shall be supported at 4-foot (1219 mm) intervals and shall be secured in place. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Ducts shall not be joined with screws or similar fasteners that protrude into the inside of the duct. Where dryer exhaust ducts are enclosed in wall or ceiling cavities, such

cavities shall allow the installation of the duct without deformation.

82. [ ~~75~~, 106. ] Change Section ~~M1503.4~~ M1503.6 to read:

~~M1503.4~~ M1503.6 Makeup air required. Exhaust hood systems capable of exhausting more than 400 cubic feet per minute (0.19 m<sup>3</sup>/s) shall be provided with makeup air at a rate approximately equal to the exhaust air rate in excess of 400 cubic feet per minute (0.19 m<sup>3</sup>/s). Such makeup air systems shall be equipped with a means of closure and shall be automatically controlled to start and operate simultaneously with the exhaust system.

Exception: Intentional openings for makeup air are not required for kitchen exhaust systems capable of exhausting not greater than 600 cubic feet per minute (0.28 m<sup>3</sup>/s) provided that one of the following conditions is met:

1. Where the floor area within the air barrier of a dwelling unit is at least ~~4500~~ 1,500 square feet (139.35 m<sup>2</sup>), and where natural draft or mechanical draft space-heating or water-heating appliances are not located within the air barrier.
2. Where the floor area within the air barrier of a dwelling unit is at least ~~3000~~ 3,000 square feet (278.71 m<sup>2</sup>), and where natural draft space-heating or water-heating appliances are not located within the air barrier.

[ 107. Add an exception to item 7 in Section M1602.2 to read:

Exception: The return air within a two-family dwelling constructed without fire separations in accordance with Exception 3 of Section R302.3 shall be permitted to discharge into either dwelling unit. ]

83. [ ~~76~~, 108. ] 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.

[ ~~84~~, 109. ] Change Sections G2411.1 and ~~G2411.1.1~~ G2411.2 to read:

G2411.1 Pipe and tubing. Each above-group 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

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to be bonded where it is connected to appliances that are connected to the equipment grounding conductor of the circuit supplying that appliance. Corrugated stainless steel tubing (CSST) piping systems listed with an arc resistant jacket or coating system in accordance with ANSI LC 1/CSA 6.26 shall comply with this section. Where any CSST segments of a piping system are not listed with an arc resistant jacket or coating system in accordance with ANSI LC 1/CSA 6.26, Section ~~G2411.1.1~~ G2411.2 shall apply.

~~G2411.1.1~~ G2411.2 CSST without arc resistant jacket or coating system. CSST gas piping systems and piping systems containing one or more segments of CSST not listed with an arc resistant jacket or coating system in accordance with ANSI LC 1/CSA 6.26 shall be bonded to the electrical service grounding electrode system or, where provided, the lightning protection electrode system and shall comply with Sections ~~G2411.1.1~~ G2411.2.1 through ~~G2411.1.5~~ G2411.2.5.

85. [ ~~78~~: 110. ] 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.

86. [ ~~79~~: 111. ] Change Section G2439.7.2 to read:

G2439.7.2 Duct installation. Exhaust ducts shall be supported at 4-foot (1219 mm) intervals and secured in place. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Ducts shall not be joined with screws or similar fasteners that protrude into the inside of the duct. Where dryer exhaust ducts are enclosed in wall or ceiling cavities, such cavities shall allow the installation of the duct without deformation.

87. [ ~~80~~: 112. ] Change Section P2601.2 to read:

P2601.2 Connections. Plumbing fixtures, drains and appliances used to receive or discharge liquid wastes or sewage shall be directly connected to the sanitary drainage system of the building or premises, in accordance with the requirements of this code. This section shall not be construed to prevent indirect waste systems.

Exception: Bathtubs, showers, lavatories, clothes washers and laundry trays shall not be required to discharge to the sanitary drainage system where such fixtures discharge to an approved nonpotable gray water system in accordance with the applicable provisions of Sections P2910, P2911, and P2912.

88. [ ~~81~~: 113. ] 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 103.5 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 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.

89. [ ~~82~~: 114. ] Add Section P2602.3 to read:

P2602.3 Tracer wire. Nonmetallic water service piping that connects 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 water service piping and 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 water service pipe intersects with the public water supply. At a minimum, one end of the wire shall terminate above grade to provide access to the wire in a location that is resistant to physical damage, such as with a meter vault or at the building wall.

[ ~~115~~. Change Section P2801.6 to read:

P2801.6 Required pan. Where a storage tank-type water heater or a hot water storage tank is installed in a location where water leakage from the tank will cause damage, the tank shall be installed in a pan constructed of one of the following:

1. Galvanized steel or aluminum of not less than 0.0236 inch (0.6010 mm) in thickness.
2. Plastic not less than 0.036 inch (0.9 mm) in thickness.
3. Other approved materials.

A plastic pan shall not be installed beneath a gas-fired water heater. ]

90. [ ~~83~~: 116. ] Add Section P2901.1.1 to read:

P2901.1.1 Nonpotable fixtures and outlets. Nonpotable water shall be permitted to serve nonpotable type fixtures and outlets in accordance with the applicable provisions of Sections P2910, P2911, and P2912.

[ P2902.6 Location of backflow preventers. Access for inspection, testing, service, repair, and replacement shall be provided to backflow prevention assemblies. Backflow prevention assemblies shall be installed between 12 inches (305 mm) and 60 inches (1525 mm) from grade, floor level or service platform and as specified by the manufacturer's instructions. Where the manufacturer's listed installation height conflicts with this requirement, the manufacturer's listed heights shall apply. Access shall be provided to backflow prevention devices and as specified by the manufacturer's instructions. ]

91- [ ~~84~~. 117. ] 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.

[ ~~85~~. 118. Change Section P2904.1 to read:

P2904.1 General. The design and installation of residential fire sprinkler systems shall be in accordance with NFPA 13D, 13, 13R, or Section P2904, which shall be considered to be equivalent to NFPA 13D. Partial residential sprinkler systems shall be permitted to be installed only in buildings not required to be equipped with a residential sprinkler system. Section P2904 shall apply to stand-alone and multipurpose wet-pipe sprinkler systems that do not include the use of antifreeze. A multipurpose fire sprinkler system shall provide domestic water to both fire sprinklers and plumbing fixtures. A stand-alone sprinkler system shall be separate and independent from the water distribution system. A backflow preventer shall not be required to separate a sprinkler system from the water distribution system, provided that the sprinkler system complies with all of the following:

1. The system complies with NFPA 13D, 13, 13R, or Section P2904.
2. The piping material complies with Section P2906.
3. The system does not contain antifreeze.
4. The system does not have a fire department connection.

119. ] Change Section P2906.2.1 to read:

P2906.2.1 Lead content of drinking water pipe and fittings. Pipe, pipe fittings, joints, valves, faucets, and fixture fittings utilized to supply water for drinking or cooking purposes shall comply with NSF 372.

92- [ ~~86~~. 120. ] Change Sections P2910.1 through P2910.14, including subsections, to read:

P2910.1 Scope. The provisions of this section shall govern the materials, design, construction, and installation of nonpotable water systems subject to this code.

P2910.1.1 Design of nonpotable water systems. All portions of nonpotable water systems subject to this code shall be constructed using the same standards and requirements for the potable water systems or drainage systems as provided for in this code unless otherwise specified in this section or Section P2911 or P2912, as applicable.

P2910.2 Makeup water. Makeup water shall be provided for all nonpotable water supply systems. The makeup water system shall be designed and installed to provide supply of water in the amounts and at the pressures specified in this code. The makeup water supply shall be potable and be protected against backflow in accordance with the applicable requirements of Section P2902.

P2910.2.1 Makeup water sources. Nonpotable water shall be permitted to serve as makeup water for gray water and rainwater systems.

P2910.2.2 Makeup water supply valve. A full-open valve shall be provided on the makeup water supply line.

P2910.2.3 Control valve alarm. Makeup water systems shall be fitted with a warning mechanism that alerts the user to a failure of the inlet control valve to close correctly. The alarm shall activate before the water within the storage tank begins to discharge into the overflow system.

P2910.3 Sizing. Nonpotable water distribution systems shall be designed and sized for peak demand in accordance with approved engineering practice methods that comply with the applicable provisions of this chapter.

P2910.4 Signage required. All nonpotable water outlets, other than water closets and urinals, such as hose connections, open ended pipes, and faucets shall be identified at the point of use for each outlet with signage that reads as follows: "Nonpotable water is utilized for (insert application name). Caution: nonpotable water. DO NOT DRINK." The words shall be legibly and indelibly printed on a tag or sign constructed of corrosion-resistant waterproof material or shall be indelibly printed on the fixture. The letters of the words shall be not less than 0.5 inches (12.7 mm) in height and in colors in contrast to the background on which they are applied. The pictograph shown in Figure P2910.4 shall appear on the signage required by this section.



P2910.5 Potable water supply system connections. Where a potable water supply system is connected to a nonpotable water system, the potable water supply shall be protected against backflow in accordance with the applicable provisions of Section P2902.

P2910.6 Nonpotable water system connections. Where a nonpotable water system is connected and supplies water to another nonpotable water system, the nonpotable water system that supplies water shall be protected against backflow in accordance with the applicable provisions of Section P2902.

P2910.7 Approved components and materials. Piping, plumbing components, and materials used in the nonpotable water drainage and distribution systems shall be approved for the intended application and compatible with the water and any disinfection or treatment systems used.

P2910.8 Insect and vermin control. Nonpotable water systems shall be protected to prevent the entrance of insects and vermin into storage and piping systems. Screen materials shall be compatible with system material and shall not promote corrosion of system components.

P2910.9 Freeze protection. Nonpotable water systems shall be protected from freezing in accordance with the applicable provisions of Chapter 26.

P2910.10 Nonpotable water storage tanks. Nonpotable water storage tanks shall be approved for the intended application and comply with Sections P2910.10.1 through P2910.10.12.

P2910.10.1 Sizing. The holding capacity of storage tanks shall be sized for the intended use.

P2910.10.2 Inlets. Storage tank inlets shall be designed to introduce water into the tank and avoid agitating the contents of the storage tank. The water supply to storage tanks shall be controlled by fill valves or other automatic supply valves designed to stop the flow of incoming water before the tank contents reach the overflow pipes.

P2910.10.3 Outlets. Outlets shall be located at least 4 inches (102 mm) above the bottom of the storage tank and shall not skim water from the surface.

P2910.10.4 Materials and location. Storage tanks shall be constructed of material compatible with treatment systems used to treat water. Above grade storage vessels shall be constructed using opaque, UV-resistant materials such as tinted plastic, lined metal, concrete, or wood or painted to prevent algae growth. Above grade storage tanks shall be protected from direct sunlight unless their design specifically incorporates the use of the sunlight heat transfer. Wooden storage tanks shall be provided with a flexible liner. Storage tanks and their manholes shall not be located directly under soil or waste piping or sources of contamination.

P2910.10.5 Foundation and supports. Storage tanks shall be supported on a firm base capable of withstanding the storage tank's weight when filled to capacity. Storage tanks shall be supported in accordance with the applicable provisions of the IBC.

P2910.10.5.1 Ballast. Where the soil can become saturated, an underground storage tank shall be ballasted, or otherwise secured, to prevent the effects of buoyancy. The combined weight of the tank and hold down ballast shall meet or exceed the buoyancy force of the tank. Where the installation requires a foundation, the foundation shall be flat and shall be designed to support the storage tank weight when full, consistent with the bearing capability of adjacent soil.

P2910.10.5.2 Structural support. Where installed below grade, storage tank installations shall be designed to withstand earth and surface structural loads without damage.

P2910.10.6 Overflow. The storage tank shall be equipped with an overflow pipe having a diameter not less than that shown in Table P2910.10.6. The overflow outlet shall discharge at a point not less than 6 inches (152 mm) above the roof or roof drain, floor or floor drain, or over an open water-supplied fixture. The overflow outlet shall terminate through a check valve. Overflow pipes shall not be directed on walkways. The overflow drain shall not be equipped with a shutoff valve. A minimum of one cleanout shall be provided on each overflow pipe in accordance with the applicable provisions of Section P3005.2.

| Maximum Capacity of Water Supply Line to Tank (gpm) | Diameter of Overflow Pipe (inches) |
|---|------------------------------------|
| 0 - 50  | 2                                  |
| 50 - 150  | 2-1/2                              |
| 150 - 200   | 3                                  |
| 200 - 400   | 4                                  |



|  |   |
|--|---|
| 400 - 700  | 5 |
| 700 - 1,000  | 6 |
| Over 1,000   | 8 |
| For SI: 1 inch = 25.4 mm, 1 gallon per minute = 3.785 L/m. |   |

P2910.10.7 Access. A minimum of one access opening shall be provided to allow inspection and cleaning of the tank interior. Access openings shall have an approved locking device or other approved method of securing access. Below grade storage tanks, located outside of the building, shall be provided with either a manhole not less than 24 inches (610 mm) square or a manhole with an inside diameter not less than 24 inches (610 mm). The design and installation of access openings shall prohibit surface water from entering the tank. Each manhole cover shall have an approved locking device or other approved method of securing access.

Exception: Storage tanks under 800 gallons (3028 L) in volume installed below grade shall not be required to be equipped with a manhole, but shall have an access opening not less than 8 inches (203 mm) in diameter to allow inspection and cleaning of the tank interior.

P2910.10.8 Venting. Storage tanks shall be vented. Vents shall not be connected to the sanitary drainage system. Vents shall be at least equal in size to the internal diameter of the drainage inlet pipe or pipes connected to the tank. Where installed at grade, vents shall be protected from contamination by means of a U-bend installed with the opening directed downward. Vent outlets shall extend a minimum of 12 inches (304.8 mm) above grade, or as necessary to prevent surface water from entering the storage tank. Vent openings shall be protected against the entrance of vermin and insects. Vents serving gray water tanks shall terminate in accordance with the applicable provisions of Sections P3103 and P2910.8.

P2910.10.9 Drain. Where drains are provided, they shall be located at the lowest point of the storage tank. The tank drain pipe shall discharge as required for overflow pipes and shall not be smaller in size than specified in Table P2910.10.6. A minimum of one cleanout shall be provided on each drain pipe in accordance with Section P3005.2.

P2910.10.10 Labeling and signage. Each nonpotable water storage tank shall be labeled with its rated capacity and the location of the upstream bypass valve. Underground and otherwise concealed storage tanks shall be labeled at all access points. The label shall read: "CAUTION: NONPOTABLE WATER - DO NOT DRINK." Where an opening is provided that could allow the entry of personnel, the opening shall be marked with the words: "DANGER - CONFINED SPACE." Markings shall be indelibly printed on a tag or sign constructed of

corrosion-resistant waterproof material mounted on the tank or shall be indelibly printed on the tank. The letters of the words shall be not less than 0.5 inches (12.7 mm) in height and shall be of a color in contrast with the background on which they are applied.

P2910.10.11 Storage tank tests. Storage tanks shall be tested in accordance with the following:

1. Storage tanks shall be filled with water to the overflow line prior to and during inspection. All seams and joints shall be left exposed and the tank shall remain water tight without leakage for a period of 24 hours.
2. After 24 hours, supplemental water shall be introduced for a period of 15 minutes to verify proper drainage of the overflow system and verify that there are no leaks.
3. Following a successful test of the overflow system, the water level in the tank shall be reduced to a level that is at 2 inches (50.8 mm) below the makeup water offset point. The tank drain shall be observed for proper operation. The makeup water system shall be observed for proper operation, and successful automatic shutoff of the system at the refill threshold shall be verified. Water shall not be drained from the overflow at any time during the refill test.
4. Air tests shall be permitted in lieu of water testing as recommended by the tank manufacturer or the tank standard.

P2910.10.12 Structural strength. Storage tanks shall meet the applicable structural strength requirements of the IBC.

P2910.11 Trenching requirements for nonpotable water system piping. Underground nonpotable water system piping shall be horizontally separated from the building sewer and potable water piping by 5 feet (1524 mm) of undisturbed or compacted earth. Nonpotable water system piping shall not be located in, under, or above sewage systems cesspools, septic tanks, septic tank drainage fields, or seepage pits. Buried nonpotable water system piping shall comply with the requirements of this code for the piping material installed.

Exceptions:

1. The required separation distance shall not apply where the bottom of the nonpotable water pipe within 5 feet (1524 mm) of the sewer is equal to or greater than 12 inches (305 mm) above the top of the highest point of the sewer and the pipe materials conforms to Table P3002.2.
2. The required separation distance shall not apply where the bottom of the potable water service pipe within 5 feet (1524 mm) of the nonpotable water pipe is a minimum of 12 inches (305 mm) above the top of the highest point of the nonpotable water pipe and the pipe materials comply with the requirements of Table P2906.5.
3. Nonpotable water pipe is permitted to be located in the same trench with building sewer piping, provided that such sewer piping is constructed of materials that comply with the requirements of Table P3002.1(2).

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4. The required separation distance shall not apply where a nonpotable water pipe crosses a sewer pipe, provided that the pipe is sleeved to at least 5 feet (1524 mm) horizontally from the sewer pipe centerline on both sides of such crossing with pipe materials that comply with Table P3002.1(2).

5. The required separation distance shall not apply where a potable water service pipe crosses a nonpotable water pipe provided that the potable water service pipe is sleeved for a distance of at least 5 feet (1524 mm) horizontally from the centerline of the nonpotable pipe on both sides of such crossing with pipe materials that comply with Table P3002.1(2).

P2910.12 Outdoor outlet access. Sillcocks, hose bibs, wall hydrants, yard hydrants, and other outdoor outlets that are supplied by nonpotable water shall be located in a locked vault or shall be operable only by means of a removable key.

P2910.13 Drainage and vent piping and fittings. Nonpotable drainage and vent pipe and fittings shall comply with the applicable material standards and installation requirements in accordance with provisions of Chapter 30.

P2910.13.1 Labeling and marking. Identification of nonpotable drainage and vent piping shall not be required.

P2910.14 Pumping and control system. Mechanical equipment, including pumps, valves, and filters, shall be accessible and removable in order to perform repair, maintenance, and cleaning. The minimum flow rate and flow pressure delivered by the pumping system shall be designed for the intended application in accordance with the applicable provisions of Section P2903.

~~93.~~ [ ~~87.~~ 121. ] Add Sections P2910.15 through P2910.18, including subsections, to read:

P2910.15 Water-pressure reducing valve or regulator. Where the water pressure supplied by the pumping system exceeds 80 psi (552 kPa) static, a pressure-reducing valve shall be installed to reduce the pressure in the nonpotable water distribution system piping to 80 psi (552 kPa) static or less. Pressure-reducing valves shall be specified and installed in accordance with the applicable provisions of Section P2903.3.1.

P2910.16 Distribution pipe. Distribution piping utilized in nonpotable water stems shall comply with Sections P2910.16.1 through P2910.16.4.

P2910.16.1 Materials, joints, and connections. Distribution piping and fittings shall comply with the applicable material standards and installation requirements in accordance with applicable provisions of Chapter 29.

P2910.16.2 Design. Distribution piping shall be designed and sized in accordance with the applicable provisions of Chapter 29.

P2910.16.3 Labeling and marking. Distribution piping labeling and marking shall comply with Section ~~P2901.1~~ P2901.2.

P2910.16.4 Backflow prevention. Backflow preventers shall be installed in accordance with the applicable provisions of Section P2902.

P2910.17 Tests and inspections. Tests and inspections shall be performed in accordance with Sections P2910.17.1 through P2910.17.5.

P2910.17.1 Drainage and vent pipe test. Drain, waste, and vent piping used for gray water and rainwater nonpotable water systems shall be tested in accordance with the applicable provisions of Section P2503.

P2910.17.2 Storage tank test. Storage tanks shall be tested in accordance with the Section P2910.10.11.

P2910.17.3 Water supply system test. Nonpotable distribution piping shall be tested in accordance with Section P2503.7.

P2910.17.4 Inspection and testing of backflow prevention assemblies. The testing of backflow preventers and backwater valves shall be conducted in accordance with Section P2503.8.

P2910.17.5 Inspection of vermin and insect protection. Inlets and vent terminations shall be visually inspected to verify that each termination is installed in accordance with Section P2910.10.8.

P2910.18 Operation and maintenance manuals. Operations and maintenance materials for nonpotable water systems shall be provided as prescribed by the system component manufacturers and supplied to the owner to be kept in a readily accessible location.

~~94.~~ [ ~~88.~~ 122. ] Change the title of Section P2911 to "Gray Water Nonpotable Water Systems."

~~95.~~ [ ~~89.~~ 123. ] Change Sections P2911.1 through P2911.6, including subsections, to read:

P2911.1 Gray water nonpotable water systems. This code is applicable to the plumbing fixtures, piping or piping systems, storage tanks, drains, appurtenances, and appliances that are part of the distribution system for gray water within buildings and to storage tanks and associated piping that are part of the distribution system for gray water outside of buildings. This code does not regulate equipment used for, or the methods of, processing, filtering, or treating gray water, which may be regulated by the Virginia Department of Health or the Virginia Department of Environmental Quality.

P2911.1.1 Separate systems. Gray water nonpotable water systems, unless approved otherwise under the permit from the Virginia Department of Health, shall be separate from the potable water system of a building with no cross connections between the two systems except as permitted by the Virginia Department of Health.

P2911.2 Water quality. Each application of gray water reuse shall meet the minimum water quality requirements set forth in Sections P2911.2.1 through P2911.2.4 unless otherwise superseded by other state agencies.

P2911.2.1 Disinfection. Where the intended use or reuse application for nonpotable water requires disinfection or other treatment or both, it shall be disinfected as needed to ensure that the required water quality is delivered at the point of use or reuse.

P2911.2.2 Residual disinfectants. Where chlorine is used for disinfection, the nonpotable water shall contain not more than 4 parts per million (4 mg/L) of free chlorine, combined chlorine, or total chlorine. Where ozone is used for disinfection, the nonpotable water shall not exceed 0.1 parts per million (by volume) of ozone at the point of use.

P2911.2.3 Filtration. Water collected for reuse shall be filtered as required for the intended end use. Filters shall be accessible for inspection and maintenance. Filters shall utilize a pressure gauge or other approved method to indicate when a filter requires servicing or replacement. Shutoff valves installed immediately upstream and downstream of the filter shall be included to allow for isolation during maintenance.

P2911.2.4 Filtration required. Gray water utilized for water closet and urinal flushing applications shall be filtered by a 100 micron or finer filter.

P2911.3 Storage tanks. Storage tanks utilized in gray water nonpotable water systems shall comply with Section P2910.10.

P2911.4 Retention time limits. Untreated gray water shall be retained in storage tanks for a maximum of 24 hours.

P2911.5 Tank location. Storage tanks shall be located with a minimum horizontal distance between various elements as indicated in Table P2911.5.1.

| Element                         | Minimum Horizontal Distance from Storage Tank (feet) |
|---------------------------------|--|
| Lot line adjoining private lots | 5  |
| Sewage systems                  | 5  |
| Septic tanks                    | 5  |
| Water wells                     | 50   |
| Streams and lakes               | 50   |
| Water service                   | 5  |
| Public water main               | 10   |

P2911.6 Valves. Valves shall be supplied on gray water nonpotable water drainage systems in accordance with Sections P2911.6.1 and P2911.6.2.

P2911.6.1 Bypass valve. One three-way diverter valve certified to NSF 50 or other approved device shall be installed on collection piping upstream of each storage tank, or drainfield, as applicable, to divert untreated gray water to the sanitary sewer to allow servicing and inspection of the system. Bypass valves shall be installed downstream of fixture traps and vent connections. Bypass valves shall be labeled to indicate the direction of flow, connection, and storage tank or drainfield connection. Bypass valves shall be provided with access for operation and maintenance. Two shutoff valves shall not be installed to serve as a bypass valve.

P2911.6.2 Backwater valve. Backwater valves shall be installed on each overflow and tank drain pipe to prevent unwanted water from draining back into the storage tank. If the overflow and drain piping arrangement is installed to physically not allow water to drain back into the tank, such as in the form of an air gap, backwater valves shall not be required. Backwater valves shall be constructed and installed in accordance with Section P3008.

~~[ 90- 124. ] Delete Sections P2911.7 through P2911.13, including subsections.~~

~~96- [ 94- 125. ] Change the title of Section P2912 to "Rainwater Nonpotable Water Systems."~~

~~97- [ 92- 126. ] Change Sections P2912.1 through P2912.10, including subsections, to read:~~

~~P2912.1 General. The provisions of this section shall govern the design, construction, installation, alteration, and repair of rainwater nonpotable water systems for the collection, storage, treatment, and distribution of rainwater for nonpotable applications. The provisions of CSA B805/ICC 805 shall be permitted as an alternative to the provisions contained in this section for the design, construction, installation, alteration, and repair of rainwater nonpotable water systems for the collection, storage, treatment, and distribution of rainwater for nonpotable applications. Roof runoff or stormwater runoff collection surfaces shall be limited to roofing materials, public pedestrian accessible roofs, and subsurface collection identified in CSA B805/ICC 805 Table 7.1. Stormwater runoff shall not be collected from any other surfaces.~~

P2912.2 Water quality. Each application of rainwater reuse shall meet the minimum water quality requirements set forth in Sections P2912.2.1 through P2912.2.4 unless otherwise superseded by other state agencies.

P2912.2.1 Disinfection. Where the intended use or reuse application for nonpotable water requires disinfection or other treatment or both, it shall be disinfected as needed to

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ensure that the required water quality is delivered at the point of use or reuse.

P2912.2.2 Residual disinfectants. Where chlorine is used for disinfection, the nonpotable water shall contain not more than 4 parts per million (4 mg/L) of free chlorine, combined chlorine, or total chlorine. Where ozone is used for disinfection, the nonpotable water shall not exceed 0.1 parts per million (by volume) of ozone at the point of use.

P2912.2.3 Filtration. Water collected for reuse shall be filtered as required for the intended end use. Filters shall be accessible for inspection and maintenance. Filters shall utilize a pressure gauge or other approved method to indicate when a filter requires servicing or replacement. Shutoff valves installed immediately upstream and downstream of the filter shall be included to allow for isolation during maintenance.

P2912.2.4 Filtration required. Rainwater utilized for water closet and urinal flushing applications shall be filtered by a 100 micron or finer filter.

P2912.3 Collection surface. Rainwater shall be collected only from aboveground impervious roofing surfaces constructed from approved materials. Overflow or discharge piping from appliances or equipment or both, including ~~but not limited to~~ evaporative coolers, water heaters, and solar water heaters shall not discharge onto rainwater collection surfaces.

P2912.4 Collection surface diversion. At a minimum, the first 0.04 inches (1.016 mm) of each rain event of 25 gallons (94.6 L) per ~~4000~~ 1,000 square feet (92.9 m<sup>2</sup>) shall be diverted from the storage tank by automatic means and not require the operation of manually operated valves or devices. Diverted water shall not drain onto other collection surfaces that are discharging to the rainwater system or to the sanitary sewer. Such water shall be diverted from the storage tank and discharged in an approved location.

P2912.5 Pre-tank filtration. Downspouts, conductors, and leaders shall be connected to a pre-tank filtration device. The filtration device shall not permit materials larger than 0.015 inches (0.4 mm).

P2912.6 Roof gutters and downspouts. Gutters and downspouts shall be constructed of materials that are compatible with the collection surface and the rainwater quality for the desired end use. Joints shall be made watertight.

P2912.6.1 Slope. Roof gutters, leaders, and rainwater collection piping shall slope continuously toward collection inlets. Gutters and downspouts shall have a slope of not less than 1 unit in 96 units along their entire length, and shall not permit the collection or pooling of water at any point.

P2912.6.2 Size. Gutters and downspouts shall be installed and sized in accordance with local rainfall rates.

P2912.6.3 Cleanouts. Cleanouts or other approved openings shall be provided to permit access to all filters, flushes, pipes, and downspouts.

P2912.7 Storage tanks. Storage tanks utilized in rainwater nonpotable water systems shall comply with Section P2910.10.

P2912.8 Location. Storage tanks shall be located with a minimum horizontal distance between various elements as indicated in Table P2912.8.1.

| Element                         | Minimum Horizontal Distance from Storage Tank (feet) |
|---------------------------------|--|
| Lot line adjoining private lots | 5  |
| Sewage systems                  | 5  |
| Septic tanks                    | 5  |

P2912.9 Valves. Valves shall be installed in collection and conveyance drainage piping of rainwater nonpotable water systems in accordance with Sections P2912.9.1 and P2912.9.2.

P2912.9.1 Influent diversion. A means shall be provided to divert storage tank influent to allow maintenance and repair of the storage tank system.

P2912.9.2 Backwater valve. Backwater valves shall be installed on each overflow and tank drain pipe to prevent unwanted water from draining back into the storage tank. If the overflow and drain piping arrangement is installed to physically not allow water to drain back into the tank, such as in the form of an air gap, backwater valves shall not be required. Backwater valves shall be constructed and installed in accordance with Section P3008.

P2912.10 Tests and inspections. Tests and inspections shall be performed in accordance with Sections P2912.10.1 and P2912.10.2.

P2912.10.1 Roof gutter inspection and test. Roof gutters shall be inspected to verify that the installation and slope is in accordance with Section P2912.6.1. Gutters shall be tested by pouring a minimum of one gallon of water into the end of the gutter opposite the collection point. The gutter being tested shall not leak and shall not retain standing water.

P2912.10.2 Collection surface diversion test. A collection surface diversion test shall be performed by introducing water into the gutters or onto the collection surface area. Diversion of the first quantity of water in accordance with the requirements of Section P2912.4 shall be verified.

~~98.~~ [ ~~93.~~ 127. ] Delete Sections P2912.11 through P2912.16, including subsections.

~~99.~~ [ ~~94.~~ 128. ] Delete Section P2913 in its entirety.

~~100.~~ [ ~~95.~~ 129. ] Add Section P3002.2.2 to read:

P3002.2.2 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.

[ ~~96.~~ 130. ] Add Section P3012 Relining Building Sewers and Building Drains.

[ ~~97.~~ 131. ] Add Sections P3012.1 through P3012.10 to read:

P3012.1 General. This section shall govern the relining of existing building sewers and building draining piping.

P3012.2 Applicability. The relining of existing building sewer and building drainage piping shall be limited to gravity drainage piping that is 4 inches (102 mm) in diameter and larger. The relined piping shall be of the same nominal size as the existing piping.

P3012.3 Pre-installation requirements. Prior to commencement of the relining installation, the existing piping sections to be relined shall be descaled and cleaned. After the cleaning process has occurred and water has been flushed through the system, the piping shall be inspected internally by a recorded video camera survey.

P3012.3.1 Pre-installation recorded video camera survey. The video survey shall include verification of the project address location. The video shall include notations of the cleanout and fitting locations, and the approximate depth of the existing piping. The video shall also include notations of the length of piping at intervals no greater than 25 feet.

P3012.4 Permitting. Prior to permit issuance, the code official shall review and evaluate the pre-installment recorded video camera survey to determine if the piping system is capable to be relined in accordance with the proposed lining system manufacturer's installation requirements and applicable referenced standards.

[ ~~R3012.5~~ P3012.5 ] Prohibited applications. Where review of the pre-installation recorded video camera survey reviews that piping systems are not installed correctly or defects exist, relining shall not be permitted. The defective portions of piping shall be exposed and repaired with pipe and fittings in accordance with this code. Defects shall include backgrade or insufficient

slope, complete pipe wall deterioration, or complete separations such as from tree root [ ~~invasion~~ invasion ] or improper support.

P3012.6 Relining materials. The relining materials shall be manufactured in compliance with applicable standards and certified as required in Section 303. Fold-and-form pipe reline materials shall be manufactured in compliance with ASTM F1504 or ASTM F1871.

P3012.7 Installation. The installation of relining materials shall be performed in accordance with the manufacturer's installation instructions, applicable referenced standards, and this code.

P3012.7.1 Material data report. The installer shall record the data as required by the relining material manufacture and applicable standards. The recorded data shall include the location of the project, relining material type, amount of product installed, and conditions of the installation. A copy of the data report shall be provided to the code official prior to final approval.

P3012.8 Post-installation recorded video camera survey. The completed relined piping system shall be inspected internally by a recorded video camera survey after the system has been flushed and flow tested with water. The video survey shall be submitted to the code official prior to finalization of the permit. The video survey shall be reviewed and evaluated to provide verification that no defects exist. Any defects identified shall be repaired and replaced in accordance with this code.

P3012.9 Certification. A certification shall be provided in writing to the code official, from the permit holder, that the relining materials have been installed in accordance with the manufacturer's installation instructions, the applicable standards and this code.

P3012.10 Approval. Upon verification of compliance with the requirements of Sections [ ~~747.4~~ P3011.1 ] through [ ~~747.9~~ P3011.9 ], the code official shall approve the installation.

~~101.~~ [ ~~98.~~ 132. ] Add an exception to Section P3301.1 to read:

Exception: Rainwater nonpotable water systems shall be permitted in accordance with the applicable provisions of Sections P2910 and P2912.

[ ~~99.~~ 133. ] Delete the exception for Section P3003.9.2.

~~102.~~ [ ~~100.~~ 134. ] Add Section E3601.8 to read:

E3601.8 Energizing service equipment. The building official shall give permission to energize the electrical service equipment of a one-family 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.

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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.

~~103.~~ [ ~~101~~, 135. ] Change Section E3802.4 to read:

E3802.4 In unfinished basements. Where Type SE or NM cable is run at angles with joists in unfinished basements, cable assemblies containing two or more conductors of sizes 6 AWG and larger and assemblies containing three or more conductors of sizes 8 AWG and larger shall not require additional protection where attached directly to the bottom of the joists. Smaller cables shall be run either through bored holes in joists or on running boards. Type NM or SE cable installed on the wall of an unfinished basement shall be permitted to be installed in a listed conduit or tubing or shall be protected in accordance with Table E3802.1. Conduit or tubing shall be provided with a suitable insulating bushing or adapter at the point the where cable enters the raceway. The sheath of the Type NM or SE cable shall extend through the conduit or tubing and into the outlet or device box not less than 1/4 inch (6.4 mm). The cable shall be secured within 12 inches (305 mm) of the point where the cable enters the conduit or tubing. Metal conduit, tubing, and metal outlet boxes shall be connected to an equipment grounding conductor complying with Section E3908.13.

~~104.~~ [ ~~102~~, 136. ] Change Section E3902.16 to read:

E3902.16 Arc-fault [ circuit interrupter ] protection [ ~~of bedroom outlets~~ ]. Branch circuits that supply 120-volt, single phase, 15-ampere and 20-ampere outlets installed in [ kitchens, family rooms, dining rooms, living rooms, parlors, libraries dens, ] bedrooms [ , sunrooms, recreation rooms, closets, hallways, laundry areas, and similar rooms or areas ] shall be protected by any of the following:

1. A listed combination-type arc-fault circuit interrupter installed to provide protection of the entire branch circuit.
2. A listed branch/feeder-type AFCI installed at the origin of the branch-circuit in combination with a listed outlet branch-circuit type arc-fault circuit interrupter installed at the first outlet box on the branch circuit. The first outlet box in the branch circuit shall be marked to indicate that it is the first outlet of the circuit.
3. A listed supplemental arc protection circuit breaker installed at the origin of the branch circuit in combination with a listed outlet branch-circuit type arc-fault circuit interrupter installed at the first outlet box on the branch circuit where all of the following conditions are met:

3.1. The branch-circuit wiring shall be continuous from the branch-circuit overcurrent device to the outlet branch-circuit arc-fault circuit interrupter.

3.2. The maximum length of the branch-circuit wiring from the branch-circuit overcurrent device to the first outlet shall not exceed 50 feet (15.2 m) for 14 AWG conductors and 70 feet (21.3 m) for 12 AWG conductors.

3.3. The first outlet box on the branch circuit shall be marked to indicate that it is the first outlet on the circuit.

4. A listed outlet branch-circuit type arc-fault circuit interrupter installed at the first outlet on the branch circuit in combination with a listed branch-circuit overcurrent protective device where all of the following conditions are met:

4.1. The branch-circuit wiring shall be continuous from the branch-circuit overcurrent device to the outlet branch-circuit arc-fault circuit interrupter.

4.2. The maximum length of the branch-circuit wiring from the branch-circuit overcurrent device to the first outlet shall not exceed 50 feet (15.2 m) for 14 AWG conductors and 70 feet (21.3 m) for 12 AWG conductors.

4.3. The first outlet box on the branch circuit shall be marked to indicate that it is the first outlet on the circuit.

4.4. The combination of the branch-circuit overcurrent device and outlet branch-circuit AFCI shall be identified as meeting the requirements for a system combination-type AFCI and shall be listed as such.

5. Where metal outlet boxes and junction boxes and RMC, IMC, EMT, Type MC or steel-armored Type AC cables meeting the requirements of Section E3908.8, metal wireways or metal auxiliary gutters are installed for the portion of the branch circuit between the branch-circuit overcurrent device and the first outlet, a listed branch-circuit type AFCI installed at the first outlet shall be considered as providing protection for the remaining portion of the branch circuit.

6. Where a listed metal or nonmetallic conduit or tubing or Type MC cable is encased in not less than two inches (50.8 mm) of concrete for the portion of the branch circuit between the branch-circuit overcurrent device and the first outlet, a listed outlet branch-circuit type AFCI installed at the first outlet shall be considered as providing protection for the remaining portion of the branch circuit.

[ ~~Exception~~ Exceptions ]:

[ 1. ] AFCI protection is not required for an individual branch circuit supplying only a fire alarm system where the branch circuit is wired with metal outlet and junction boxes and RMC, IMC, EMT or steel-sheathed armored cable Type AC, or Type MC meeting the requirements of Section E3908.8.

[ 2. AFCI protection is not required where GFCI protection is required in accordance with E3902 and NEC 210.8(A) ]

~~405.~~ [ ~~403.~~ 137. ] Change the referenced standards in Chapter 44 as follows (standards not shown remain the same):

| Standard Reference Number               | Title   | Referenced in Code Section Number             |
|---|---|---|
| ANSI LC1/CSA <del>6.26-14</del> 6.26-18 | Fuel Gas Piping Systems Using Corrugated Stainless Steel Tubing (CSST)  | G2411.1, G2411.1.1, G2414.5.3                 |
| NSF 50-09                               | Equipment for Swimming Pools, Spas, Hot Tubs and Other Recreational Water Facilities  | P2911.6.1                                     |
| ASTM F1504-14                           | Standard Specification for Folded/Formatted Poly (Vinyl Chloride) (PVC) for Existing Sewer and Conduit Rehabilitation       | P3012.4, P3012.6                              |
| ASTM F1871-11                           | Standard Specification for Folded/Formatted Poly (Vinyl Chloride) Pipe Type A for Existing Sewer and Conduit Rehabilitation | P3012.4, P3012.6                              |
| CSA B805-18/ICC 805-18                  | Rainwater Harvesting Systems  | P2912.1                                       |
| [ NFPA 13 - 16                          | Standard for Installation of Sprinkler Systems  | R302.2.6                                      |
| NFPA 13D - 16                           | Standard for the Installation of Sprinkler Systems in one- and Two-family Dwellings and Manufactured Homes                  | R302.2.6, R302.13, R325.5, P2904.1, P2904.6.1 |

|               |  |                            |
|---------------|--|----------------------------|
| NFPA 13R - 16 | Standard for the Installation of Sprinkler Systems in Low Rise Residential Occupancies | R302.2.6, R302.3, R325.5 ] |
|---------------|--|----------------------------|

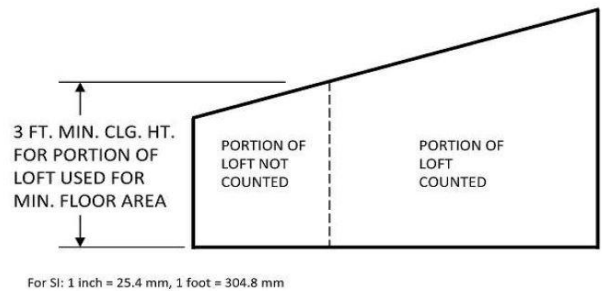
[ 404. 138. ] Change Section AQ104.1.2 to read:

AQ104.1.2 Minimum horizontal dimensions. Lofts shall be not less than 5 feet (1524 mm) in any horizontal dimension.

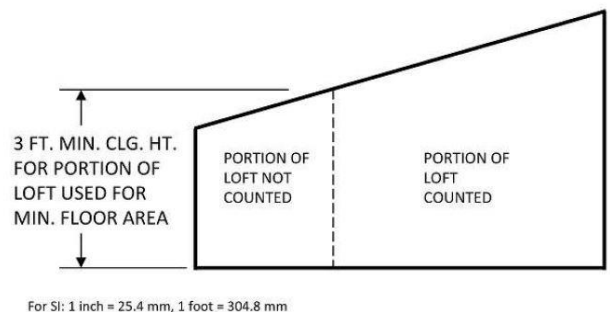
[ ~~405.~~ 139. ] Change the exception to Section AQ104.1.3 to read:

Exception: Under gable roofs with a minimum slope of 6 units vertical in 12 units horizontal (50% slope), portions of a loft with a sloped ceiling measuring less than 16 inches (406 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft. See Figure AQ104.1.3.

[ ~~406.~~ 140. ] Add Figure AQ104.1.3 Loft Ceiling Height.



**Figure AQ104.1.3  
Loft Ceiling Height**



**Figure AQ104.1.3  
Loft Ceiling Height**

[ ~~407.~~ 141. ] Change Sections AQ104.2, AQ104.2.1, and AQ104.2.1.2 to read:

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AQ104.2 Loft access and egress. The access to and primary egress from lofts shall be of any type described in Sections AQ104.2.1 through AQ104.2.4. The loft access and egress element along its required minimum width shall meet the loft where its ceiling height is not less than 3 feet (914 mm).

AQ104.2.1 Stairways. Stairways accessing lofts shall comply with this code or with Sections AQ104.2.1.1 through AQ104.2.1.7.

AQ104.2.1.2 Headroom. The headroom above stairways accessing a loft shall be not less than 6 feet 2 inches (1880 mm), as measured vertically, from a sloped line connecting the tread, landing, or landing platform nosings in the center of their width, and vertically from the landing platform along the center of its width.

~~[ 408. 142. ]~~ Change Sections AQ104.2.1.4 through AQ104.2.1.6 to read:

AQ104.2.1.4 Landings. Intermediate landings and landings at the bottom of stairways shall comply with Section R311.7.6, except that the depth in direction of travel shall be not less than 24 inches (610 mm).

AQ104.2.1.5 Landing platforms. The top tread and riser of stairways accessing lofts shall be constructed as a landing platform where the loft ceiling height is less than 6 feet 2 inches (1880 mm) where the stairway meets the loft. The landing platform shall be not less than 20 inches (508 mm) in width and in depth measured horizontally from and perpendicular to the nosing of the landing platform. The landing platform riser height to the loft floor shall be not less than 16 inches (406 mm) and not greater than 18 inches (457 mm).

AQ104.2.1.6 Handrails. Handrails shall comply with Section R311.7.8.

~~[ 409. 143. ]~~ Add Section AQ104.2.1.7 to read:

AQ104.2.1.7 Stairway guards. Guards at open sides of stairways, landings, and landing platforms shall comply with Section R312.1.

~~[ 410. 144. ]~~ Change Sections AQ 104.2.2.1 and AQ104.2.5 to read:

AQ104.2.2.1 Size and capacity. Ladders accessing lofts shall have a rung width of not less than 12 inches (305 mm), with 10-inch (254 mm) to 14-inch (356 mm) spacing between rungs. Ladders shall be capable of supporting a 300-pound (136 kg) load on any rung. Rung spacing shall be uniform within 3/8 inch (9.5 mm).

AQ104.2.5 Loft Guards. Loft guards shall be located along the open side of lofts. Loft guards shall be not less than 36 inches (914 mm) in height or one-half of the clear height to the ceiling, whichever is less. Loft guards shall comply with Section R312.1.3 and Table R301.5 for their components.

~~U- [ T.S. ]~~ Add "Marinas" to the list of occupancies in Section 312.1 of the IBC.

[ T. Add Section 313 State regulated care facilities (SRCF) to the IBC to read:

313.1 General. Notwithstanding any other requirements of this code, this section applies to the use and occupancy classification of state regulated care facilities addressed in this section.

313.2 Assisted living facilities. Assisted living facilities licensed by the Virginia Department of Social Services shall be classified as one of the occupancies specified in Sections 313.2.1 through 313.2.6.

313.2.1 Group I-1 Condition 1. Facilities with more than 16 persons receiving care, in which all persons receiving care, without any assistance, are capable of responding to an emergency situation to complete building evacuation, shall be classified as Group I-1 Condition 1. Not more than five of the persons may require physical assistance from staff to respond to an emergency, provided all persons requiring assistance reside on a level of exit discharge and the path of egress to the exit does not include steps.

313.2.2 Group I-1 Condition 2. Facilities with more than 16 persons receiving care, in which there are persons who require assistance by not more than one staff member while responding to an emergency situation to complete building evacuation, shall be classified as Group I-1 Condition 2. Not more than five of the persons may require physical assistance from more than one staff member to respond to an emergency situation.

313.2.3 Group I-2 Condition 1. Facilities with more than five persons receiving care who require assistance by more than one staff member when responding to an emergency situation to complete building evacuation, shall be classified as Group I-2 Condition 1.

313.2.4 Group R-4 Condition 1. Facilities with nine to 16 persons receiving care, where all persons receiving care, without any assistance, are capable of responding to an emergency situation to complete building evacuation shall be classified as R-4 Condition 1. Not more than five of the persons may require physical assistance from staff to respond to an emergency, provided all persons requiring assistance reside on a level of exit discharge and the path of egress to the exit does not include steps.

313.2.5 Group R-4 Condition 2. Buildings with nine to 16 persons receiving care, who may require assistance by not more than one staff member when responding to an emergency situation to complete building evacuation, shall be classified as Group R-4 Condition 2. Not more than five of the persons may require physical assistance from staff to respond to an emergency situation.



313.2.6 Group R-2, R-3, or R-5. Facilities with no more than eight persons receiving care, with one or more resident counselors, and all persons are capable of respond to an emergency situation without physical assistance from staff, may be classified as Group R-2, R-3, or R-5. Up to five of the persons may require physical assistance from staff to respond to an emergency situation when in compliance with the following:

1. All residents that require physical assistance from staff reside on a level of exit discharge and the path of egress to the exit does not include steps.

2. The building is protected by an automatic sprinkler system installed in accordance with Section 903.3 or Section P2904 of the IRC.

313.3 Family day homes. Family day homes registered or licensed by the Virginia Department of Social Services shall be classified as Group R-2, R-3, or R-5.

313.4 Group homes. Group Homes licensed by the Virginia Department of Behavioral Health and Developmental Services shall be classified as one of the occupancies specified in Sections 313.4.1 through 313.4.3.

313.4.1 Groups R-2, R-3, R-4 Condition 1 or 2, or R-5. Facilities with no more than eight persons receiving care, with one or more resident counselors, shall be classified as Group R-2, R-3, R-4 (Condition 1 or 2), or R-5. Not more than five of the persons may require physical assistance from staff to respond to an emergency situation.

313.4.2 Group R-4 Condition 1. Facilities with eight to 16 persons receiving care, where all persons, without any assistance, are capable of responding to an emergency situation to complete building evacuation shall be classified as Group R-4 Condition 1. Not more than five of the persons may require physical assistance from staff to respond to an emergency, provided all persons requiring assistance reside on a level of exit discharge and the path of egress to the exit does not include steps.

313.4.3 Group R-4 Condition 2. Facilities with eight to 16 persons receiving care or facilities with more than five persons requiring physical assistance from staff to respond to an emergency situation shall be classified as Group R-4 Condition 2.

313.5 Hospice facilities. Hospice facilities licensed by the Virginia Department of Health shall be classified as one of the occupancies specified in Sections 313.5.1 through 313.5.3.

313.5.1 Group I-2. Facilities with 16 or more persons receiving care shall be classified as Group I-2.

313.5.2 Group R-4 Condition 1. Facilities with less than 16 persons receiving care shall be classified as Group R-4 Condition 1.

313.5.3 Group R-5. Facilities with five or fewer persons receiving care are permitted to be classified as Group R-5. ]

## **13VAC5-63-220. Chapter 4 Special detailed requirements based on use and occupancy.**

A. Delete Section 403.4.5 of the IBC.

B. Change Section 407.4.1.1 of the IBC to read:

407.4.1.1 Special locking arrangement. Means of egress doors shall be permitted to contain locking devices restricting the means of egress in areas in which the clinical needs of the patients require restraint of movement, where all of the following conditions are met:

1. The locks release upon activation of the fire alarm system or the loss of power.
2. The building is equipped with an approved automatic sprinkler system in accordance with Section 903.3.1.1.
3. A manual release device is provided at a nursing station responsible for the area.
4. A key-operated switch or other manual device is provided adjacent to each door equipped with the locking device. Such switch or other device, when operated, shall result in direct interruption of power to the lock -- independent of the control system electronics.
5. All staff shall have keys or other means to unlock the switch or other device or each door provided with the locking device.

C. Add Section ~~407.11~~ 407.12 to the IBC to read:

~~407.11~~ 407.12 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.

D. Add Section 408.2.1 to the IBC to read:

408.2.1 Short-term holding areas. Short-term holding areas shall be permitted to comply with Section ~~429~~ 431.

E. Change Section 408.6 of the IBC to read:

408.6 Smoke barrier. Occupancies classified as Group I-3 shall have smoke barriers complying with Sections 408.8 and 709 to divide every story occupied by residents for sleeping, or any other story having an occupant load of 50 or more persons, into no fewer than two smoke compartments.

F. Change Section 408.9 of the IBC and add Sections 408.9.1 through 408.9.3 to the IBC to read:

408.9 Smoke control. Smoke control for each smoke compartment shall be in accordance with Sections 408.9.1 through 408.9.3.

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Exception: Smoke compartments with operable windows or windows that are readily breakable.

408.9.1 Locations. An engineered smoke control system shall comply with Section 909 and shall be provided in the following locations:

1. Dormitory areas.
2. Celled areas.
3. General housing areas.
4. Intake areas.
5. Medical celled or medical dormitory areas.
6. Interior recreation areas.

408.9.2 Compliance. The engineered smoke control system shall provide and maintain a tenable environment in the area of origin and shall comply with all of the following:

1. Shall facilitate the timely evacuation and relocation of occupants from the area of origin.
2. Shall be independent of exhaust systems under Chapter 5 of the IMC.
3. Duration of operation in accordance with Section 909.4.6.
4. The pressurization method shall be permitted and shall provide a minimum of 24 air changes per hour of exhaust, and 20 air changes per hour of makeup, and shall comply with Section 909.6. If the pressurization method is not utilized, the exhaust method shall be provided and shall comply with Section 909.8.

408.9.3 Corridors. Egress corridors within smoke compartments shall be kept free and clear of smoke.

~~G.~~ G. Add an exception to Section 414.2 of the IBC to read:

~~Exception: Higher education teaching and research laboratories shall be permitted to comply with Section 430.~~

~~H.~~ G. Add Section 414.6.2 to the IBC to read:

414.6.2 Other regulations. The installation, repair, upgrade, and closure of underground and aboveground storage tanks subject to the Virginia State Water Control Board regulations 9VAC25-91 and 9VAC25-580 shall be governed by those regulations, which are hereby 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. Provisions of the International Fire Code addressing closure of such tanks that are subject to the Virginia State Water Control Board regulations 9VAC25-91 and 9VAC25-580 shall not be applicable.

H. Change footnote "b" of Table 428.3 of the IBC to read:

b. Shall include walls, floors, ceilings, and construction supporting the floor of the laboratory suite necessary to provide separation from other portions of the building. Fire barriers shall be constructed in accordance with Section 707, and horizontal assemblies shall be constructed in accordance with Section 711.

I. Delete Section 428.3.3 of the IBC.

J. Change Section 428.3.7 of the IBC to read:

428.3.7 Ventilation. Ventilation shall be in accordance with the Virginia Mechanical Code. The design and installation of ducts from chemical fume hoods shall be in accordance with NFPA 91.

K. Add IBC Section 427 429 to read:

Section 429 Manufactured Homes and Industrialized Buildings.

J. Add Section 427.1 to the IBC to read:

~~427.1~~ 429.1 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).

Note: Local building departments are also responsible for the enforcement of certain provisions of the Virginia Manufactured Home Safety Regulations (13VAC5-95) and the Virginia Industrialized Building Safety Regulations (13VAC5-91) as set out in those regulations.

~~K.~~ Add Section 427.2 to the IBC to read:

~~427.2~~ 429.2 Site work for manufactured homes. Footing design, basements, grading, drainage, decks, stoops, porches and utility connections shall comply with the provisions of this code applicable to Group R-5 occupancies. [ Manufactured homes shall be classified as Group R-5 in accordance with Chapter 3 of this code. ] 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.

~~L.~~ Add Section 427.2.1 to the IBC to read:

~~427.2.1~~ 429.2.1 Relocated manufactured homes. Installation, set-up, and site work for relocated manufactured homes shall comply with the provisions of this code and

shall include the option of using the manufacturer's installations instructions or the federal Model Manufactured Home Installation Standards (24 CFR Part 3285) for the technical requirements.

~~M. Add Section 427.2.2 to the IBC to read:~~

~~427.2.2 429.2.2~~ Alterations and repairs to manufactured homes. Alterations and repairs to manufactured homes shall either be in accordance with federal Manufactured Home Construction and Safety Standards (24 CFR Part 3280) or in accordance with the alteration and repair provisions this code.

~~N. Add Section 427.2.3 to the IBC to read:~~

~~427.2.3 429.2.3~~ Additions to manufactured homes. Additions to manufactured homes shall comply with this code and shall be structurally independent of the manufactured home, or when not structurally independent, shall be evaluated by an RDP to determine that the addition does not cause the manufactured home to become out of compliance with federal Manufactured Home Construction and Safety Standards (24 CFR Part 3280).

~~O. Add Section 427.3 to the IBC to read:~~

~~427.3 429.3~~ 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.

~~P. Add Section 427.4 to the IBC to read:~~

~~427.4 429.4~~ 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. In accordance with § 36-99.8 of the Code of Virginia, 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~~ (0.28 m<sup>2</sup>) 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. In addition, as a requirement

of this code, skirting for the installation and set-up of a new manufactured home shall also comply with the requirements of 24 CFR Part 3285 - Model Manufactured Home Installation Standards.

~~Q. Add Section 427.5 to the IBC to read:~~

~~427.5 429.5~~ Site work for industrialized buildings. Site work for the erection and installation of an industrialized building 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 the manufacturer's installation instructions, this code shall be applicable, including the use of the IRC for any construction work 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.

Exception: Temporary family health care structures installed pursuant to § 15.2-2292.1 of the Code of Virginia shall not be required or permitted to be placed on a permanent foundation, but shall otherwise remain subject to all pertinent provisions of this section.

~~R. Add Section 427.6 to the IBC to read:~~

~~427.6 429.6~~ 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.

~~S. Add Section 427.7 to the IBC to read:~~

~~427.7 429.7~~ Change of occupancy of industrialized buildings. Change of occupancy of industrialized buildings is regulated by the Virginia Industrialized Building Safety Regulations (13VAC5-91). When the industrialized building complies with those regulations for the new occupancy, the

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building official shall issue a new certificate of occupancy under the USBC.

~~T. L. Add IBC Section 428~~ 430 Aboveground Liquid Fertilizer Tanks: to the IBC to read:

~~U. Add Sections 428.1 through 428.6 to the IBC to read:~~

~~428.1~~ 430.1 General. This section shall apply to the construction of ALFSTs and shall supersede any conflicting requirements in other provisions of this code. ALFSTs shall also comply with any applicable nonconflicting requirements of this code.

~~428.1.1~~ 430.1.1 When change of occupancy rules apply. A change of occupancy to use a tank as an ALFST occurs when there is a change in the use of a tank from storing liquids other than liquid fertilizers to a use of storing liquid fertilizer and when the type of liquid fertilizer being stored has a difference of at least 20% of the specific gravity or operating temperature, or both, or a significant change in the material's compatibility.

~~428.2~~ 430.2 Standards. Newly constructed welded steel ALFSTs shall comply with API 650 and TFI RMIP, as applicable. Newly constructed ALFSTs constructed of materials other than welded steel shall be constructed in accordance with accepted engineering practice to prevent the discharge of liquid fertilizer and shall be constructed of materials that are resistant to corrosion, puncture or cracking. In addition, newly constructed ALFSTs constructed of materials other than welded steel shall comply with TFI RMIP, as applicable. For the purposes of this code, the use of TFI RMIP shall be construed as mandatory and any language in TFI RMIP, such as, but not limited to, the terms "should" or "may" which indicate that a provision is only a recommendation or a guideline shall be taken as a requirement. ALFSTs shall be placarded in accordance with NFPA 704.

Exception: Sections 4.1.4, 4.2.5, 5.1.2, 5.2.8, 5.3 and 8.1(d)(i) of TFI RMIP shall not be construed as mandatory.

~~428.3~~ 430.3 Secondary containment. When ALFSTs are newly constructed and when there is a change of occupancy to use a tank as an ALFST, a secondary containment system designed and constructed to prevent any liquid fertilizer from reaching the surface water, groundwater or adjacent land before cleanup occurs shall be provided. The secondary containment system may include dikes, berms or retaining walls, curbing, diversion ponds, holding tanks, sumps, vaults, double-walled tanks, liners external to the tank, or other approved means and shall be capable of holding up to 110% of the capacity of the ALFST as certified by an RDP.

~~428.4~~ 430.4 Repair, alteration and reconstruction of ALFSTs. Repair, alteration and reconstruction of ALFSTs shall comply with applicable provisions of API 653 and TFI RMIP.

~~428.5~~ 430.5 Inspection. Applicable inspections as required by and in accordance with API 653 and TFI RMIP shall be performed for repairs and alterations to ALFSTs, the reconstruction of ALFSTs and when there is a change of occupancy to use a tank as an ALFST. When required by API 653 or TFI RMIP, such inspections shall occur prior to the use of the ALFST.

~~428.6~~ 430.6 Abandoned ALFSTs. Abandoned ALFSTs shall comply with applicable provisions of Section 5704.2.13.2 of the IFC.

~~V. Add IBC Section 429 Short-term Holding Areas:~~

~~W. Add Section 429.1 to the IBC to read:~~

~~429.1 General. In all groups other than Group E, short-term holding areas shall be permitted to be classified as the main occupancy, provided all of the following are met:~~

- ~~1. Provisions are made for the release of all restrained or detained occupants of short-term holding areas at all times.~~
- ~~2. Aggregate area of short-term holding areas shall not occupy more than 10% of the building area of the story in which they are located and shall not exceed the tabular values for building area in Table 506.2, without building area increases.~~
- ~~3. Restrained or detained occupant load of each short-term holding area shall not exceed 20.~~
- ~~4. Aggregate restrained or detained occupant load in short-term holding areas per building shall not exceed 80.~~
- ~~5. Compliance with Sections 408.3.7, 408.3.8, 408.4, and 408.7, as would be applicable to I-3 occupancies.~~
- ~~6. Requirements of the main occupancy in which short-term holding areas are located shall be met.~~
- ~~7. Fire areas containing short-term holding areas shall be provided with a fire alarm system and automatic smoke detection system complying with Section 907.2.6.3, as would be applicable to I-3 occupancies.~~
- ~~8. Where each fire area containing short-term holding areas exceeds 12,000 square feet (1115 m<sup>2</sup>), such fire areas shall be provided with an automatic sprinkler system complying with Section 903.3.~~
- ~~9. Short-term holding areas shall be separated from other short-term holding areas and adjacent spaces by smoke partitions complying with Section 710.~~

~~X. Add IBC Section 430 Higher Education Laboratories:~~

~~Y. Add Sections 430.1 through 430.4 to the IBC to read:~~

~~430.1 Scope. Group B teaching and research laboratories in educational occupancies above the 12th grade complying with the requirements of this section shall be permitted to comply with Table 430.3, 430.4(1), or 430.4(2) without requiring classification as a Group H occupancy. Except as specified in this section, such laboratories shall comply with~~

all applicable provisions of this code. In addition, as set out in Section 5001.7 of the SFPC, approval under this section is contingent upon operational requirements in the SFPC being complied with and maintained.

430.2 Application. The provisions of this section shall be applied as exceptions or additions to applicable requirements of this code.

430.3 Laboratory suite construction. Where laboratory suites are provided, they shall be constructed in accordance with this section. The number of laboratory suites and percentage of maximum allowable quantities of hazardous materials in laboratory suites shall be in accordance with Table 430.3.

430.3.1 Separation from adjacent areas. Laboratory suites shall be separated from other portions of the building in accordance with the most restrictive of either (i) Table 430.3 with fire barriers constructed in accordance with Section 707 and horizontal assemblies constructed in accordance with Section 711 or (ii) Section 508.4. Where individual laboratories within a laboratory suite are separated from each other, the separation shall consist of one-hour fire barriers.

Exception: Where an individual laboratory suite occupies more than one story, the fire resistance rating of intermediate floors contained within the laboratory suite shall comply with the requirements of this code.

430.3.2 Separation from other laboratory suites. Laboratory suites shall be separated from other laboratory suites in accordance with Table 430.3.

430.3.3 Floor assembly fire resistance. The floor assembly supporting the laboratory suite and the construction supporting the floor of the laboratory suite shall have a fire resistance rating of not less than two hours.

Exception: The floor assembly of the laboratory suite and the construction supporting the floor of the laboratory suite are allowed to be one-hour fire resistance rated in buildings of Types IIA, IIIA, and VA construction, provided that the building is three or fewer stories.

430.3.4 Maximum number. The maximum number of laboratory suites per floor shall be in accordance with Table 430.3. Where a building contains both laboratory suites complying with Section 430.3 and control areas complying with Section 414.2, the total number of laboratory suites and control areas shall not exceed the maximum number of laboratory suites in accordance with Table 430.3.

430.3.5 Standby or emergency power. Standby or emergency power shall be provided in accordance with Section 414.5.2 where laboratory suites are located above the sixth story above grade plane or located in a story below grade plane.

430.3.6 Ventilation. Ventilation shall be in accordance with the International Mechanical Code. The design and installation of ducts from chemical fume hoods shall be in accordance with NFPA 91.

430.3.7 Liquid tight floor. Portions of the laboratory suite where hazardous materials are present shall be provided with a liquid tight floor.

430.3.8 Automatic fire sprinkler systems. Buildings shall be equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1.

430.3.9 Automatic fire alarm and detection system. Laboratory suites shall be equipped throughout with an automatic fire detection system in accordance with Section 907.2. The building shall be equipped throughout with an automatic fire alarm system in accordance with Section 907.2.

430.3.10 Percentage of maximum allowable quantity in each laboratory suite. The percentage of maximum allowable quantities in each laboratory suite shall be in accordance with Table 430.3.

| Floor Level             |              | Percentage of the Maximum Allowable Quantity per Lab Suite <sup>a</sup> | Number of Lab Suites per Floor | Fire-Resistance Rating for Fire Barriers in Hours <sup>b</sup> |
|-------------------------|--------------|---|--------------------------------|--|
| Above<br>Grade<br>Plane | ≥ 21         | 5   | 1                              | 2  |
|                         | 16-20        | 25  | 1                              | 2  |
|                         | 11-15        | 50  | 1                              | 2  |
|                         | 7-10         | 50  | 2                              | 2  |
|                         | 4-6          | 75  | 4                              | 1  |
|                         | 3            | 100   | 6                              | 1  |
|                         | 1-2          | 100   | 8                              | 1  |
| Below<br>Grade<br>Plane | 1            | 75  | 4                              | 1  |
|                         | 2            | 50  | 2                              | 1  |
|                         | Lower than 2 | Not Allowed   | Not Allowed                    | Not Allowed  |

a. Percentage shall be of the maximum allowable quantity per control area shown in Tables 307.1(1) and 307.1(2); with all increases allowed in the notes to those tables.

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b. Fire barriers shall include walls, floors, and ceilings necessary to provide separation from other portions of the building.

430.4 Teaching and research laboratories utilizing control areas. Group B teaching and research laboratories in educational occupancies above the 12th grade utilizing control areas are permitted to increase amounts of hazardous materials stipulated in Section 414.2 without the laboratories being classified as Group H. The percentage of maximum allowable quantities of hazardous materials per control area and the number of control areas permitted at each floor level within a building shall be permitted to comply with Table 430.4(1) in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or shall be permitted to comply with Table 430.4(2) in buildings not equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1. In addition, as set out in Section 5001.7 of the SFPC, approval under this section is contingent upon operational requirements in the SFPC being complied with and maintained.

Table 430.4(1)

Design and Number of Control Areas in Buildings Equipped Throughout with an Automatic Sprinkler System in Accordance with Section 903.3.1.1 with Group B Teaching and Research Laboratories in Educational Occupancies above the 12th Grade

| Floor Level       |                | Percentage of the Maximum Allowable Quantity per Control Area <sup>a</sup> | Number of Control Areas per Floor | Fire-Resistance Rating for Fire Barriers and Horizontal Assemblies in Hours <sup>b</sup> |
|-------------------|----------------|--|-----------------------------------|--|
| Above Grade Plane | Higher than 20 | 5  | 1                                 | 2  |
|                   | 11-20          | 10   | 1                                 | 2  |
|                   | 7-10           | 25   | 2                                 | 2  |
|                   | 4-6            | 50   | 2                                 | 2  |
|                   | 3              | 75   | 3                                 | 1  |
|                   | 1-2            | 100  | 4                                 | 1  |
| Below Grade Plane | 1              | 75   | 3                                 | 1  |
|                   | 2              | 50   | 2                                 | 1  |
|                   | Lower than 2   | Not Allowed  | Not Allowed                       | Not Allowed  |

a. Percentage shall be of the maximum allowable quantity per control area shown in Tables 307.1(1) and 307.1(2), with all increases allowed in the notes to those tables.

b. Separation shall include fire barriers and horizontal assemblies as necessary to provide separation from other portions of the building.

Table 430.4(2)

Design and Number of Control Areas in Buildings Not Equipped Throughout with an Automatic Sprinkler System in Accordance with Section 903.3.1.1 with Group B Teaching and Research Laboratories in Educational Occupancies above the 12th Grade

| Floor Level       |               | Percentage of the Maximum Allowable Quantity per Control Area <sup>a</sup> | Number of Control Areas per Floor | Fire-Resistance Rating for Fire Barriers and Horizontal Assemblies in Hours <sup>b</sup> |
|-------------------|---------------|--|-----------------------------------|--|
| Above Grade Plane | Higher than 9 | 5  | 1                                 | 2  |
|                   | 7-9           | 10   | 2                                 | 2  |
|                   | 4-6           | 25   | 2                                 | 2  |
|                   | 3             | 75   | 2                                 | 1  |
|                   | 1-2           | 100  | 4                                 | 1  |
| Below Grade Plane | 1             | 75   | 3                                 | 1  |
|                   | 2             | 50   | 2                                 | 1  |
|                   | Lower than 2  | Not Allowed  | Not Allowed                       | Not Allowed  |

a. Percentage shall be of the maximum allowable quantity per control area shown in Tables 307.1(1) and 307.1(2), with all increases allowed in the notes to those tables.

b. Separation shall include fire barriers and horizontal assemblies as necessary to provide separation from other portions of the building.

430.4.1 Separation requirements. Control areas shall be separated from each other and from other non-control areas by fire barriers constructed in accordance with Section 707 or horizontal assemblies constructed in accordance with Section 711, or both.

430.4.2 Fire resistance rating requirements. The required fire resistance rating for fire barriers shall be in accordance with Table 430.4(1) in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or in accordance with Table 430.4(2) in buildings

~~not equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1. The floor assembly of the control area and the construction supporting the floor of the control area shall have a fire resistance rating in accordance with Table 430.4(1) in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or in accordance with Table 430.4(2) in buildings not equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.~~

~~Exception: The floor assembly of the control area and the construction supporting the floor of the control area are allowed to be one hour fire resistance rated in buildings of Types IIA, IIIA, and VA construction, provided that the building is three or fewer stories.~~

~~430.4.3 Standby or emergency power. Standby or emergency power shall be provided where control areas are located above the sixth floor level above grade plane or located in a floor level below grade plane.~~

~~430.4.4 Restricted materials in storage and use. Where approved by the building official, the storage and use of the following hazardous materials prohibited by Table 307.1(1) in buildings not equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1, shall be allowed within a control area at 25% of Table 307.1(1) limits for a building equipped throughout with an automatic sprinkler system:~~

- ~~1. Pyrophorics.~~
- ~~2. Class 4 oxidizers.~~

~~No additional quantity increases shall be allowed. All such materials shall be stored and used in accordance with Section 5001.7 of the SFPC.~~

~~430.4.5 Automatic fire alarm and detection system. The building shall be equipped throughout with an automatic fire alarm system in accordance with Section 907.2, and control areas where hazardous materials are used or stored shall be equipped throughout with an automatic fire detection system in accordance with Section 907.2.~~

~~430.4.6 Ventilation. Ventilation shall be in accordance with the International Mechanical code.~~

M. Add Section 431 Short-term Holding Areas to the IBC to read:

431.1 General. In all groups other than Group E, short-term holding areas shall be permitted to be classified as the main occupancy, provided all of the following are met:

1. Provisions are made for the release of all restrained or detained occupants of short-term holding areas at all times.
2. Aggregate area of short-term holding areas shall not occupy more than 10% of the building area of the story in which they are located and shall not exceed the tabular

values for building area in Table 506.2 without building area increases.

3. Restrained or detained occupant load of each short-term holding area shall not exceed 20.

4. Aggregate restrained or detained occupant load in short-term holding areas per building shall not exceed 80.

5. Compliance with Sections 408.3.7, 408.3.8, 408.4, and 408.7 as applicable for Group I-3 occupancies.

6. Requirements of the main occupancy in which short-term holding areas are located shall be met.

7. Fire areas containing short-term holding areas shall be provided with a fire alarm system and automatic smoke detection system complying with Section 907.2.6.3 as applicable to I-3 occupancies.

8. Where each fire area containing short-term holding areas exceeds 12,000 square feet (1115 m<sup>2</sup>), such fire areas shall be provided with an automatic sprinkler system complying with Section 903.3.

9. Short-term holding areas shall be separated from other short-term holding areas and adjacent spaces by smoke partitions complying with Section 710.

**[ 13VAC5-63-224. Chapter 5 General building heights and areas.**

Change Section 502.1 to read:

502.1 Address identification. New buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 1/2 inch (12.7 mm). Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response. Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole or other approved sign or means shall be used to identify the structure.

**13VAC5-63-226. Chapter 6 Types of construction.**

Add Section 602.1.2 to read:

602.1.2 Alternative Provisions. As an alternative to the construction types defined in 602.2 through 602.5, buildings and structures erected or to be erected, altered, or extended in height or area may be classified as construction type IV-A, IV-B, or IV-C in accordance with Chapter 6 of the 2021 International Building Code. Buildings and structures classified as IV-A, IV-B, or IV-C shall comply with all provisions of the 2021 International Building Code and 2021 International Fire Code specific to mass timber and the construction type of the building or structure, as well as all

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other applicable provisions of this code, including provisions for buildings of Type IV construction. ]

## **13VAC5-63-230. Chapter 7 Fire and smoke protection features.**

A. Change item 5 of Section 703.3 of the IBC to read:

5. Alternative protection methods as allowed by Section 112.2.

B. Change Section 703.7 of the IBC to read:

703.7 Fire-resistance assembly marking. Where there is a concealed floor, floor-ceiling, or attic space, the fire walls, fire barriers, fire partitions, smoke barriers, or any other wall required to have protected openings or penetrations shall be designated above ceilings and on the inside of all ceiling access doors that 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. C.~~ Change the ~~exceptions~~ exception and add an exception to Section 705.2 of the IBC to read:

Exceptions:

1. Buildings on the same lot and considered as portions of one building in accordance with Section 705.3 are not required to comply with this section.
2. Decks and open porches of buildings of Groups R-3 and R-4.

~~C. D.~~ Add Exception 4 to Section 706.5.2 of the IBC to read:

4. Decks and open porches of buildings in Groups R-3 and R-4.

~~D. E.~~ Change Section ~~716.5.3.4~~ 716.2.1.4 of the IBC to read:

~~716.5.3.4~~ 716.2.1.4 Smoke and draft control. Fire door assemblies located in smoke barrier walls shall also meet the requirements for a smoke and draft control door assembly tested in accordance with UL 1784. ~~The air leakage rate of the door assembly shall not exceed 3.0 cubic feet per minute per square foot (0.01524 m<sup>3</sup>/s %u2219 m<sup>2</sup>) of door opening at 0.10 inch (24.9 Pa) of water for both the ambient temperature and elevated temperature tests. Louvers shall be prohibited. Installation of smoke doors shall be in accordance with NFPA 105.~~

~~E. F.~~ Change Section 717.5.3 of the IBC to read:

717.5.3 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 E119 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.

~~F. G.~~ Add Section 717.6.2.2 to the IBC to read:

717.6.2.2 Equipment shutdown. Where ceiling radiation dampers are listed as static dampers, the HVAC equipment shall be effectively shut down to stop the airflow prior to the damper closing using one of the following methods:

1. A duct detector installed in the return duct.
2. An area smoke detector interlocked with the HVAC equipment.
3. A listed heat sensor installed in the return duct.

## **13VAC5-63-235. Chapter 8 Interior finishes.**

Change Section ~~806.3~~ 806.2 of the IBC to read:

~~806.3~~ 806.2 Combustible decorative materials. In other than Group I-3, curtains, draperies, fabric hangings, and similar combustible decorative materials suspended from walls or ceilings shall comply with Section 806.4 and shall not exceed 10% of the specific wall or ceiling area to which it is attached.

Fixed or movable walls and partitions, paneling, wall pads, and crash pads applied structurally or for decoration, acoustical correction, surface insulation, or other purposes shall be considered interior finish, shall comply with Section 803, and shall not be considered decorative materials or furnishings.

Exceptions:

1. In auditoriums or similar types of spaces in Group A, the permissible amount of curtains, draperies, fabric hangings, and similar combustible decorative materials suspended from walls or ceilings shall not exceed 75% of the aggregate wall area where the building is equipped



throughout with an automatic sprinkler system in accordance with Section 903.3.1.1, and where the material is installed in accordance with Section ~~803.13~~ 803.15 of this code.

2. In auditoriums or similar types of spaces in Group A, the permissible amount of decorative materials suspended from the ceiling, located no more than 12 inches (305 mm) from the wall, not supported by the floor, and meeting the flame propagation performance criteria of NFPA 701, shall not exceed 75% of the aggregate wall area when the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.

3. In Group R-2 dormitories, within sleeping units and dwelling units, the permissible amount of curtains, draperies, fabric hangings, and similar decorative materials suspended from walls or ceiling shall not exceed 50% of the aggregate walls areas where the building is equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.

4. In ~~Group~~ Groups B and M occupancies, the amount of combustible fabric partitions suspended from the ceiling and not supported by the floor shall comply with Section 806.4 and shall not be limited.

**13VAC5-63-240. Chapter 9 Fire protection systems.**

~~A. Add the following to the list of terms in Section 902.1 of the IBC:~~

~~Emergency communication equipment.~~

~~Emergency public safety personnel.~~

~~B. A. Change Item 2 of 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 fire areas containing Group A-2 occupancies and intervening floors of the building where one of the following conditions exists:~~

- ~~1. The fire area exceeds 5,000 square feet (464.5m<sup>2</sup>).~~
- ~~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.~~
- ~~3. The fire area is located on a floor other than a level of exit discharge serving such occupancies.~~
- ~~4. The fire area contains a multitheater complex.~~

~~C. B. Change Item 2 of Section 903.2.1.3 of the IBC to read:~~

~~2. In Group A-3 occupancies other than places of religious worship, the fire area has an occupant load of 300 or more.~~

~~D. C. Change Item 1 of Section 903.2.3 of the IBC to read:~~

~~903.2.3 Group E. An automatic sprinkler system shall be provided for Group E occupancies as follows:~~

1. Throughout all Group E fire areas greater than 20,000 square feet (1858 m<sup>2</sup>) in area.

~~2. Throughout every portion of educational buildings below the lowest level of exit discharge serving that portion of the building.~~

~~Exception: An automatic sprinkler system is not required in any area below the lowest level of exit discharge serving that area where every classroom throughout the building has at least one exterior exit door at ground level.~~

~~E. D. Add Exception 4 to Section 903.2.6 to read:~~

4. An automatic sprinkler system shall not be required for open-sided or chain link-sided buildings and overhangs over exercise yards 200 square feet (18.58 m<sup>2</sup>) or less in Group I-3 facilities, provided such buildings and overhangs are of noncombustible construction.

~~F. Change E. Delete Item 4 of Section 903.2.7 of the IBC to read:~~

~~903.2.7 Group M. An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy where one of the following conditions exists:~~

- ~~1. A Group M fire area exceeds 12,000 square feet (1115 m<sup>2</sup>).~~
- ~~2. A Group M fire area is located more than three stories above grade plane.~~
- ~~3. The combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 m<sup>2</sup>).~~

~~G. F. Change Section 903.2.8 of the IBC to read:~~

903.2.8 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 for Group R-2 occupancies listed in the exceptions to this section when the necessary water pressure or volume, or both, for the system is not available:

Exceptions:

1. Group R-2 occupancies that do not exceed two stories, including basements that 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. Group R-2 occupancies 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

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house shall be considered a dwelling unit under this exception.

~~H.~~ G. [ ~~Change Add~~ ] Section ~~903.3.1.2.2~~ 903.3.1.2.3.1 to the IBC to read:

~~903.3.1.2.2~~ 903.3.1.2.3.1 [ Group R-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 7.2 of NFPA 13R.

~~F.~~ H. Add Section 903.3.5.1.1 to the IBC and change Section 903.3.5.2 of the IBC to Section 903.3.5.1.2; both to read as follows:

903.3.5.1.1 Limited area sprinkler systems. Limited area sprinkler systems serving fewer than 20 sprinklers on any single connection are permitted to be connected to the domestic service where a wet automatic standpipe is not available. Limited area sprinkler systems connected to domestic water supplies shall comply with each of the following requirements:

1. Valves shall not be installed between the domestic water riser control valve and the sprinklers.

Exception: An approved indicating control valve supervised in the open position in accordance with Section 903.4.

2. The domestic service shall be capable of supplying the simultaneous domestic demand and the sprinkler demand required to be hydraulically calculated by NFPA 13, NFPA 13R, or NFPA 13D.

903.3.5.1.2 Residential combination services. A single combination water supply shall be allowed provided that the domestic demand is added to the sprinkler demand as required by NFPA 13R.

~~F.~~ I. Delete Section ~~903.3.5.2~~ of the IBC and Sections 903.3.8 through 903.3.8.5 of the IBC.

~~K.~~ J. 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.

~~L.~~ K. Change Section 905.3.1 of the IBC to read:

905.3.1 Height. Class III standpipe systems shall be installed throughout buildings where four or more stories are above or below grade plane, the floor level of the highest story is located more than 30 feet (9144 mm) above the lowest level of fire department vehicle access, or where the floor level of the lowest story is located more than 30 feet (9144 mm) below the highest level of fire department vehicle access.

Exceptions:

1. Class I standpipes are allowed in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.

2. Class I manual wet standpipes are allowed in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1 or Section 903.3.2 and where the highest floor is located not more than 150 feet (45,720 mm) above the lowest level of fire department vehicle access.

3. Class I manual standpipes are allowed in open parking garages where the highest floor is located not more than 150 feet (45,720 mm) above the lowest level of fire department vehicle access.

4. Class I manual dry standpipes are allowed in open parking garages that are subject to freezing temperatures, provided that the hose connections are located as required for Class II standpipes in accordance with Section 905.5.

5. Class I standpipes are allowed in basements equipped throughout with an automatic sprinkler system.

6. In determining the lowest level of fire department vehicle access, it shall not be required to consider either of the following:

6.1. Recessed loading docks for four vehicles or less.

6.2. Conditions where topography makes access from the fire department vehicle to the building impractical or impossible.

~~M.~~ L. Change Item 1 of Section 906.1 of the IBC to read:

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

Exceptions:

1. In Groups 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.

~~N.~~ M. Change Section 907.2.1.1 of the IBC to read:

907.2.1.1 System initiation in Group A occupancies with an 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 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.

~~O.~~ Add Section 907.2.2.2 to the IBC to read:

~~907.2.2.2 Higher education laboratories. An automatic fire alarm and detection system shall be provided in Group B occupancies where an increase in hazardous materials is permitted in accordance with Section 430.~~

~~P.~~ N. Change Section 907.2.3 of the IBC to read:

907.2.3 Group E. A manual fire alarm system that activates the occupant notification system meeting the requirements of Section 907.5 and installed in accordance with Section 907.6 shall be installed in Group E occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

Exceptions:

1. A manual fire alarm system is not required in Group E occupancies with an occupant load of 50 or less.
2. Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:
  - 2.1. Interior corridors are protected by smoke detectors.
  - 2.2. Auditoriums, cafeterias, gymnasiums, and similar areas are protected by heat detectors or other approved detection devices.
  - 2.3. Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.
3. Manual fire alarm boxes shall not be required in Group E occupancies where the building is equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1, the occupant notification system will activate on sprinkler water flow and manual activation is provided from a normally occupied location.

[ ~~O.~~ O. Change Section 907.3.2 of the IBC to read:

907.3.2 Special locking systems. Where special locking systems are installed on means of egress doors in accordance with Section 407.4.1.1 or 1010.1.9.8, an automatic detection system shall be installed as required by that section. ]

~~Q.~~ [ ~~Q.~~ P. ] Add an exception to Section 907.5.2.1.1 of the IBC to read:

Exception: 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.

[ ~~P.~~ Q. ] Delete Exception 1 from Section 907.5.2.3 of the IBC.

~~R.~~ [ ~~Q.~~ R. ] 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.

~~S.~~ [ ~~R.~~ S. ] Change Section 911.1.3 of the IBC to read:

911.1.3 Size. The fire command center shall be a minimum of 96 square feet (9 m<sup>2</sup>) in area with a minimum dimension of eight feet (2438 mm).

Exception: Where it is determined by the building official, after consultation with the fire ~~chief~~ official, that specific building characteristics require a larger fire command center, the building official may increase the minimum required size of the fire command center up to 200 square feet (19 m<sup>2</sup>) in area with a minimum dimension of up to 10 feet (3048 mm).

[ ~~S.~~ T. ] Delete Section 912.2.2 of the IBC.

[ ~~T.~~ U. ] Change Sections 912.4 and 912.4.2 of the IBC to read:

912.4 Access. Immediate access to fire department connections shall be provided without obstruction by fences, bushes, trees, walls or any other fixed or moveable object. Access to fire department connections shall be approved by the fire ~~chief~~ official.

Exception: Fences, where provided with an access gate equipped with a sign complying with the legend requirements of this section and a means of emergency operation. The gate and the means of emergency operation shall be approved by the fire ~~chief~~ official.

912.4.2 Clear space around connections. A working space of not less than 36 inches (762 mm) in width, 36 inches (914 mm) in depth and 78 inches (1981 mm) in height shall be provided in front of and to the sides of wall-mounted fire department connections and around the circumference of free-standing fire department connections, except as otherwise required or approved by the fire ~~chief~~ official.

[ ~~U.~~ V. ] Replace Section 915 of the IBC with the following:

915.1 Carbon monoxide alarms. Carbon monoxide alarms shall comply with this section.

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915.2 Group I or R. Group I or R occupancies located in a building containing a fuel-burning appliance or in a building that has an attached garage shall be equipped with single-station carbon monoxide alarms. The carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions. An open parking garage, as defined in Chapter 2, or an enclosed parking garage ventilated in accordance with Section 404 of the IMC shall not be considered an attached garage.

Exception: Sleeping units or dwelling units that do not themselves contain a fuel-burning appliance or have an attached garage but that are located in a building with a fuel-burning appliance or an attached garage, need not be equipped with single-station carbon monoxide alarms provided that:

1. The sleeping unit or dwelling unit is located more than one story above or below any story that contains a fuel-burning appliance or an attached garage;
2. The sleeping unit or dwelling unit is not connected by duct work or ventilation shafts to any room containing a fuel-burning appliance or to an attached garage; and
3. The building is equipped with a common area carbon monoxide alarm system.

915.3 Group E. Classrooms in Group E occupancies located in a building containing a fuel-burning appliance or in a building that has an attached garage or small engine or vehicle shop shall be equipped with single-station carbon monoxide alarms. The carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions. An open parking garage, as defined in Chapter 2, or an enclosed parking garage ventilated in accordance with Section 404 of the IMC shall not be considered an attached garage.

Exception: Classrooms that do not themselves contain a fuel-burning appliance or have an attached garage but are located in a building with a fuel-burning appliance or an attached garage, need not be equipped with single-station carbon monoxide alarms provided that:

1. The classroom is located more than 100 feet from the fuel burning appliance or attached garage or located more than one story above or below any story which contains a fuel-burning appliance or attached garage; and
2. The classroom is not connected by duct work or ventilation shafts to any room containing a fuel-burning appliance.

915.4 Carbon monoxide detection systems. Carbon monoxide detection systems, which include carbon monoxide detectors and audible notification appliances, installed and maintained in accordance with this section for carbon monoxide alarms and NFPA 720 shall be permitted.

The carbon monoxide detectors shall be listed as complying with UL 2075.

[ ~~W.~~ W. ] Change the title of IBC Section ~~916~~ 918 to read:

In-Building Emergency Communications Coverage.

[ ~~W.~~ X. ] Change Section ~~916.1~~ 918.1 of the IBC to read:

~~916.1~~ 918.1 General. For localities utilizing public safety wireless communications, dedicated infrastructure to accommodate and perpetuate continuous 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 Types IV and V construction without basements, that are not considered unlimited area buildings in accordance with Section 507.
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.

6. Buildings in localities that do not provide the additional communication equipment required for the operation of the system.

[ ~~X.~~ Y. ] Add Sections ~~916.1.1~~ 918.1.1, ~~916.1.2~~ 918.1.2, and ~~916.1.3~~ 918.1.3 to the IBC to read:

~~916.1.1~~ 918.1.1 Installation. The building owner shall install radiating cable, such as coaxial cable or equivalent. The radiating cable 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. The locality shall be responsible for the installation of any additional communication equipment required for the operation of the system.

~~916.1.2~~ 918.1.2 Operations. The locality will assume all responsibilities for the operation and maintenance of the emergency communication equipment. The building owner shall provide sufficient operational space within the building to allow the locality access to and the ability to operate in-building emergency communication equipment.

~~916.1.3~~ 918.1.3 Inspection. In accordance with Section 113.3, all installations shall be inspected prior to concealment.

[ ~~Y. Z.~~ ] Add Section ~~916.2~~ 918.2 to the IBC to read:

~~916.2~~ 918.2 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 in the installation of the radiating cable or operational space shall be provided in an inspection report to the owner or the owner's representative.

### 13VAC5-63-245. Chapter 10 Means of egress.

A. Delete Section ~~1001.4~~ 1002.2 of the IBC.

B. Change Section ~~1004.3~~ 1004.9 of the IBC to read:

~~1004.3~~ 1004.9 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 for the intended configurations 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 the owner's authorized agent.

C. Change Exception 1 of Section 1005.3.1 of the IBC to read:

1. For other than Groups H and I-2 occupancies, the capacity, in inches (mm), of means of egress stairways shall be calculated by multiplying the occupant load served by such stairway by a means of egress capacity factor of 0.2 inch (5.1 mm) per occupant in buildings equipped with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.

D. Change Exception 1 of Section 1005.3.2 of the IBC to read:

1. For other than Groups H and I-2 occupancies, the capacity, in inches (mm), of means of egress components other than stairways shall be calculated by multiplying the occupant load served by such component by a means of egress capacity factor of 0.15 inch (3.8 mm) per occupant in buildings equipped with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.

E. ~~Change~~ Add Exception ~~4~~ 3 of Section 1006.2.1 of the IBC to read:

~~4~~ 3. In Group R-2 and R-3 occupancies, one means of egress is permitted within and from individual dwelling units with a maximum occupant load of 20 where the dwelling unit is equipped throughout with an automatic

sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2 and the common path of egress travel does not exceed 125 feet (~~38~~ 100 (38,100 mm)). This exception shall also apply to Group R-2 occupancies where Section 903.2.8, Exception 1 or 2 is applicable.

F. Change the number "49" to "50" in the "Maximum Occupant Load of Space" column in the "A<sup>c</sup>, E, M," "B," "F," and "U" rows of Table 1006.2.1 of the IBC.

G. Change the number "49" to "50" in the "Maximum Occupant Load per Story" column of the "A, B<sup>b</sup>, E, F<sup>b</sup>, M, U" row of Table ~~1006.3.2(2)~~ 1006.3.3(2).

H. Change Exception 2 of Section 1007.1.1 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.

I. Change Section 1009.6.4 of the IBC to read:

1009.6.4 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 1026. Each area of refuge shall be designed to minimize the intrusion of smoke.

Exceptions:

1. Areas of refuge located within an enclosure for interior exit stairways complying with Section 1023.
2. Areas of refuge in outdoor facilities where exit access is essentially open to the outside.
3. 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.

J. Change Section 1010.1.4.4 of the IBC to read:

1010.1.4.4 Locking arrangements in educational occupancies. In Group E occupancies, except Group E day care facilities, and Group B educational occupancies, exit access doors from classrooms, offices, and other occupied rooms, except for exit doors and doors across corridors, shall be permitted to be provided with emergency supplemental hardware where all of the following conditions are met:

1. The door shall be capable of being opened from outside the room with a key, proprietary device provided by the manufacturer, or other approved means.
2. The door shall be openable from within the room in accordance with Section 1010.1.9, except emergency supplemental hardware is not required to comply with Chapter 11.

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Note: School officials should consult with their legal counsel regarding provisions of the Americans with Disabilities Act of 1990 (42 USC § 12101 et seq.) and any other applicable requirements.

3. Installation of emergency supplemental hardware on fire door assemblies must comply with Section 716.2. Modifications shall not be made to listed panic hardware, fire door hardware, or door closures.

4. The emergency supplemental hardware shall not be capable of being used on other doors not intended to be used and shall have at least one component that requires modification to, or is permanently affixed to, the surrounding wall, floor, door, or frame assembly construction for it to properly function.

5. Employees shall engage in lockdown training procedures on how to deploy and remove the emergency supplemental hardware, and its use shall be incorporated in the approved lockdown plan complying with the SFPC.

6. The emergency supplemental hardware and its components shall be maintained in accordance with the SFPC.

7. Approved emergency supplemental hardware shall be of consistent type throughout a building.

Exception: The building official may approve alternate types of emergency supplemental hardware in accordance with Section 110.1 when a consistent device cannot be installed.

K. [ Change Section 1010.1.6 of the IBC to read:

1010.1.6 Landings at doors. Landings shall have a width not less than the width of the stairway or the door, whichever is greater. Doors in the fully open position shall not reduce a required dimension by more than 7 inches (178 mm). Where a landing serves an occupant load of 50 or more, other doors, gates, or turnstiles in any position shall not reduce the landing to less than one-half its required width nor prevent a door, gate, or turnstile from opening to less than one-half of the required landing width. Landings shall have a length measured in the direction of travel of not less than 44 inches (1118 mm).

Exception: Landing length in the direction of travel in Groups R-3 and U and within individual units of Group R-2 need not exceed 36 inches (914 mm).

L. ] Add an exception to Sections 1010.1.9 and 1010.1.9.1 of the IBC to read:

Exception: Emergency supplemental hardware provided in accordance with Section [ ~~1010.1.4.4~~ 1010.1.4.4 ].

[ ~~L~~ M. ] Change Section 1010.1.9.2 of the IBC to read:

1010.1.9.2 Hardware height. Door handles, pulls, latches, locks, and other operating devices shall be installed 34 inches (864 mm) minimum and 48 inches (1219 mm)

maximum above the finished floor. Emergency supplemental hardware provided in accordance with Section 1010.1.4.4, shall be installed 48 inches (1219 mm) maximum above the finished floor. Locks used only for security purposes and not used for normal operation are permitted at any height.

Exception: Access doors or gates in barrier walls and fences protecting pools, spas, and hot tubs shall be permitted to have operable parts of the latch release on self-latching devices at 54 inches (1370 mm) maximum above the finished floor or ground, provided that the self-latching devices are not also self-locking devices operated by means of a key, electronic opener, or integral combination lock.

[ ~~M~~ N. ] Change Item 2 of Section ~~1010.1.9.3~~ 1010.1.9.4 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 THIS SPACE 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 revocable by the building official for due cause.

[ ~~N~~ O. ] Add Items 7, 7.1, and 7.2 to Section 1010.1.9.4 of the IBC to read:

7. Egress doors equipped with emergency supplemental hardware complying with Section 1010.1.4.4, from the egress side provided:

7.1. A readily visible durable sign is posted on the egress side on or adjacent to the door stating: THIS HARDWARE SHALL BE USED BY AUTHORIZED PERSONNEL ONLY. The sign shall be in letters 1 inch (25 mm) high on a contrasting background.

7.2. The use of the emergency supplemental hardware is revocable by the building official or fire official for due cause.

[ ~~O~~ P. ] Add Item 6 to Section 1010.1.9.5 of the IBC to read:

6. Emergency supplemental hardware provided in accordance with Section 1010.1.4.4.

[ ~~P~~ Q. ] Add Item 5 to Section 1010.1.9.6 of the IBC to read:

5. One additional operation shall be permitted for release of emergency supplemental hardware provided in accordance with Section 1010.1.4.4.

~~K~~ [ ~~Q~~ R. ] Delete Section ~~1010.1.9.6~~ 1010.1.9.7 of the IBC.

~~L. [ R. S. ] Add an exception Exceptions 2 and 3 to Section 1010.1.9.7 1010.1.9.8 of the IBC to read:~~

~~Exception Exceptions:~~

~~2. Approved, listed, delayed egress locks shall be permitted to be installed on doors serving Group A-3 airport facilities, provided they are installed in accordance with this section.~~

~~3. Emergency supplemental hardware shall not be considered a delayed egress locking system.~~

~~M. [ S. Change Section 1010.1.6 of the IBC to read:~~

~~1010.1.6 Landings at doors. Landings shall have a width not less than the width of the stairway or the door, whichever is greater. Doors in the fully open position shall not reduce a required dimension by more than 7 inches (178 mm). Where a landing serves an occupant load of 50 or more, other doors, gates, or turnstiles in any position shall not reduce the landing to less than one half its required width nor prevent a door, gate, or turnstile from opening to less than one half of the required landing width. Landings shall have a length measured in the direction of travel of not less than 44 inches (1118 mm).~~

~~Exception: Landing length in the direction of travel in Groups R-3 and U and within individual units of Group R-2 need not exceed 36 inches (914 mm). ]~~

~~N. Change T. Delete Exception 1 and change Exception 2 of Section 1010.1.10 of the IBC to read:~~

~~1010.1.10 Panic and fire exit hardware. Doors serving a Group H occupancy and doors serving rooms or spaces with an occupant load of 50 or more in a Group A or E occupancy shall not be provided with a latch or lock other than panic hardware or fire exit hardware.~~

~~Exception: Doors serving a provided with panic hardware or fire exit hardware and serving a Group A or E occupancy shall be permitted to be electromagnetically electrically locked in accordance with Section 1010.1.9.9 1010.1.9.10.~~

~~O. U. Add Section 1010.1.11 to the IBC to read:~~

~~1010.1.11 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.~~

~~P. V. Add Section 1010.1.12 to the IBC to read:~~

~~1010.1.12 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.

~~Q. W. Change Exception 3 of Section 1011.5.2 of the IBC to read:~~

~~3. 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).~~

~~R. Change X. Delete Exception 4 from Section 1011.5.2 of the IBC.~~

~~Y. Add Exception 2 to Section 1011.6 of the IBC to read:~~

~~1011.6 Stairway landings. There shall be a floor or landing at the top and bottom of each stairway. The width of landings shall be not less than the width of stairways served. Every landing shall have a minimum width measured perpendicular to the direction of travel equal to the width of the stairway. Where the stairway has a straight run the depth need not exceed 48 inches (1219 mm). Doors opening onto a landing shall not reduce the landing to less than one half the required width. When fully open, the door shall not project more than 7 inches (178 mm) into a landing. Where wheelchair spaces are required on the stairway landing in accordance with Section 1009.6.3, the wheelchair space shall not be located in the required width of the landing and doors shall not swing over the wheelchair spaces.~~

~~Exceptions:~~

~~1. Where stairways connect stepped aisles to cross aisles or concourses, stairway landings are not required at the transition between stairways and stepped aisles constructed in accordance with Section 1029.~~

~~2. A floor or landing is not required at the top of an interior flight of exit access stairs within individual dwelling units and sleeping units of Group R-2 occupancies and dwelling units of Group R-3 occupancies, including stairs in an enclosed private garage serving only an individual dwelling unit, provided that a door does not swing over the stairs.~~

~~S. Change Z. Delete Item 6 from Section 1011.16 of the IBC to read:~~

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~~1011.16 Ladders. Permanent ladders shall not serve as a part of the means of egress from occupied spaces within a building. Permanent ladders shall be permitted to provide access to the following areas:~~

- ~~1. Spaces frequented only by personnel for maintenance, repair, or monitoring of equipment.~~
- ~~2. Nonoccupiable spaces accessed only by catwalks, crawl spaces, freight elevators, or very narrow passageways.~~
- ~~3. Raised areas used primarily for purposes of security, life safety, or fire safety including observation galleries, prison guard towers, fire towers, or lifeguard stands.~~
- ~~4. Elevated levels in Group U not open to the general public.~~
- ~~5. Nonoccupied roofs that are not required to have stairway access in accordance with Section 1011.12.1.~~

~~T. AA.~~ Change Section 1015.8 of the IBC to read:

~~1015.8 Window openings. Windows in Group Groups R-2 and R-3 buildings including dwelling units where the top of the sill of an operable window opening is located less than 18 inches (457 mm) above the finished floor and more than 72 inches (1829 mm) above the finished grade or other surface below on the exterior of the building shall comply with one of the following:~~

- ~~1. Operable windows where the top of the sill of the opening is located more than 75 feet (22 860 (22,860 mm) above the finished grade or other surface below and that are provided with window fall prevention devices that comply with ASTM F 2006.~~
- ~~2. Operable windows where the openings will not allow a 4-inch diameter (102 mm) sphere to pass through the opening when the window is in its largest opened position.~~
- ~~3. Operable windows where the openings are provided with window fall prevention devices that comply with ASTM F 2090.~~
- ~~4. Operable windows that are provided with window opening control devices that comply with Section 1015.8.1.~~

~~U. BB.~~ Add Exception 3 to Item 5 of Section 1016.2 of the IBC to read:

- ~~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.~~

~~V. CC.~~ Change the following rows and delete footnote "b" in Table 1020.1 of the IBC to read:

| Occupancy           | Occupant Load Served By Corridor | Required Fire-Resistance Rating (hours) |                                    |
|---------------------|----------------------------------|---|------------------------------------|
|                     |                                  | Without sprinkler system                | With sprinkler system <sup>b</sup> |
| H 1, H 2, H 3       | All                              | Not Permitted                           | 4                                  |
| H 4, H 5            | Greater than 30                  | Not Permitted                           | 4                                  |
| A, B, E, F, M, S, U | Greater than 30                  | 4                                       | 0                                  |
| R                   | Greater than 10                  | 1                                       | 0.5                                |
| I-2*, I-4           | All                              | Not Permitted                           | 0                                  |
| I-1, I-3            | All                              | Not Permitted                           | 0                                  |

~~a. For requirements for occupancies in Group I-2, see Sections 407.2 and 407.3.~~

~~b. Buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2 where allowed.~~

~~W. DD.~~ Add an additional row to Table 1020.2 of the IBC to read:

| Occupancy   | Width (minimum) |
|---|-----------------|
| In corridors of Group I-2 assisted living facilities licensed by the Virginia Department of Social Services serving areas with wheelchair, walker, and gurney traffic where residents are capable of self-preservation or where resident rooms have a means of egress door leading directly to the outside. | 44 inches       |

~~X. Change EE.~~ Add Exception 2 to Section 1023.5 of the IBC to read:

~~1023.5 Penetrations. Penetrations into or through interior exit stairways and ramps are prohibited except for equipment and ductwork necessary for independent ventilation or pressurization, sprinkler piping, standpipes, electrical raceway for fire department communication systems, and electrical raceway serving the interior exit stairway and ramp and terminating at a steel box not exceeding 16 square inches (0.010 m<sup>2</sup>). Such penetrations~~



~~shall be protected in accordance with Section 714. There shall not be penetrations or communication openings, whether protected or not, between adjacent interior exit stairways and ramps.~~

~~Exceptions:~~

~~1. Membrane penetrations shall be permitted on the outside of the interior exit stairway and ramp. Such penetrations shall be protected in accordance with Section 714.3.2.~~

2. For buildings in other than Group H, with no more than two stories above grade plane and are equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1, structural members, other than columns, that are part of the primary structural frame supporting the roof sheathing, roof slab or roof deck only and structural members that are secondary members supporting the roof sheathing, roof slab or roof deck only, shall be permitted to penetrate an interior exit stairway enclosure or a ramp enclosure. Such penetrations shall be protected in accordance with Section 714.

~~Y. FF.~~ Change Section 1023.9 of the IBC to read:

1023.9 Floor identification signs. A sign shall be provided at each floor landing in exit enclosures connecting more than three stories designating the floor level, the terminus of the top and bottom of the exit enclosure and the identification of the stair or ramp by designation with a letter of the alphabet. The signage shall also state the story of, and the direction to, the exit discharge and the availability of roof access from the enclosure for the fire department. The sign shall be located five feet (1524 mm) above the floor landing in a position that is readily visible when the doors are in the open and closed positions. Floor level identification signs in tactile characters complying with ICC A117.1 shall be located at each floor level landing adjacent to the door leading from the enclosure into the corridor to identify the floor level.

~~Z.~~ Change GG. Add Exception 2 to Section 1024.6 of the IBC to read:

~~1024.6 Penetrations. Penetrations into or through an exit passageway are prohibited except for equipment and ductwork necessary for independent pressurization, sprinkler piping, standpipes, electrical raceway for fire department communication and electrical raceway serving the exit passageway and terminating at a steel box not exceeding 16 square inches (0.010 m<sup>2</sup>). Such penetrations shall be protected in accordance with Section 714. There shall not be penetrations or communicating openings, whether protected or not, between adjacent exit passageways.~~

~~Exceptions:~~

~~1. Membrane penetrations shall be permitted on the outside of the exit passageway. Such penetrations shall be protected in accordance with Section 714.3.2.~~

2. For buildings in other than Group H, with no more than two stories above grade plane and are equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1, structural members, other than columns, which are part of the primary structural frame supporting the roof sheathing, roof slab or roof deck only and structural members which are secondary members supporting the roof sheathing, roof slab or roof deck only, shall be permitted to penetrate an interior exit stairway enclosure or a ramp enclosure. Such penetrations shall be protected in accordance with Section 714.

~~AA.~~ HH. Change Section 1025.1 of the IBC to read:

1025.1 General. Approved luminous egress path markings delineating the exit path shall be provided in buildings of Groups A, B, E, I, M and R-1 having occupied floors located more than 420 feet (128 016 (128,016 mm) above the lowest level of fire department vehicle access in accordance with ~~Sections 1025.1 through 1025.5~~ this section.

Exception: Luminous egress path markings shall not be required on the level of exit discharge in lobbies that serve as part of the exit path in accordance with Section 1028.1, Exception 1.

~~BB.~~ II. Change Section 1026.2 of the IBC to read:

1026.2 Separation. The separation between buildings or refuge areas connected by a horizontal exit shall be provided by a fire wall complying with Section 706, by a fire barrier complying with Section 707 or a horizontal assembly with Section 711, or by both. The minimum fire-resistance rating of the separation shall be two hours. Opening protectives in horizontal exits shall also comply with Section 716. Duct and air transfer openings in a fire wall or fire barrier that serves as a horizontal exit shall also comply with Section 717. The horizontal exit separation shall extend vertically through all levels of the building unless floor assemblies have a fire-resistance rating of not less than two hours. Openings in horizontal assemblies on the story served by horizontal exits shall be protected in accordance with Sections 712.1.1, 712.1.3, 712.1.13, [ and 1019.3.4 or item 4 of Section 1019.3 ].

Exception: A fire-resistance rating is not required at horizontal exits between a building area and an above-grade pedestrian walkway constructed in accordance with Section 3104, provided that the distance between connected buildings is more than 20 feet (6096).

Horizontal exits constructed as fire barriers shall be continuous from exterior wall to exterior wall as to divide completely the floor served by the horizontal exit.

Change Section 1030.1 of the IBC to read:

1030.1 General. In addition to the means of egress required by this chapter, provisions shall be made for emergency

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~~escape and rescue openings in Group R-2 occupancies in accordance with Tables 1006.3.2(1) and 1006.3.2(2) and in Group R-3 and R-4 occupancies. Basements and sleeping rooms below the fourth story above grade plane shall have at least one exterior emergency escape and rescue opening in accordance with this section. Where basements contain one or more sleeping rooms, emergency escape and rescue openings shall be required in each sleeping room, but shall not be required in adjoining areas of the basement. Such openings shall open directly into a public way or to a yard or court that opens to a public way.~~

**Exceptions:**

- ~~1. Basements with a ceiling height of less than 80 inches (2032 mm) shall not be required to have emergency escape and rescue openings.~~
- ~~2. Emergency escape and rescue openings are not required from basements or sleeping rooms that have an exit door or exit access door that opens directly into a public way or to a yard, court or exterior exit balcony that opens to a public way.~~
- ~~3. Basements without habitable spaces and having not more than 200 square feet (18.6 m<sup>2</sup>) in floor area shall not be required to have emergency escape and rescue openings.~~

**JJ. Delete the last sentence from Section 1030.5.**

**13VAC5-63-250. Chapter 11 Accessibility.**

A. Add an exception to Section ~~1101.2~~ 1102.1 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 to 1103.2.8 of the IBC to read:

1103.2.8 Raised and lowered areas in places of religious worship. Raised or lowered areas, or portions of areas, in places of religious worship are not required to be accessible or to be served by an accessible route, provided such areas are used ~~exclusively~~ primarily for the performance of religious ceremonies and are located within an accessible story or mezzanine.

C. Add Section 1103.2.15 to the IBC to read:

1103.2.15 Emergency supplemental hardware. In Group E occupancies, except Group E day care facilities, and Group B educational occupancies, when emergency supplemental hardware is deployed during an active shooter or hostile threat event and provided in accordance with Section 1010.1.4.4.

D. Change Section 1106.1 of the IBC and replace Table 1106.1 of the IBC with Tables 1106.1(1) and 1106.1(2) to read:

1106.1 Required. Where parking is provided, accessible parking spaces shall be provided in compliance with Tables 1106.1(1) and 1106.1(2), as applicable, except as required by Sections 1106.2 through 1106.4. Where more than one parking facility is provided on a site, the number of parking spaces required to be accessible shall be calculated separately for each parking facility. Exception: This section does not apply to parking spaces used exclusively for buses, trucks, other delivery vehicles, law-enforcement vehicles, or vehicular impound and motor pools where lots accessed by the public are provided with an accessible passenger loading zone.

| Table 1106.1(1)<br>Accessible Parking Spaces for Groups A, B, E, M, R-1, R-2, and I <sup>a</sup>  |  |
|---|--|
| Total Parking Spaces Provided   | Required Minimum Number of Accessible Spaces               |
| 1 - 25  | 1  |
| 26 - 50   | 2  |
| 51 - 75   | 3  |
| 76 - 100  | 4  |
| 101 - 125   | 5  |
| 126 - 150   | 6  |
| 151 - 200   | 7  |
| 201 - 300   | 8  |
| 301 - 400   | 9  |
| 401 - 500   | 10   |
| 501 - 1,000   | 2.33% of total   |
| 1,001 and over  | 23, plus one for each 100, or fraction thereof, over 1,000 |
| a. Condominium parking in Group R-2 occupancies where parking is part of the unit purchase shall be in accordance with Table 1106.1(2). |  |
| Table 1106.1(2)<br>Accessible Parking Spaces for Groups F, S, H, R-3, R-4, and U  |  |
| Total Parking Spaces Provided   | Required Minimum Number of Accessible Spaces               |
| 1 - 25  | 1  |
| 26 - 50   | 2  |

|                |  |
|----------------|--|
| 51 - 75        | 3  |
| 76 - 100       | 4  |
| 101 - 150      | 5  |
| 151 - 200      | 6  |
| 201 - 300      | 7  |
| 301 - 400      | 8  |
| 401 - 500      | 9  |
| 501 - 1,000    | 2.0% of total  |
| 1,001 and over | 20, plus one for each 100, or fraction thereof, over 1,000 |

~~D.~~ E. 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.

[ F. Change Section 1109.2 (exceptions remain) of the IBC to read:

1109.2 Toilet and bathing facilities. Each toilet room and bathing room shall be accessible. Where a floor level is not required to be connected by an accessible route, the only toilet rooms or bathing rooms provided within the facility shall be located on the inaccessible floor. Except as provided for in Sections 1109.2.2 through 1109.2.4, at least one of each type of fixture, element, control, or dispenser in each accessible toilet room and bathing room shall be accessible.

G. Add Section 1109.2.4 to the IBC to read:

1109.2.4 Multi-user gender-neutral toilet facility fixtures. Where multi-user facilities are provided to serve all genders, at least two of each fixture type, but only one urinal if more than one urinal is provided, shall comply with ICC A117.1. Water closet and urinal compartments shall comply with Section 1209.3. ]

~~E.~~ [ F. H. ] Add Sections 1109.16 and 1109.16.1 to the IBC to read:

1109.16 Dwellings containing universal design features for accessibility. Group R-5 occupancies not subject to Section R320.1 of the IRC and Group R-3 occupancies not subject to Section 1107.6.3 may comply with this section and be approved by the local building department as dwellings containing universal design features for accessibility.

1109.16.1 Standards for dwellings containing universal design features for accessibility. When the following requirements are met, approval shall be issued by the local building department indicating that a dwelling has been constructed in accordance with these standards and is deemed to be a dwelling containing universal design features for accessibility.

1. The dwelling must comply with the requirements for Type C units under Section 1005 of ICC A117.1 with the following changes to those requirements:

1.1. That at least one bedroom be added to the interior spaces required by Section 1005.4 of ICC A117.1.

1.2. In the toilet room or bathroom required by Section 1005 of ICC A117.1, in addition to the lavatory and water closet, a shower or bathtub complying with Section 1004.11.3.2.3 of ICC A117.1 shall be provided and shall include reinforcement for future installation of grab bars in accordance with Section 1004.11.1 of ICC A117.1.

1.3. That the exception to Section 1005.4 of ICC A117.1 is not applicable.

1.4. That there be a food preparation area complying with Section 1005.7 of ICC A117.1 on the entrance level.

1.5. That any thermostat for heating or cooling on the entrance level comply with Section ~~1005.8~~ 1002.9 of ICC A117.1.

~~F.~~ Change [ G. I. ] Delete the exception for Item 1 of Section 1111.1 of the IBC to read:

~~1. Accessible parking spaces required by Section 1106.1.~~

**13VAC5-63-260. Chapter 12 Interior environment.**

~~A.~~ Add the following to the list of terms in Section ~~1202.1~~ of the IBC:

~~Day-night average sound level (Ldn).~~

~~Sound transmission class (STC) rating.~~

~~B.~~ A. Add Section ~~1203.5.4~~ 1202.5.4 to the IBC to read:

~~1203.5.4~~ 1202.5.4 Insect screens in occupancies other than Group R. Every door, window and other outside opening for natural ventilation serving structures classified as other than a residential group containing habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged, or stored, shall be supplied with approved tightly fitting screens

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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.

Exception: Screen doors shall not be required for out swinging doors or other types of openings which make screening impractical, provided other approved means, such as air curtains or insect repellent fans are provided.

~~C. B.~~ Add Section ~~1203.5.5~~ 1202.5.5 to the IBC to read:

~~1203.5.5~~ 1202.5.5 Insect screens in Group R occupancies. Every door, window and other outside opening required for natural ventilation purposes which serves a structure classified as a residential group shall be supplied with approved tightly fitted screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every screen door used for insect control shall have a self-closing device.

~~D. C.~~ Add Section ~~1203.7~~ 1202.7 to the IBC to read:

~~1203.7~~ 1202.7 Smoking areas in restaurants. Smoking areas in restaurants, as defined in § 15.2-2820 of the Code of Virginia, shall comply with the following:

1. The area where smoking may be permitted shall be structurally separated from the portion of the restaurant in which smoking is prohibited. For the purposes of this section, structurally separated means a stud wall covered with drywall or other building material or like barrier, which, when completed, extends from the floor to the ceiling, resulting in a physically separated room. Such wall or barrier may include portions that are glass or other gas-impervious building material and shall be permitted to have a door leading to areas in which smoking is prohibited, provided the door is capable of being closed at all times.
2. The area where smoking may be permitted shall be separately vented to prevent the recirculation of air from such area to the area of the restaurant where smoking is prohibited.

Exception: The above requirements do not apply if a restaurant is exempt from, or meets any of the exceptions to, the Virginia Indoor Clean Air Act (Chapter 28.2 of Title 15.2 (§ 15.2-2820 et seq.) of the Code of Virginia).

~~E. D.~~ Change Section ~~1207.1~~ 1206.1 of the IBC to read:

~~1207.1~~ 1206.1 Scope. Sections ~~1207.2~~ 1206.2 and ~~1207.3~~ 1206.3 shall apply to common interior walls, partitions and ~~floor/ceiling~~ floor or ceiling assemblies between adjacent dwelling units or between dwelling units and adjacent public areas such as halls, corridors, stairs or service areas. Section ~~1207.4~~ 1206.4 applies to the construction of the exterior envelope of Group R occupancies within airport noise zones and to the exterior envelope of ~~Group~~ Groups A, B, E, I and M occupancies in any locality in whose jurisdiction, or adjacent jurisdiction, is located a United States Master Jet Base, a licensed airport or United States government or

military air facility, when such requirements are enforced by a locality pursuant to § 15.2-2295 of the Code of Virginia.

~~F. E.~~ Add Section ~~1207.4~~ 1206.4 to the IBC to read:

~~1207.4~~ 1206.4 Airport noise attenuation standards. Where the Ldn is determined to be 65 dBA or greater, the minimum STC rating of structure components shall be provided in compliance with Table ~~1207.4~~ 1206.4. As an alternative to compliance with Table ~~1207.4~~ 1206.4, structures shall be permitted to be designed and constructed so as to limit the interior noise level to no greater than 45 Ldn. Exterior structures, terrain and permanent plantings shall be permitted to be included as part of the alternative design. The alternative design shall be certified by an RDP.

~~G. E.~~ Add Table ~~1207.4~~ 1206.4 to the IBC to read:

| Ldn           | STC of exterior walls and roof/ceiling assemblies | STC of doors and windows |
|---------------|---|--------------------------|
| 65–69         | 39  | 25                       |
| 70–74         | 44  | 33                       |
| 75 or greater | 49  | 38                       |

[ ~~G.~~ Change Sections 1209.3.1 and 1209.3.2 and add Sections 1209.3.1.1, 1209.3.1.2, 1209.3.2.1, and 1209.3.2.2 to read:

1209.3.1 Water closet compartment. Each water closet utilized by the public or employees shall comply with Sections 1209.3.1.1 and 1209.3.1.2, as applicable. All fully-enclosed compartments shall be provided with occupancy indicators.

Exceptions:

1. A separate room or compartment shall not be required in a single-occupant toilet room with a lockable door.
2. Toilet rooms located in child day care facilities and containing two or more water closets shall be permitted to have one water closet without an enclosing compartment.
3. This provision is not applicable to toilet areas located within Group I-3 occupancy housing areas.

1209.3.1.1 Separate facilities. Each water closet provided in separate facilities shall occupy a separate compartment with walls or partitions and a door enclosing the fixtures to ensure privacy and shall comply with Section 405.3.1 of the VPC. Accessible water closets and compartments shall comply with ICC A117.1.

1209.3.1.2 Multi-user gender-neutral facilities. Each water closet provided in a multi-user gender-neutral toilet facility

shall occupy a separate compartment with walls or partitions including the doors thereto, which shall extend to the floor and to the ceiling with maximum 1/2-inch (13 mm) clearances at the floor and ceiling, with gaps not exceeding 1/8-inch (3 mm) between the doors and partitions and partitions and walls, and shall comply with Section 405.3.1 of the VPC. Accessible water closet compartments shall comply with ICC A117.1 and the increased toe clearance requirements.

1209.3.2 Urinal separation and partitions. Each urinal utilized by the public or employees shall occupy a separate area with walls or partitions to provide privacy and comply with Sections 1209.3.1.1 and 1209.3.1.2, as applicable. All fully-enclosed compartments shall be provided with occupy indicators.

Exceptions:

1. Urinal partitions shall not be required in a single-occupant or family or assisted-use toilet room with a lockable door.

2. Toilet rooms located in child day care facilities and containing two or more urinals shall be permitted to have one urinal without partitions.

3. A separate room or compartment shall not be required in a single-occupant toilet room with a lockable door.

4. This provision is not applicable to toilet areas located within Group I-3 occupancy housing areas.

1209.3.2.1 Separate facilities. The walls or partitions for urinals in separate facilities shall begin at a height not more than 12 inches (305 mm) from and extend not less than 60 inches (1524 mm) above the finished floor surface. The walls or partitions shall extend from the wall surface at each side of the urinal not less than 18 inches (457 mm) or to a point not less than 6 inches (152 mm) beyond the outermost front lip of the urinal measured from the finished backwall surface, whichever is greater.

1209.3.2.2 Multi-user gender-neutral facilities. Each urinal provided in a multi-user gender-neutral toilet facility shall occupy a separate compartment with walls or partitions, including the doors thereto, where the partitions extend to the floor and to the ceiling with maximum 1/2-inch (13 mm) clearances, with gaps not exceeding 1/8-inch (3 mm) between the doors and partitions and partitions and walls, or shall all be located in a separate room with a door, enclosing the urinals to ensure privacy. Where an accessible urinal is located within a compartment, grab bars shall not be required for the urinal, the door shall be located to allow for a forward approach to the urinal, and increased toe clearances shall be provided in accordance with A117.1. ]

### **13VAC5-63-264. Chapter 13 Energy efficiency.**

Add Section 1301.1.1.1 to the IBC to read:

1301.1.1.1 Changes to the IECC. The following changes shall be made to the IECC:

1. [ Add Sections C402.1.4.2, C402.1.4.2.1, C402.1.4.2.2, C402.1.4.2.3, C402.2.1.2, C402.2.1.3, C402.2.1.4, and C402.2.1.5 and change Section C402.2.1.1 to read:

C402.1.4.2 Roof/Ceiling assembly. The maximum roof/ceiling assembly U-factor shall not exceed that specified in Table C402.1.4 based on construction materials used in the roof/ceiling assembly.

C402.1.4.2.1 Tapered, above-deck insulation based on thickness. Where used as a component of a maximum roof/ceiling assembly U-factor calculation, the tapered roof insulation R-value contribution to that calculation shall use the average thickness in inches (mm) along with the material R-value-per-inch (per-mm) for U-factor compliance as prescribed in Section C402.1.4.

C402.1.4.2.2 Suspended ceilings. Insulation installed on suspended ceilings having removable ceiling tiles shall not be considered part of the assembly U-factor of the roof/ceiling construction.

C402.1.4.2.3 Multiple layers and staggered joints. Continuous insulation board shall be installed in not less than two layers and the edge joints between each layer of insulation shall be staggered. Multiple layers and staggered joints are not required where insulation tapers to the roof deck at a gutter edge, roof drain, or scupper.

C402.2.1 Roof assembly. The minimum thermal resistance (R-value) of the insulating material installed either between the roof framing or continuously on the roof assembly shall be as specified in Table C402.1.3, based on construction materials used in the roof assembly.

C402.2.1.1 Tapered, above-deck insulation based on thickness. Where used as a component of a roof/ceiling assembly R-value calculation, the tapered roof insulation R-value contribution to that calculation shall use the average thickness in inches (mm) along with the material R-value-per-inch (per-mm) for R-value compliance as prescribed in Section C402.1.3.

C402.2.1.2 Minimum thickness, lowest point. The minimum thickness of above-deck roof insulation at its lowest point, gutter edge, roof drain, or scupper shall be no less than 1 inch (25 mm).

C402.2.1.3 Suspended ceilings. Insulation installed on suspended ceilings having removable ceiling tiles shall not be considered part of the minimum thermal resistance (R-value) of roof insulation in roof/ceiling construction.

C402.2.1.4 Multiple layers and staggered joints. Continuous insulation board shall be installed in not less than two layers and the edge joints between each layer of insulation shall be staggered. Multiple layers and staggered joints are not required where insulation tapers to the roof deck at a gutter edge, roof drain or scupper.

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C402.2.1.5 Skylight curbs. Skylight curbs shall be insulated to the level of roofs with insulation entirely above the deck or R-5, whichever is less.

Exception: Unit skylight curbs included as a component of a skylight listed and labeled in accordance with NFRC 100 shall not be required to be insulated.

2. ] Change the SHGC for Climate Zone 4 (Except Marine) of Table C402.4 to read:

| Table C402.4<br>Building Envelope Requirements: Fenestration |      |      |      |                      |                   |      |      |      |
|--|------|------|------|----------------------|-------------------|------|------|------|
| Climate Zone   | 1    | 2    | 3    | 4<br>(Except Marine) | 5 and Marine<br>4 | 6    | 7    | 8    |
| Vertical fenestration  |      |      |      |                      |                   |      |      |      |
| U-factor   |      |      |      |                      |                   |      |      |      |
| Fixed fenestration   | 0.50 | 0.50 | 0.46 | 0.38                 | 0.38              | 0.36 | 0.29 | 0.29 |
| Operable fenestration  | 0.65 | 0.65 | 0.60 | 0.45                 | 0.45              | 0.43 | 0.37 | 0.37 |
| Entrance doors   | 1.10 | 0.83 | 0.77 | 0.77                 | 0.77              | 0.77 | 0.77 | 0.77 |
| SHGC   |      |      |      |                      |                   |      |      |      |
| SHGC   | 0.25 | 0.25 | 0.25 | 0.40<br>0.36         | 0.40              | 0.40 | 0.45 | 0.45 |
| Skylights  |      |      |      |                      |                   |      |      |      |
| U-factor   | 0.75 | 0.65 | 0.55 | 0.50                 | 0.50              | 0.50 | 0.50 | 0.50 |
| SHGC   | 0.35 | 0.35 | 0.35 | 0.40                 | 0.40              | 0.40 | NR   | NR   |
| NR = No requirement.   |      |      |      |                      |                   |      |      |      |

[ 2. 3. Change Sections C402.4.2, C402.4.2.1, and C402.4.2.2 and delete Section C402.4.1.2.

C402.4.2 Skylight area with daylight response controls. The skylight area shall be permitted to be not more than 5.0% of the roof area provided daylight responsive controls complying with Section C405.2.3.1 are installed in daylight zones under skylights.

C402.4.2.1 Daylight zone controls under skylights. Daylight responsive controls complying with Section C405.2.3.1 shall be provided to control all electric lights within daylight zones under skylights.

C402.4.2.2 Haze factor. Skylights that are installed in office, storage, automotive service, manufacturing, nonrefrigerated warehouse, retail store, and distribution/sorting area spaces shall have a glazing material or diffuser with a haze factor greater than 90% when tested in accordance with ASTM D1003.

Exception: Skylights designed and installed to exclude direct sunlight entering the occupied space by the use of fixed or automated baffles or the geometry of skylight and light well.

4. ] Change Section C402.4.3 to read:

C402.4.3 Maximum U-factor and SHGC. The maximum U-factor and solar heat gain coefficient (SHGC) for fenestration shall be as specified in Table C402.4.

The window projection factor shall be determined in accordance with Equation 4-5.

(Equation 4-5)

$$PF = A/B$$

where:

PF = Projection factor (decimal).

A = Distance measured horizontally from the farthest continuous extremity of any overhang, eave, or permanently attached shading device to the vertical surface of the glazing.

B = Distance measured vertically from the bottom of the glazing to the underside of the overhang, eave, or permanently attached shading device.

Where different windows or glass doors have different PF values, they shall each be evaluated separately.

Where the fenestration projection factor for a specific vertical fenestration product is greater than or equal to 0.20, the required maximum SHGC from Table C402.4 shall be adjusted by multiplying the required maximum SHGC by the multiplier specified in Table C402.4.3 corresponding with the orientation of the fenestration product and the projection factor.

[ 3. 5. ] Add Table C402.4.3 to read:

| Table C402.4.3<br>SHGC Adjustment Multipliers |  |                        |
|---|--|------------------------|
| Projection factor                             | Oriented within 45 degrees of true north | All other orientations |
| $0.2 \leq PF < 0.5$                           | 1.1                                      | 1.2                    |
| $PF \geq 0.5$                                 | 1.2                                      | 1.6                    |

[ 4. 6. ] Add an exception to the first paragraph of Section C403.2.4.3 403.7.7 to read:

Exception: Any grease duct serving a Type I hood installed in accordance with IMC Section 506.3 shall not be required to have a motorized or gravity damper.

[ 5. 7. ] Add Section C403.2.6.3 C403.2.2.1 to read:

C403.2.6.3 C403.2.2.1 Dwelling unit mechanical ventilation. Mechanical ventilation shall be provided for dwelling units in accordance with the IMC.

[ 6. 8. ] Delete Section C403.7.5 and Table C403.7.5.

[ 7. 9. Delete Sections C404.5 through C404.5.2.1, including Tables. ]

Change Section ~~C405.5~~ C405.4 to read:

~~C405.5~~ C405.4 Exterior lighting (Mandatory). All exterior lighting, other than low-voltage landscape lighting, shall comply with Section ~~C405.5.1~~ C405.4.1.

Exception: Where approved because of historical, safety, signage, or emergency considerations.

[ 10. Change Section C502.1 to read:

C502.1 General. Additions to an existing building, building system or portion thereof shall conform to the provisions of Section 805 of the VEBC.

11. Delete Sections C502.2 through C502.2.6.2.

12. Change Section C503.1 to read:

C503.1 General. Alterations to any building or structure shall comply with the requirements of Chapter 6 of the VEBC.

13. Delete Sections C503.2 through C503.6. ]

7. [ ~~8~~. 14. Change Section C504.1 to read:

C504.1 General. Buildings and structures, and parts thereof, shall be repaired in compliance with Section 510 of the VEBC.

15. Delete Section C504.2.

16. ] Change Section R401.2 to read:

R401.2 Compliance. Projects shall comply with all provisions of Chapter 4 labeled "Mandatory" and one of the following:

1. Sections R401 through R404.
2. Section R405.
3. Section R406.
4. The most recent version of REScheck, keyed to the ~~2015~~ 2018 IECC.

Note: See REScheck compliance guidance issued by DHCD, available at the Department's website.

~~8. Delete [ 9. 17. ]~~ Change Section R401.3- to read:

R401.3 A permanent certificate shall be completed by the builder or other approved party and posted on a wall in the space where the furnace is located, a utility room or an approved location inside the building. Where located on an electrical panel, the certificate shall not cover or obstruct the visibility of the circuit directory label, service disconnect label, or other required labels. Where approved, certificates for multi-family dwelling units shall be permitted to be located off-site at an identified location. The certificate shall indicate the predominant R-values of insulation installed in or on ceilings, roofs, walls, foundation components such as slabs, basement walls, crawl space walls and floors, and ducts outside conditioned spaces; U-factors of fenestration and the solar heat gain coefficient (SHGC) of fenestration; and the

results from any required duct system and building envelope air leakage testing performed on the building. Where there is more than one value for each component, the certificate shall indicate the value covering the largest area. The certificate shall indicate the types and efficiencies of heating, cooling, and service water heating equipment. Where a gas-fired unvented room heater, electric furnace, or baseboard electric heater is installed in the residence, the certificate shall indicate "gas-fired unvented room heater," "electric furnace," or "baseboard electric heater," as appropriate. An efficiency shall not be indicated for gas-fired unvented room heaters, electric furnaces, and electric baseboard heaters.

9. [ ~~10~~. 18. ] Change the [ ~~ceiling R-value and~~ ] wood frame wall R-value categories for ~~climate zone "4 except Marine"~~ Climate Zone 4 (Except Marine) in Table R402.1.2 to read:

|                                |                         |
|--------------------------------|-------------------------|
| [ <del>Ceiling R-Value</del> ] | Wood Frame Wall R-Value |
| [ 38 ]                         | 15 or 13 1 <sup>h</sup> |

40. [ ~~11~~. 19. ] Change the ceiling U-factor and frame wall U-factor categories for ~~climate zone "4 except Marine"~~ Climate Zone 4 (Except Marine) in Table R402.1.4 to read:

|                                 |                     |
|---------------------------------|---------------------|
| [ <del>Ceiling U-Factor</del> ] | Frame Wall U-Factor |
| [ 0.030 ]                       | 0.079               |

44. [ ~~12~~. 20. ] Change Section R402.2.4 to read:

R402.2.4 Access hatches and doors. Access doors from conditioned spaces to unconditioned spaces (e.g., attics and crawl spaces) shall be weatherstripped and insulated in accordance with the following values:

1. Hinged vertical doors shall have a minimum overall R-5 insulation value;
2. Hatches and scuttle hole covers shall be insulated to a level equivalent to the insulation on the surrounding surfaces; and
3. Pull down stairs shall have a minimum of 75% of the panel area having R-5 rigid insulation.

Access shall be provided to all equipment that prevents damaging or compressing the insulation. A wood framed or equivalent baffle or retainer is required to be provided when loose fill insulation is installed, the purpose of which is to prevent the loose fill insulation from spilling into the living space when the attic access is opened and to provide a permanent means of maintaining the installed R-value of the loose fill insulation.

42. [ ~~13~~. 21. ] Change Sections R402.4 and R402.4.1.1 to read:

R402.4 Air leakage. The building thermal envelope shall be constructed to limit air leakage in accordance with the requirements of Sections R402.4.1 through [ ~~R402.4.4~~ R402.4.5 ].

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R402.4.1.1 Installation (Mandatory). The components of the building thermal envelope as listed in Table R402.4.1.1 shall be installed in accordance with the manufacturer's instructions and the criteria listed in Table R402.4.1.1, as applicable to the method of construction. Where required by the code official, an approved third party shall inspect all components and verify compliance.

13. [ ~~14.~~ 22. ] Change the title of the "Insulation Installation Criteria" category of Table R402.4.1.1; change the "Shower/tub on exterior wall" category of Table R402.4.1.1, and add footnotes "b" and "c" to Table R402.4.1.1 to read:

| Component                                | Air Barrier Criteria  | Insulation Installation Criteria <sup>b</sup>                   |
|--|---|---|
| Shower/tub on exterior wall <sup>c</sup> | The air barrier installed at exterior walls adjacent to showers and tubs shall be installed on the interior side and separate the exterior walls from the showers and tubs. | Exterior walls adjacent to showers and tubs shall be insulated. |

b. Structural integrity of headers shall be in accordance with the applicable building code.

c. Air barriers used behind showers and tubs on exterior walls shall be of a permeable material that does not cause the entrapment of moisture in the stud cavity.

14. [ ~~15.~~ 23. ] Change Section R402.4.1.2 and add Sections R402.4.1.2.1, R402.4.1.2.2, and R402.4.1.3 to read:

R402.4.1.2 Air sealing. ~~Building envelope air tightness shall be demonstrated to comply with either Section R402.4.1.2.1 or R402.4.1.2.2.~~

~~R402.4.1.2.1 Testing option.~~ The building or dwelling unit shall be tested ~~for and verified as having an~~ air leakage rate not exceeding five air changes per hour in Climate Zone 4. Testing shall be conducted in accordance with a blower door at a pressure of 0.2 inches w.g. (50 Pascals) RESNET/ICC 380, ASTM E 779, or ASTM E 1827 and reported at a pressure of 0.2 inch w.g. (50 Pascals). ~~Where required by the building official, testing shall be conducted by an approved third party.~~ A written report of the results of the test shall be signed by the party conducting the test and provided to the building official. Testing shall be conducted by a Virginia licensed general contractor, a Virginia licensed HVAC contractor, a Virginia licensed home inspector, a Virginia registered

design professional, a certified BPI Envelope Professional, a certified HERS rater, or a certified duct and envelope tightness rater. The party conducting the test shall have been trained on the equipment used to perform the test. Testing shall be performed at any time after creation of all penetrations of the building thermal envelope.

Note: Should additional sealing be required as a result of the test, consideration may be given to the issuance of a temporary certificate of occupancy in accordance with Section 116.1.1.

During testing:

1. Exterior windows and doors and fireplace and stove doors shall be closed, but not sealed beyond the intended weatherstripping or other infiltration control measures;
2. Dampers, including exhaust, intake, makeup air, backdraft, and flue dampers, shall be closed, but not sealed beyond intended infiltration control measures;
3. Interior doors, if installed at the time of the test, shall be open;
4. Exterior doors for continuous ventilation systems and heat recovery ventilators shall be closed and sealed;
5. Heating and cooling systems, if installed at the time of the test, shall be turned off; and
6. Supply and return registers, if installed at the time of the test, shall be fully open.

~~R402.4.1.2.2 Visual inspection option. Building envelope tightness shall be considered acceptable when the items listed in Table R402.4.1.1, applicable to the method of construction, are field verified. Where required by the building official, an approved party, independent from the installer, shall inspect the air barrier. When this option is chosen, the dwelling unit shall be ventilated by mechanical means in accordance with Section 403 of the IMC.~~

~~R402.4.1.3 Leakage rate (Prescriptive). The building or dwelling unit shall have an air leakage rate not exceeding 5 changes per hour as verified in accordance with Section R402.4.1.2.~~

15. [ ~~16.~~ 24. ] Change Section R403.3.3 to read:

R403.3.3 Duct testing (Mandatory). Ducts shall be pressure tested to determine air leakage by one of the following methods:

1. Rough-in test: Total leakage shall be measured with a pressure differential of 0.1 inch w.g. (25 Pa) across the system, including the manufacturer's air handler enclosure if installed at the time of the test. All registers shall be taped or otherwise sealed during the test.
2. Postconstruction test: Total leakage shall be measured with a pressure differential of 0.1 inch w.g. (25 Pa) across the entire system, including the manufacturer's air handler



enclosure. Registers shall be taped or otherwise sealed during the test.

Exception: A duct air leakage test shall not be required where the ducts and air handlers are located entirely within the building thermal envelope.

A written report of the results of the test shall be signed by the party conducting the test and provided to the code official. The licensed mechanical contractor installing the mechanical system shall be permitted to perform the duct testing. The contractor shall have been trained on the equipment used to perform the test.

[ ~~17~~, 25. ] Delete Section R403.3.5.

16. [ ~~18~~, 26. ] Change Section R403.7 to read:

R403.7 Equipment and appliance sizing. Heating and cooling equipment and appliances shall be sized in accordance with ACCA Manual S or other approved sizing methodologies based on building loads calculated in accordance with ACCA Manual J or other approved heating and cooling calculation methodologies.

Exception: Heating and cooling equipment and appliance sizing shall not be limited to the capacities determined in accordance with Manual S or other approved sizing methodologies where any of the following conditions apply:

1. The specified equipment or appliance utilizes multi-stage technology or variable refrigerant flow technology and the loads calculated in accordance with the approved heating and cooling methodology fall within the range of the manufacturer's published capacities for that equipment or appliance.
2. The specified equipment or appliance manufacturer's published capacities cannot satisfy both the total and sensible heat gains calculated in accordance with the approved heating and cooling methodology and the next larger standard size unit is specified.
3. The specified equipment or appliance is the lowest capacity unit available from the specified manufacturer.

[ 27. Delete Sections C404.5 through C404.5.2.1, including Tables. ]

17. [ ~~19~~, 28. ] Change footnote "a" in Table R406.4 to read:

| Table R406.4<br>Maximum Energy Rating Index <sup>a</sup> |                     |
|--|---------------------|
| Climate Zone   | Energy Rating Index |
| 1  | 52                  |
| 2  | 52                  |
| 3  | 54                  |
| 4  | 62                  |

|   |    |
|---|----|
| 5 | 55 |
| 6 | 54 |
| 7 | 53 |
| 8 | 53 |

a. When onsite renewable energy is included for compliance using the ERI analysis per Section R406.4, the building shall meet the mandatory requirements of Section R406.2 and the building thermal envelope shall be greater than or equal to levels of energy efficiency and solar heat gain coefficient in Table R402.1.2, with a ceiling R-value of 49 and a wood frame wall R-value of 20 or 13 5, or Table R402.1.4, with a ceiling U-factor of 0.026 and a frame wall U-factor of 0.060.

~~18. [ 20. Delete Section R503.1.1.1. 29. Change Section R501.1 to read:~~

R501.1 Scope. The provisions of the Virginia Existing Building Code shall control the alteration, repair, addition and change of occupancy of existing buildings and structures.

~~30. Delete Sections R501.1.1 through R501.6.~~

~~31. Change Section R502.1 to read:~~

R502.1 General. Additions to an existing building, building system or portion thereof shall conform to the provisions of Section 811 of the VEBC.

~~32. Delete Sections R502.1.1 through R502.1.2.~~

~~33. Change Section R503.1 to read:~~

R503.1 General. Alterations to any building or structure shall comply with the requirements of Chapter 6 of the VEBC.

~~34. Delete Sections R503.1.1 through R503.2.~~

~~35. Change Section R504.1 to read:~~

R504.1 General. Buildings, structures and parts thereof shall be repaired in compliance with Section 510 of the VEBC.

~~36. Delete Section R504.2. ]~~

**13VAC5-63-267. Chapter 14 Exterior walls.**

A. Delete Section ~~1403.5~~ 1402.5 of the IBC.

B. Add Section ~~1403.8~~ 1402.8 to the IBC to read:

1403.8 1402.8 Air barriers. The exterior wall envelope shall be designed and constructed by providing air barriers that comply with the IECC.

C. Change Section ~~1407.10.4~~ 1406.10.4 of the IBC to read:

1407.10.4 1406.10.4 Full-scale test. The MCM system shall be tested in accordance with, and comply with, the

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acceptance criteria of NFPA 285. Such testing shall be performed on the MCM system with the MCM in the maximum thickness intended for use. Where noncombustible materials or combustible materials permitted by ~~Sections~~ Section 603, 803, 806, or 1406 differ from assembly to assembly or within an assembly, multiple tests shall not be required.

Exception: The MCM system is not required to be tested in accordance with, and comply with, acceptance criteria of NFPA 285 in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.

## **13VAC5-63-268. Chapter 15 Roof assemblies and rooftop structures.**

A. Change the title of IBC Section 1511 to read:

Roofing and Roofing Repair.

B. Change Section 1511.1 of the IBC to read as follows and delete the remainder of Section 1511 of the IBC:

1511.1 General. Materials and methods of application used for reroofing and roof repair shall comply with the applicable requirements of Chapter 15 and the requirements of [ ~~Section~~ ] 303 [ ~~307 of the VEBC Sections 302.2, 501.1, and 602.3.4 of the VEBC, as applicable~~ ].

## **13VAC5-63-270. Chapter 16 Structural design.**

A. Change Section 1609.3 of the IBC to read:

1609.3 Basic wind speed. The ultimate design wind speed,  $V_{ult}$ , in miles per hour (mph), for the determination of the wind loads shall be determined by Figures 1609.3(1), 1609.3(2), ~~and 1609.3(3), and 1609.3(4)~~. The ultimate design wind speed,  $V_{ult}$ , for use in the design of Risk Category II buildings and structures shall be obtained from Figure 1609.3(1). The ultimate design wind speed,  $V_{ult}$ , for use in the design of Risk Categories III and IV buildings and structures shall be obtained from ~~Figure~~ Figures 1609.3(2) and 1609.3(3), respectively. The ultimate design wind speed,  $V_{ult}$ , for use in the design of Risk Category I buildings and structures shall be obtained from ~~Figure~~ 1609.3(3) and 1609.3(4). The ultimate design wind speeds for localities in special wind regions, near mountainous terrains, and near gorges shall be based on elevation. Areas at 4,000 feet in elevation or higher shall use 142 V mph (62.5 m/s) and areas under 4,000 feet in elevation shall use 116 V mph (51 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 26.5.1 of ASCE 7.

In nonhurricane-prone regions, when the ultimate design wind speed,  $V_{ult}$ , is estimated from regional climatic data, the ultimate design wind speed,  $V_{ult}$ , shall be determined in accordance with Section 26.5.3 of ASCE 7.

B. Add Section 1612.1.1 to the IBC to read:

1612.1.1 Elevation of manufactured homes. New or replacement manufactured homes to be located in any flood hazard zone shall be placed in accordance with the applicable elevation requirements of this code.

Exception: Manufactured homes installed on sites in an existing manufactured home park or subdivision shall be permitted to be placed so that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches (914 mm) above grade in lieu of being elevated at or above the base flood elevation provided no manufactured home at the same site has sustained flood damage exceeding 50% of the market value of the home before the damage occurred.

## **13VAC5-63-280. Chapter 17 Special inspections and tests.**

A. Change Section 1703.1 of the IBC to read:

1703.1 Approved agency. An approved agency responsible for laboratory testing or special inspections, or both, must comply with the qualification, certification and experience requirements of ASTM E329 or the alternatives listed herein.

B. Change Section 1703.1.1 of the IBC to read:

1703.1.1 Independence. An approved agency shall be objective and competent. The agency shall also disclose possible conflicts of interest so that objectivity can be confirmed. The special inspector and their agents shall be independent from the person, persons or contractor responsible for the physical construction of the project requiring special inspections.

C. Change Section 1703.1.3 of the IBC to read:

1703.1.3 Personnel. An approved agency shall employ experienced personnel educated in conducting, supervising and evaluating tests or inspections, or both. Upon request by the building official, documentation shall be provided demonstrating the applicable agency's accreditation as noted in ASTM E329 and individuals' resumes indicating pertinent training, certifications and other qualifications for special inspection personnel associated with the proposed construction requiring special inspections. The building official may prescribe the manner of qualification documentation and frequency of updating information regarding agency or individual inspector approval.

Firms providing special inspection services or individual inspectors seeking approval of alternative certifications or qualifications, or both, listed in ASTM E329 may submit documentation demonstrating equivalency. This documentation may include evidence of meeting other recognized standards or alternative certifications to demonstrate that the minimum qualifications, certification

and experience intended by ASTM E329 have been met. The building official may, if satisfied that equivalency has been demonstrated, approve the credentials of the firm or individual.

D. Change Section 1704.2 of the IBC to read:

1704.2 Special inspections. Where application is made for construction as described in this section, the owner shall employ one or more special inspectors to provide inspections and tests during construction on the types of work listed under Section 1705. All individuals or agents performing special inspection functions shall operate under the direct supervision of an RDP in responsible charge of special inspection activities, also known as the "special inspector." The special inspector shall ensure that the individuals under their charge are performing only those special inspections or laboratory testing that are consistent with their knowledge, training and certification for the specified inspection or laboratory testing.

Exceptions:

1. The building official shall be permitted to waive special inspections and tests.
2. Special inspections and tests are not required for:
  - 2.1. One story buildings under 20 feet (6096 mm) in height which do not exceed ~~5000~~ 5,000 square feet (565 m<sup>2</sup>) in building area; or
  - 2.2. Alterations to Group U structures which do not increase loads in accordance with Sections ~~403.3~~ 603.7.3 and ~~403.4~~ 603.7.4 of the VEBC.

3. Unless otherwise required by the building official, special inspections and tests are not required for occupancies in ~~Groups~~ Group R-3, R-4 or R-5 and occupancies in Group U that are accessory to a residential occupancy including, ~~but not limited to~~, those listed in Section 312.1.

4. Special inspections and tests are not required for portions of structures designed and constructed in accordance with the cold-formed steel light-frame construction provisions of Section ~~2211.7~~ 2211.1.2 or the conventional light-frame construction provisions of Section 2308.

5. The contractor is permitted to employ the approved agencies where the contractor is also the owner.

E. Change Section 1704.2.3 of the IBC to read:

1704.2.3 Statement of special inspections. The permit applicant shall submit a statement of special inspections prepared by the RDP in responsible charge in accordance with Section 111.1. This statement shall be in accordance with Section 1704.3.

Exception:

The statement of special inspections is permitted to be prepared by a qualified person approved by the building official for construction not designed by a registered design professional.

F. Change category "12" of Table 1705.3 of the IBC to read:

| Type  | Continuous Special Inspection | Periodic Special Inspection | Referenced Standard <sup>a</sup>                         | IBC Reference |
|---|-------------------------------|-----------------------------|--|---------------|
| 12. Inspect formwork for shape, location and dimensions of the concrete member being formed, shoring and reshoring. | --                            | X                           | ACI 318:<br><del>26.10.1(b)</del><br><u>26.11.1.2(b)</u> | --            |

G. Delete Sections 1705.17, 1705.17.1, and 1705.17.2 of the IBC.

[ H. Change Sections 1709.5.2 of the IBC to read:

1709.5.2 Exterior windows and door assemblies not provided for in Section 1709.5.1. Exterior window and door assemblies shall be tested in accordance with ASTM E330. Exterior window and door assemblies containing glass shall comply with Section 2403. The design pressure for testing shall be calculated in accordance with Chapter 16. Each assembly shall be tested for 10 seconds at a load equal to 1.5 times the design pressure.

I. Add Section 1709.5.2.1 to the IBC to read:

1709.5.2.1 Garage doors and rolling doors. Garage doors and rolling doors shall be tested in accordance with either ASTM E 330 or ANSI/DASMA 108 and shall meet the pass/fail acceptance criteria of ANSI/DSMA 108. Garage doors and rolling doors shall be labeled with a permanent label identifying the door manufacturer, the door model/series number, the positive and negative design wind pressure rating, the installation drawing reference number, and the applicable test standard. ]

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## 13VAC5-63-295. Chapter 23 Wood.

[ ~~A.~~ ] ~~Change Item Add Exception 2 to Item 2~~ of Section 2308.2.3 of the IBC to read:

~~2. Live loads shall not exceed 40 psf (1916 N/m<sup>2</sup>) for floors.~~

~~Exception: 2.~~ Concrete slab-on-grade live load limited only by allowable soil bearing pressure.

~~B. Change Table 2308.4.1.1(1) of the IBC to read:~~

EDITOR'S NOTE: Table 2308.4.1.1(1), Header and Girder Spans for Exterior Bearing Walls, is deleted in its entirety; therefore, the text of 2308.4.1.1(1) is not set out.

~~C. Change Table 2308.4.1.1(2) of the IBC to read:~~

EDITOR'S NOTE: Table 2308.4.1.1(2), Header and Girder Spans for Interior Bearing Walls, is deleted in its entirety; therefore, the text of 2308.4.1.1(2) is not set out.

## 13VAC5-63-298. Chapter 26 Plastic.

Change Section 2603.5.5 of the IBC to read:

2603.5.5 Vertical and lateral fire propagation. Exterior wall assemblies shall be tested in accordance with, and comply with, acceptance criteria of NFPA 285. Where noncombustible materials or combustible materials permitted by ~~Sections~~ Section 603, 803, 806 or ~~1406~~ 1405 differ from assembly to assembly or within an assembly, multiple tests shall not be required.

Exceptions:

1. One-story buildings where the exterior wall covering is noncombustible.
2. Wall assemblies where the foam plastic insulation is covered on each face by not less than 1-inch (25 mm) thickness of masonry or concrete and meeting one of the following:
  - 2.1. There is no air space between the insulation and the concrete or masonry.
  - 2.2. The insulation has a flame spread index of not more than 25 as determined in accordance with ASTM E 84 or UL 723 and the maximum air space between the insulation and the concrete or masonry is not more than 1 inch (25 mm).
3. Buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.

## 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.

B. Add Section 2701.1.1 to the IBC to read:

2701.1.1 Changes to NFPA 70. The following changes 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 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.

2. Change Section 700.12(F)(2)(6) of NFPA 70 to read:

(6) Where the normal power branch circuits that supply luminaires providing illumination immediately on the inside and outside of exit doors are supplied by the same service or feeder, the remote heads providing emergency illumination for the exterior of an exit door shall be permitted to be supplied by the unit equipment serving the area immediately inside the exit door.

[ 3. Change Article 555 of NFPA 70 2017 Edition to NFPA 70 2020 Edition for all code requirements related to Marinas, Boatyards, and Commercial and Noncommercial Docking Facilities. ]

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-family 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~~ Sections 2702.2.8 and 2702.2.9 of the IBC to read:

~~2702.2.17~~ 2702.2.8 Group I-2 ~~and I-3~~ occupancies. Emergency power shall be provided in accordance with Section ~~407.10~~ 407.11 for Group I-2 occupancies licensed by the Virginia Department of Health as a hospital, nursing or hospice facility.

2702.2.9 Group I-3 occupancies. 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 IMC and the IFGC. Masonry chimneys, fireplaces and barbecues shall comply with the IMC 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 Section 2801.1.1 to the IBC to read:

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.

C. Add Section 2801.1.2 to the IBC to read:

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.

D. Add Section 2801.1.3 to the IBC to read:

2801.1.3 Changes to the IMC. The following changes shall be made to the IMC:

~~1. Add the following definition to Section 202 of the IMC to read:~~

~~Pollution control unit. Manufactured equipment that is installed in a grease exhaust duct system for the purpose of extracting smoke, grease particles, and odors from the exhaust flow by means of a series of filters.~~

~~2. 1.~~ Change Section 401.2 of the IMC to read:

401.2 Ventilation required. Every occupied space shall be ventilated by natural means in accordance with Section 402 or by mechanical means in accordance with Section 403. Group R dwelling ~~unit~~ units shall be ventilated by mechanical means in accordance with Section 403. Ambulatory care facilities and Group I-2 occupancies shall be ventilated by mechanical means in accordance with Section 407.

~~3. 2.~~ Change Section 403.3.1.1 of the IMC to read:

403.3.1.1 Outdoor airflow rate. Ventilation systems shall be designed to have the capacity to supply the minimum outdoor airflow rate determined in accordance with this

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section. In each occupiable space, the ventilation system shall be designed to deliver the required rate of outdoor airflow to the breathing zone. 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 403.3.1.1. Ventilation rates for occupancies not represented in Table 403.3.1.1 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 and other designated areas where smoking is permitted, the ventilation rates in Table 403.3.1.1 are based on the absence of smoking in occupiable spaces.

Exception: The occupant load is not required to be determined based on the estimated maximum occupant load rate indicated in Table 403.3.1.1 where approved statistical data document the accuracy of an alternate anticipated occupant density.

4. 3. Add and change the following areas in rows to Table 403.3.1.1 of the IMC to read:

| OCCUPANCY CLASSIFICATION   | Occupant Density #/1000 ft <sup>2</sup> a | People Outdoor Airflow Rate in Breathing Zone, R <sub>p</sub> cfm/person | Area Outdoor Airflow Rate in Breathing Zone, R <sub>a</sub> cfm/ft <sup>2</sup> a | Exhaust Airflow Rate Cfm/ft <sup>2</sup> a |
|--|---|--|---|--|
| Food and beverage service  |   |  |   |  |
| Bars or cocktail lounges designated as an area where smoking is permitted <sup>b</sup> | 100                                       | 30   | --  | --   |
| Cafeteria or fast food designated as an area where smoking is permitted <sup>b</sup>   | 100                                       | 20   | --  | --   |
| Dining rooms designated as an area where smoking is permitted <sup>b</sup>             | 70  | 20   | --  | --   |

|   |           |           |    |    |
|---|-----------|-----------|----|----|
| Public spaces   |           |           |    |    |
| Lounges designated as an area where smoking is permitted <sup>b</sup> | 100       | 30        | -- | -- |
| [ <u>Medical procedure rooms<sup>1</sup></u>                          | <u>20</u> | <u>15</u> | =  | =  |
| <u>Patient rooms<sup>1</sup></u>                                      | <u>10</u> | <u>25</u> | =  | =  |
| <u>Physical therapy rooms<sup>1</sup></u>                             | <u>20</u> | <u>15</u> | =  | =  |

i. For spaces that are not located in an ambulatory care facility or clinic, outpatient as defined in Chapter 2 of the VCC. ]

5- 4. Change Section 504.8.2 of the IMC to read:

504.8.2 Duct installation. Exhaust ducts shall be supported at 4-foot (1219 mm) intervals and secured in place. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Ducts shall not be joined with screws or similar fasteners that protrude into the inside of the duct.

Where dryer exhaust ducts are enclosed in wall or ceiling cavities, such cavities shall allow the installation of the duct without deformation.

[ 5. Change item 2 of Section 504.10 to read:

2. Dampers shall be prohibited in the exhaust duct. Penetrations of the shaft and ductwork shall be protected in accordance with Section 607.5.5, Exception 1. ]

6- [ ~~5- 6. ] Change Exception 1 of Section ~~505.1~~ 505.3 of the IMC to read:~~

~~505.1 Domestic systems. Where domestic range hoods and domestic appliances equipped with downdraft exhaust are provided, such hoods and appliances shall discharge to the outdoors through sheet metal ducts constructed of galvanized steel, stainless steel, aluminum, or copper. Such ducts shall have smooth inner walls, shall be air tight, shall be equipped with a backdraft damper, and shall be independent of all other exhaust systems.~~

**Exceptions:**

1. In Group R buildings, where installed in accordance with the manufacturer's installation instructions and where mechanical or natural ventilation is otherwise provided in accordance with Chapter 4, listed and labeled ductless range hoods shall not be required to discharge to the outdoors.

~~2. Ducts for domestic kitchen cooking appliances equipped with downdraft exhaust systems shall be permitted to be constructed of Schedule 40 PVC pipe and fittings provided that the installation complies with all of the following:~~

~~2.1. The PVC duct shall be installed under a concrete slab poured on grade.~~

~~2.2. The underfloor trench in which the PVC duct is installed shall be completely backfilled with sand or gravel.~~

~~2.3. The PVC duct shall extend not more than 1 inch (25 mm) above the indoor concrete floor surface.~~

~~2.4. The PVC duct shall extend not more than 1 inch (25 mm) above grade outside of the building.~~

~~2.5. The PVC duct shall be solvent cemented.~~

[ 7. Change item 2 in Section 505.5 to read:

2. Penetrations of the shaft and ductwork shall be protected in accordance with Section 607.5.5. ]

7. [ ~~6. 8. ] Change Section 505.4 505.6 [ to of ] the IMC to read:~~

505.4 505.6 Other than Group R. In other than Group R occupancies, where electric domestic cooking appliances are utilized for domestic purposes, such appliances shall be provided with domestic range hoods shall be permitted for such appliances. Hoods and exhaust systems for such electric domestic cooking appliances shall be in accordance with Sections ~~505.1~~ 505.2 and ~~505.2~~ 505.4. In other than Group R occupancies, where fuel-fired domestic cooking appliances are utilized for domestic purposes, a Type I or Type II hood shall be provided as required for the type of appliances and processes in accordance with Section 507.1.

8. [ ~~7. 9. ] Change Section 506.5 of the IMC to read:~~

506.5 Exhaust equipment. Exhaust equipment, including fans and grease reservoirs, shall comply with Sections 506.5.1 through 506.5.6 and shall be of an approved design or shall be listed for the application.

9. ~~Add [ 8. 10. ]~~ Change Section 506.5.6 to 506.5.2, including Items 1, 3, and 5 of the IMC to read: (Items not shown remain the same.)

~~506.5.6~~ 506.5.2 Pollution control units. The installation of pollution control units shall be in accordance with ~~the manufacturer's installation instructions and~~ all of the following:

1. Pollution control units shall be listed and labeled in accordance with UL 1978 8782.

2. Fans serving pollution control units shall be listed and labeled in accordance with UL 762.

3. Pollution Bracing and supports for pollution control units shall be mounted and secured in accordance with the manufacturer's installation instructions and the of noncombustible material securely attached to the structure and designed to carry gravity and seismic loads within the stress limitations of the International Building Code.

4. ~~Pollution control units located indoors shall be listed and labeled for such use. Where enclosed duct systems, as~~

~~required by Section 506.3.11, are connected to a pollution control unit, such unit shall be located in a room or space having the same fire resistance rating as the duct enclosure. Access shall be provided for serving and cleaning of the unit. The space or enclosure shall be ventilated in accordance with the manufacturer's installation instructions.~~

5. A clearance of not less than 18 inches (457 mm) Clearances shall be maintained between the pollution control unit and combustible material in accordance with the listing.

6. ~~Roof mounted pollution control units shall be listed for exterior installation and shall be mounted not less than 18 inches (457 mm) above the roof.~~

7. ~~Exhaust outlets for pollution control units shall be in accordance with Section 506.3.13.~~

8. ~~An airflow differential pressure control shall be provided to monitor the pressure drop across the filter sections of a pollution control unit. When the airflow is reduced below the design velocity, the airflow differential pressure control shall activate a visual alarm located in the area where cooking operations occur.~~

9. ~~Pollution control units shall be provided with a factory installed fire suppression system.~~

10. ~~Service space shall be provided in accordance with the manufacturer's instructions for the pollution control unit and the requirements of Section 306.~~

11. ~~Wash down drains shall discharge through a grease intercepter and shall be sized for the flow. Drains shall be sealed with a trap or other approved means to prevent air bypass. Where a trap is utilized it shall have a seal depth that accounts for the system pressurization and evaporation between cleanings.~~

12. ~~Protection from freezing shall be provided for the water supply and fire suppression systems where such systems are subject to freezing.~~

13. ~~Duct connections to pollution control units shall be in accordance with Section 506.3.2.3. Where water splash or carryover can occur in the transition duct as a result of a washing operation, the transition duct shall slope downward toward the cabinet drain pan for a length not less than 18 inches (457 mm). Ducts shall transition to the full size of the unit inlet and outlet openings.~~

14. ~~Extra heavy duty appliance exhaust systems shall not be connected to pollution control units except where such units are specifically designed and listed for use with solid fuels.~~

15. ~~Pollution control units shall be maintained in accordance with the manufacturer's instructions.~~

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~~40.~~ [ ~~9.~~ 11. ] Change Section 510.7.1.1 of the IMC to read:

510.7.1.1 Shaft penetrations. Hazardous exhaust ducts that penetrate fire-resistance-rated shafts shall comply with Section 713.11 of the International Building Code.

[ ~~40.~~ 12. ] Change Section 607.5.5 of the IMC to read:

607.5.5 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 E119 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 of the International Building Code.
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 of the International Building Code.

[ ~~44.~~ 13. ] Add Section 607.6.2.2 to the IMC to read:

607.6.2.2 Equipment shutdown. Where ceiling radiation dampers are listed as static dampers, the HVAC equipment shall be effectively shut down to stop the airflow prior to the damper closing using one of the following methods:

1. A duct detector installed in the return duct.
2. An area smoke detector interlocked with the HVAC equipment.
3. A listed heat sensor installed in the return duct.

E. Add Section 2801.1.4 to the IBC to read:

2801.1.4 Changes to the IFGC. The following changes shall be made to the IFGC:

1. Change Section 301.1 of the IFGC 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 Sections 310.1 and ~~310.1.1~~ 310.2 of the IFGC to read:

310.1 Pipe and tubing. Each above-group 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. Corrugated stainless steel tubing (CSST) piping systems listed with an arc resistant jacket or coating system in accordance with ANSI LC 1/CSA 6.26 shall comply with this section. Where any CSST segments of a piping system are not listed with an arc resistant jacket or coating system in accordance with ANSI LC 1/CSA 6.26, Section ~~310.1.1~~ 310.2 shall apply.

~~310.1.1~~ 310.2 CSST without arc resistant jacket or coating system. CSST gas piping systems and piping systems containing one or more segments of CSST not listed with an arc resistant jacket or coating system in accordance with ANSI LC 1/CSA 6.26 shall be bonded to the electrical service grounding electrode system or, where provided, the lightning protection electrode system and shall comply with Sections ~~310.1.1~~ 310.2.1 through ~~310.1.5~~ 310.2.5.

3. Add Section ~~404.11.3~~ 404.11.6 to the IFGC to read:

~~404.11.3~~ 404.11.6 Coating application. Joints in gas piping systems shall not be coated prior to testing and approval.

4. Change Section 614.8.2 of the IFGC to read:

614.8.2 Duct installation. Exhaust ducts shall be supported at 4-foot (1219 mm) intervals and secured in place. The insert end of the duct shall extend into the adjoining duct or fitting in the direction of airflow. Ducts shall not be joined with screws or similar fasteners that protrude into the inside of the duct.

Where dryer exhaust ducts are enclosed in wall or ceiling cavities, such cavities shall allow the installation of the duct without deformation.

5. Change the following referenced standard in Chapter 8 of the IFGC:

| Standard Reference Number           | Title  | Referenced in Code Section Number |
|-------------------------------------|--|-----------------------------------|
| ANSI LC1/CSA 6.26-14 <u>6.26-18</u> | Fuel Gas Piping Systems Using Corrugated Stainless Steel Tubing (CSST)             | 310.1, 310.1.1, 403.5.4           |
| <u>UL8782-17</u>                    | <u>Outline of Investigation for Pollution Control Units for Commercial Cooking</u> | <u>506.5.2</u>                    |

**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 IPC shall govern the design and installation of all plumbing systems and equipment, except that as provided for in Section 103.5 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 IPC. The following changes shall be made to the IPC:

1. Add the following definitions to the IPC to read:

Nonpotable fixtures and outlets. Fixtures and outlets that are not dependent on potable water for the safe operation to perform their intended use. Such fixtures and outlets may include, ~~but are not limited to~~ water closets, urinals, irrigation, mechanical equipment, and hose connections to perform operations, such as vehicle washing and lawn maintenance.

Nonpotable water systems. Water systems for the collection, treatment, storage, distribution, and use or reuse of nonpotable water. Nonpotable systems include reclaimed water, rainwater, and gray water systems.

Service sink. A general purpose sink exclusively intended to be used for facilitating the cleaning of a building or tenant space.

Stormwater. Precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

2. Change the following definitions in the IPC to read:

~~Gray water. Water discharged from lavatories, bathtubs, showers, clothes washers, and laundry trays.~~

Rainwater. Natural precipitation, including snow melt, from roof surfaces only.

Reclaimed water. Reclaimed water means water resulting from the treatment of domestic, municipal, or industrial wastewater that is suitable for a water reuse that would not otherwise occur. Specifically excluded from this definition is "gray water."

3. Change the exception to Section 301.3 of the IPC to read:

Exception: Bathtubs, showers, lavatories, clothes washers and laundry trays shall not be required to discharge to the

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sanitary drainage system where such fixtures discharge to an approved nonpotable gray water system in accordance with the applicable provisions of Chapter 13.

4. Delete ~~Sections Section 311 and 311.4~~ of the IPC in its entirety.

5. [~~Modify the~~] ~~Group A-5~~ [~~following Assembly~~] "Description" category of Table 403.1 of the IPC to read:

~~Stadiums, amusement parks, pools, bleachers, and grandstands for outdoor sporting events and activities.~~<sup>f,g</sup>

Change Table 403.1 of the IPC to read:

TABLE 403.1

MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES<sup>a</sup> (See Sections 403.1.1 and 403.2)

| NO. | CLASSIFICATION  | DESCRIPTION  | WATER CLOSETS<br>(URINALS: SEE SECTION 424.2)                                    |  | LAVATORIES   |        | BATHTUBS/<br>SHOWERS | DRINKING<br>FOUNTAINS<br>(SEE SECTION 410) | OTHER |
|-----|-----------------|--|--|--|--|--------|----------------------|--|-------|
|     |                 |  | MALE   | FEMALE   | MALE   | FEMALE |                      |  |       |
|     |                 | <u>Theaters and other buildings for the performing arts and motion pictures<sup>d</sup></u>  | <u>1 per 125</u>   | <u>1 per 65</u>  | <u>1 per 200</u>   |        | <u>1 per 500</u>     | <u>1 service sink</u>                      |       |
|     |                 | <u>Nightclubs, bars, taverns, dance halls and buildings for similar purposes<sup>d</sup></u>   | <u>1 per 40</u>  | <u>1 per 40</u>  | <u>1 per 75</u>  |        | <u>1 per 500</u>     | <u>1 service sink</u>                      |       |
|     |                 | <u>Restaurants, banquet halls and food courts<sup>d</sup></u>  | <u>1 per 75</u>  | <u>1 per 75</u>  | <u>1 per 200</u>   |        | <u>1 per 500</u>     | <u>1 service sink</u>                      |       |
|     |                 | <u>Gaming areas</u>  | <u>1 per 100 for the first 400 and 1 per 250 for the remainder exceeding 400</u> | <u>1 per 50 for the first 400 and 1 per 150 for the remainder exceeding 400</u>  | <u>1 per 250 for the first 750 and 1 per 500 for the remainder exceeding 750</u> |        | <u>1 per 1,000</u>   | <u>1 service sink</u>                      |       |
| 1   | <u>Assembly</u> | <u>Auditoriums without permanent seating, art galleries, exhibition halls, museums, lecture halls, libraries, arcades and gymnasiums<sup>d</sup></u> | <u>1 per 125</u>   | <u>1 per 65</u>  | <u>1 per 200</u>   |        | <u>1 per 500</u>     | <u>1 service sink</u>                      |       |
|     |                 | <u>Passenger terminals (other than airport terminals) and transportation facilities<sup>d</sup></u>  | <u>1 per 500</u>   | <u>1 per 500</u>   | <u>1 per 750</u>   |        | <u>1 per 1,000</u>   | <u>1 service sink</u>                      |       |
|     |                 | <u>Airport terminals</u>   | <u>1 per 500</u>   | <u>1 per 100 for the first 500 and 1 per 150 for the remainder exceeding 500</u> | <u>1 per 750</u>   |        | <u>1 per 1,000</u>   | <u>1 service sink</u>                      |       |
|     |                 | <u>Places of worship and other religious services<sup>d</sup></u>  | <u>1 per 150</u><br><u>1 per 100<sup>h</sup></u>                                 | <u>1 per 75</u>  | <u>1 per 200</u>   |        | <u>1 per 1,000</u>   | <u>1 service sink</u>                      |       |

|  |  |  |                  |                                |   |                    |                       |
|--|--|--|------------------|--------------------------------|---|--------------------|-----------------------|
| <u>Coliseums, arenas, skating rinks, pools and tennis courts for indoor sporting events and activities</u>         | <u>1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500</u>              | <u>1 per 40 for the first 1,520 and 1 per 60 for the remainder exceeding 1,520</u> | <u>1 per 200</u> | <u>1 per 150</u>               | = | <u>1 per 1,000</u> | <u>1 service sink</u> |
|  | <u>1 per 52.2 for the first 3,025 and 1 per 80 for the remainder exceeding 3,025<sup>h</sup></u> |  |                  | <u>1 per 171.4<sup>h</sup></u> |   |                    |                       |
| <u>Stadiums, amusement parks, bleachers and grandstands for outdoor sporting events and activities<sup>f</sup></u> | <u>1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500</u>              | <u>1 per 40 for the first 1,520 and 1 per 60 for the remainder exceeding 1,520</u> | <u>1 per 200</u> | <u>1 per 150</u>               | = | <u>1 per 1,000</u> | <u>1 service sink</u> |
|  | <u>1 per 52.2 for the first 3,025 and 1 per 80 for the remainder exceeding 3,025<sup>h</sup></u> |  |                  | <u>1 per 171.4<sup>h</sup></u> | ] |                    |                       |

6. Add [ ~~footnote~~ footnotes ] "f" "g" [ and "h" ] to Table 403.1 of the IPC to read:

f. g. The occupant load for pools shall be in accordance with the "Skating rinks, swimming pools" category of Table ~~404.1.2~~ 1004.5 of the IBC.

[ h. Use this fixture ratio for determining the minimum number of fixtures for multi-user gender-neutral toilet facilities. ]

7. [ Add an exception to Section 403.1.1 of the IPC to read:

2. In other than Group A Occupancies where occupant ratios differ from 50/50 split, distribution of the sexes is not required where single-user water closets and bathing room fixtures are provided in accordance with Section 403.1.2.

8. Change Section 403.1.2 of the IPC to read:

403.1.2 Single-user toilet and bathing room fixtures. The plumbing fixtures located in single-user toilet and bathing rooms, including family or assisted use toilet and bathing rooms that are required by Section 1109.2.1 of the International Building Code, shall contribute toward the total number of required plumbing fixtures for a building or tenant space. Single-user toilet and bathing rooms, and family or assisted-use toilet rooms and bathing rooms shall be identified as being available for use by all persons regardless of their sex.

The total number of fixtures shall be permitted to be based on the required number of separate facilities or based on the aggregate of any combination of single-user or separate facilities.

9. ] Add Section ~~403.1.3~~ 403.1.4 and Table ~~403.1.3~~ 403.1.4 to the IPC to read:

~~403.1.3~~ 403.1.4 Marina fixtures. Notwithstanding any provision to the contrary, plumbing fixtures shall be provided for marinas in the minimum number shown in Table ~~403.1.3~~ 403.1.4. Fixtures shall be located within 500 feet walking distance from the shore end of any dock they serve. Separate facilities shall be provided for each sex with an equal number of fixtures of each type in each facility, except that separate facilities are not required where the number of slips is less than 25. Urinals may be substituted for up to 50% of water closets.

| Table <del>403.1.3</del> <u>403.1.4</u><br>Minimum Number of Required Plumbing Fixtures for Marinas |   |            |         |
|---|---|------------|---------|
| Number of Slips   | Plumbing Fixtures   |            |         |
|   | Water Closets   | Lavatories | Showers |
| 1 - 24  | 1   | 1          | 1       |
| 25 - 49   | 4   | 4          | 2       |
| 50 - 99   | 6   | 4          | 2       |
| 100 - 149   | 8   | 6          | 4       |
| 150 - 199   | 10  | 8          | 4       |
| 200 - 249   | 12  | 10         | 6       |
| 250 or greater  | Two additional fixtures of each type for each 100 additional slips. |            |         |

[ ~~8-~~ 10. Add exceptions 5 and 6 to Section 403.2 of the IPC to read:

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5. Separate facilities shall not be required to be designated by sex where single-user toilet rooms are provided in accordance with Section 403.1.2.

6. Separate facilities shall not be required where multi-user gender-neutral facilities are provided in accordance with Section 405.3 and Section 1109.2.4 of the VCC.

11. Change Section 403.2.1 of the IPC to read

12. Change ~~Add Exception 2 to~~ ] Section 403.3.3 of the IPC to read:

[ 403.3.3 Location of toilet facilities in occupancies other than malls ~~and airports~~. In occupancies other than covered and open mall buildings ~~and airport terminals~~, the required public and employee toilet facilities shall be located not more than one story above or below the space required to be provided with toilet facilities, and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m).

Exceptions:

1. The location and maximum distances of travel to required employee facilities in factory and industrial occupancies are permitted to exceed that required by this section, provided that the location and maximum travel distance are approved. ]

2. The location and maximum distances of travel to the required public facilities located on cemetery property are permitted to exceed that required by this section, provided that the location and maximum travel distance are located on the same property and approved.

[ ~~9-~~ 13. The location and maximum distances of travel to required public and employee facilities in Group S occupancies are permitted to exceed that required by this section, provided that the location and maximum distance of travel are approved.

13. Renumber Section 403.3.5 to Section 403.3.6 and Section 403.3.6 to Section 403.3.7; and change Section 403.3.5 to read:

403.3.5 Location of toilet facilities in airport terminals. In airport terminals, the minimum number of public and employee toilet fixtures shall be located before arriving at and after leaving the main security screening checkpoints and shall comply with the following:

1. Shall be based on the actual use and occupant load of those spaces before and after the main security screening checkpoints.

2. Shall not be more than one story above or below the space required to be provided with toilet facilities.

3. The path of travel to such facilities shall not exceed a distance of 300 feet (91 mm). For employees' toilet facilities, the maximum distance of travel shall be measured from the employees' work area.

403.3.6 Pay facilities. Where pay facilities are installed, such facilities shall be in excess of the required minimum facilities. Required facilities shall be free of charge.

403.3.7 Door locking. Where a toilet room is provided for the use of multiple occupants, the egress door for the room shall not be lockable from the inside of the room. This section does not apply to family or assisted-use toilet rooms.

14. ] ~~Change~~ Add an exception to Section 405.3.2 of the IPC to read:

405.3.2 ~~Public lavatories. In employee and public toilet rooms, the required lavatory shall be located in the same room as the required water closet.~~

Exception: In educational use occupancies, the required lavatory shall be permitted to be located adjacent to the room or space containing the water closet provided that not more than one operational door is between the water closet and the lavatory.

[ ~~10-~~ 15. Change Section 405.3.4 and add Sections 405.3.4.1 and 405.3.4.2 to the IPC to read:

405.3.4 ~~Water closet compartment. Each water closet utilized by the public or employees shall comply with Sections 405.3.4.1 and 405.3.4.2, as applicable. All fully-enclosed compartments shall be provided with occupancy indicators.~~

Exceptions:

1. ~~Water closet compartments shall not be required in a single-occupant toilet room with a lockable door.~~

2. ~~Toilet rooms located in child day care facilities and containing two or more water closets shall be permitted to have one water closet without an enclosing compartment.~~

3. ~~This provision is not applicable to toilet areas located within Group I-3 housing areas.~~

405.3.4.1 ~~Separate facilities. Each water closet provided in separate facilities shall occupy a separate compartment with walls or partitions and a door enclosing the fixtures to ensure privacy and shall comply with Section 405.3.1. Accessible water closets and compartments shall comply with ICC A117.1.~~

405.3.4.2 ~~Multi-user gender-neutral facilities. Each water closet provided in a multi-user gender-neutral toilet facility shall occupy a separate compartment with walls or partitions including the doors thereto, which shall extend to the floor and to the ceiling with maximum 1/2-inch (13 mm) clearances at the floor and ceiling, with gaps not exceeding 1/8-inch (3 mm) between the doors and partitions and partitions and walls, and shall comply with Section 405.3.1. Accessible water closet compartments shall comply with ICC A117.1 and the increased toe clearance requirements.~~

16. Change Section 405.3.5 of the IPC to read:

405.3.5 Urinal separation and partitions. Each urinal utilized by the public or employees shall occupy a separate area with walls or partitions to provide privacy. The horizontal dimension between walls or partitions at each urinal shall be not less than 30 inches (762 mm). The walls or partitions shall begin at a height not greater than 12 inches (305 mm) from and extend not less than 60 inches (1524 mm) above the finished floor surface. The walls or partitions shall extend from the wall surface at each side of the urinal not less than 18 inches (457 mm) or to a point not less than 6 inches (152 mm) beyond the outermost front lip of the urinal measured from the finished backwall surface, whichever is greater. All fully-enclosed compartments shall be provided with occupancy indicators.

Exceptions:

1. Urinal partitions shall not be required in a single-occupant or family-assisted-use toilet room with a lockable door.
2. Toilet rooms located in child day care facilities and containing two or more urinals shall be permitted to have one urinal without partitions.

17. Add Sections 405.3.5.1 and 405.3.5.2 to the IPC to read:

405.3.5.1 Separate facilities. The walls or partitions for urinals in separate facilities shall begin at a height not more than 12 inches (305 mm) from and extend not less than 60 inches (1524 mm) above the finished floor surface. The walls or partitions shall extend from the wall surface at each side of the urinal not less than 18 inches (457 mm) or to a point not less than 6 inches (152 mm) beyond the outermost front lip of the urinal measured from the finished backwall surface, whichever is greater.

405.3.5.2 Multi-user gender-neutral facilities. Each urinal provided in a multi-user gender-neutral toilet facility shall occupy a separate compartment with walls or partitions, including the doors thereto, where the partitions extend to the floor and to the ceiling with maximum 1/2-inch (13 mm) clearances, with gaps not exceeding 1/8-inch (3 mm) between the doors and partitions and partitions and walls, or shall all be located in a separate room with a door, enclosing the urinals to ensure privacy. Where an accessible urinal is located within a compartment, grab bars shall not be required for the urinal, the door shall be located to allow for a forward approach to the urinal, and increased toe clearances shall be provided in accordance with A117.1.

Exceptions:

1. A separate room or compartment shall not be required in a single-occupant toilet room with a lockable door.
2. This provision is not applicable to toilet areas located within Group I-3 occupancy housing areas.

18. ] Change Section 410.4 of the IPC to read:

410.4 Substitution. Where restaurants provide drinking water in a container free of charge, drinking fountains shall not be required in those restaurants. In other occupancies where more than two drinking fountains are required, water dispensers shall be permitted to be substituted for not more than 50% of the required number of drinking fountains.

[ ~~14~~, 19. ] Change Section 423.1 of the IPC to read:

423.1 Water connections. Baptisteries, ornamental and lily pools, aquariums, ornamental fountain basins, swimming pools, footbaths and pedicure baths, and similar constructions, where provided with water supplies, shall be protected against backflow in accordance with Section 608.

[ ~~12~~, 20. Add an exception to Section 424.2 of the IPC to read:

Exception: In each multi-user gender-neutral bathroom or toilet room, urinals shall not be substituted for more than 22.5 percent of the total number of water closets in Assembly and Educational occupancies. Urinals shall not be substituted for more than 25% of the total number of water closets in all other occupancies.

21. ] Add Section 602.2.1 to the IPC to read:

602.2.1 Nonpotable fixtures and outlets. Nonpotable water shall be permitted to serve nonpotable type fixtures and outlets in accordance with Chapter 13.

44. [ ~~13~~, 22. ] Add Section 603.3 to the IPC to read:

603.3 Tracer wire. Nonmetallic water service piping that connects 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 water service piping and 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 water service pipe intersects with the public water supply. At a minimum, one end of the wire shall terminate above grade to provide access to the wire in a location that is resistant to physical damage, such as with a meter vault or at the building wall.

12. Change Section 608.16.10 of the IPC to read:

~~608.16.10 Coffee machines and noncarbonated beverage dispensers. The water supply connection to coffee machines and noncarbonated beverage dispensers shall be protected against backflow by a backflow preventer conforming to ASSE 1022 or 1024, or by an air gap.~~

13. Delete Section 701.8 of the IPC.

[ 14, 23. ] Change Section 605.2.1 to read:

605.2.1 Lead content of drinking water pipe and fittings. Pipe, pipe fittings, joints, valves, faucets and fixture

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fittings utilized to supply water for drinking or cooking purposes shall comply with NSF 372.

[ ~~15~~. 24. Change Section 608.15 to read:

608.15 Location of backflow preventers. Access for inspection, testing, service, repair and replacement shall be provided to backflow prevention assemblies. Backflow prevention assemblies shall be installed between 12 inches (305 mm) and 60 inches (1525 mm) from grade, floor level or service platform and as specified by the manufacturer's instructions. Where the manufacturer's listed installation height conflicts with this requirement, the manufacturer's listed heights shall apply. Access shall be provided to backflow prevention devices and as specified by the manufacturer's instructions.

25. ] Add Section 703.7 to the IPC to read:

703.7 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 to within five feet (1524 mm) 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.

[ ~~16~~. 26. ] Delete the exception for Section 705.10.2 of the IPC.

[ ~~17~~. 27. ] Add Section 717 Relining Building Sewers and Building Drains to the IPC.

[ ~~18~~. 28. ] Add Sections 717.1 through 717.10, including subsections, to the IPC to read:

717.1 General. This section shall govern the relining of existing building sewers and building drainage piping.

717.2 Applicability. The relining of existing building sewer and building drainage piping shall be limited to gravity drainage piping, 4 inches (102 mm) in diameter and larger. The relined piping shall be of the same nominal size as the existing piping.

717.3 Pre-installation requirements. Prior to commencement of the relining installation, the existing piping sections to be relined shall be descaled and cleaned. After the cleaning process has occurred and water has been flushed through the system, the piping shall be inspected internally by a recorded video camera survey.

717.3.1 Pre-installation recorded video camera survey. The video survey shall include verification of the project address location. The video shall include notations of the cleanout and fitting locations, and the approximate depth of the existing piping. The video shall also include

notations of the length of piping at intervals no greater than 25 feet.

717.4 Permitting. Prior to permit issuance, the code official shall review and evaluate the pre-installation recorded video camera survey to determine if the piping system is capable to be relined in accordance with the proposed lining system manufacturer's installation requirements and applicable referenced standards.

717.5 Prohibited applications. Where review of the pre-installation recorded video camera survey reveals that piping systems are not installed correctly or defects exist, relining shall not be permitted. The defective portions of piping shall be exposed and repaired with pipe and fittings in accordance with this code. Defects shall include backgrade or insufficient slope, complete pipe wall deterioration or complete separations, such as from tree root invasion or improper support.

717.6 Relining materials. The relining materials shall be manufactured in compliance with applicable standards and certified as required in Section 303. Fold-and-form pipe reline materials shall be manufactured in compliance with ASTM F1504 or ASTM F1871.

717.7 Installation. The installation of relining materials shall be performed in accordance with the manufacturer's installation instructions, applicable referenced standards and this code.

717.7.1 Material data report. The installer shall record the data as required by the relining material manufacture and applicable standards. The recorded data shall include the location of the project, relining material type, amount of product installed, and conditions of the installation. A copy of the data report shall be provided to the code official prior to final approval.

717.8 Post-installation recorded video camera survey. The completed relined piping system shall be inspected internally by a recorded video camera survey after the system has been flushed and flow-tested with water. The video survey shall be submitted to the code official prior to finalization of the permit. The video survey shall be reviewed and evaluated to provide verification that no defects exist. Any defects identified shall be repaired and replaced in accordance with this code.

717.9 Certification. A certification shall be provided in writing to the code official, from the permit holder, that the relining materials have been installed in accordance with the manufacturer's installation instructions, the applicable standards, and this code.

717.10 Approval. Upon verification of compliance with the requirements of Sections 717.1 through 717.9, the code official shall approve the installation.

~~15~~. [ ~~19~~. 29. ] Add an exception to Section 1101.2 of the IPC to read:

Exception. Rainwater nonpotable water systems shall be permitted in accordance with Chapter 13.

[ ~~20~~. 30. ] Delete the last sentence from Section 1101.7 of the IPC.

[ ~~21~~. 31. ] Delete Section 1105.2 of the IPC.

~~16~~. [ 22. 32. ] Change Section 1106.2 of the IPC to read:

1106.2 Vertical conductors and leaders. Vertical conductors and leaders shall be sized for the maximum projected roof area, in accordance with Tables 1106.2(1) and 1106.2(2).

~~17~~. [ ~~23~~. 33. ] Delete Table 1106.2 of the IPC and add Tables ~~1106.2(1)~~ 1106.2(1) and 1106.2(2) to the IPC to read:

| Table 1106.2(1)<br>Size of Circular Vertical Conductors and Leaders |  |        |        |        |        |        |        |        |        |        |        |       |
|---|--|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|-------|
| Diameter of Leader (inches <sup>a</sup> )                           | Horizontally Projected Roof Area (square feet) |        |        |        |        |        |        |        |        |        |        |       |
|   | Rainfall rate (inches per hour)                |        |        |        |        |        |        |        |        |        |        |       |
|   | 1  | 2      | 3      | 4      | 5      | 6      | 7      | 8      | 9      | 10     | 11     | 12    |
| 2   | 2,280  | 1,440  | 960    | 720    | 575    | 480    | 410    | 360    | 320    | 290    | 260    | 240   |
| 3   | 8,800  | 4,400  | 2,930  | 2,200  | 1,760  | 1,470  | 1,260  | 1,100  | 980    | 880    | 800    | 730   |
| 4   | 18,400   | 9,200  | 6,130  | 4,600  | 3,680  | 3,070  | 2,630  | 2,300  | 2,045  | 1,840  | 1,675  | 1,530 |
| 5   | 34,600   | 17,300 | 11,530 | 8,650  | 6,920  | 5,765  | 4,945  | 4,325  | 3,845  | 3,460  | 3,145  | 2,880 |
| 6   | 54,000   | 27,000 | 17,995 | 13,500 | 10,800 | 9,000  | 7,715  | 6,750  | 6,000  | 5,400  | 4,910  | 4,500 |
| 8   | 116,000  | 58,000 | 38,660 | 29,000 | 23,200 | 19,315 | 16,570 | 14,500 | 12,890 | 11,600 | 10,545 | 9,600 |

For SI: 1 inch = 25.4 mm, 1 square foot = 0.0929 m<sup>2</sup>.

a. Sizes indicated are the diameter of circular piping. This table is applicable to piping of other shapes, provided the cross-sectional shape fully enclosed a circle of the diameter indicated in this table. For rectangular leaders, see Table 1106.2(2). Interpolation is permitted for pipe sizes that fall between those listed in this table.

| Table 1106.2(2)<br>Size of Rectangular Vertical Conductors and Leaders      |  |        |       |       |       |       |       |       |       |       |       |       |
|---|--|--------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Dimensions of Common Leader Sizes<br>width x length (inches) <sup>a,b</sup> | Horizontally Projected Roof Area (square feet) |        |       |       |       |       |       |       |       |       |       |       |
|   | Rainfall rate (inches per hour)                |        |       |       |       |       |       |       |       |       |       |       |
|   | 1  | 2      | 3     | 4     | 5     | 6     | 7     | 8     | 9     | 10    | 11    | 12    |
| 1-3/4 x 2-1/2   | 3,410  | 1,700  | 1,130 | 850   | 680   | 560   | 480   | 420   | 370   | 340   | 310   | 280   |
| 2 x 3   | 5,540  | 2,770  | 1,840 | 1,380 | 1,100 | 920   | 790   | 690   | 610   | 550   | 500   | 460   |
| 2-3/4 x 4-1/4   | 12,830   | 6,410  | 4,270 | 3,200 | 2,560 | 2,130 | 1,830 | 1,600 | 1,420 | 1,280 | 1,160 | 1,060 |
| 3 x 4   | 13,210   | 6,600  | 4,400 | 3,300 | 2,640 | 2,200 | 1,880 | 1,650 | 1,460 | 1,320 | 1,200 | 1,100 |
| 3-1/2 x 4   | 15,900   | 7,950  | 5,300 | 3,970 | 3,180 | 2,650 | 2,270 | 1,980 | 1,760 | 1,590 | 1,440 | 1,320 |
| 3-1/2 x 5   | 21,310   | 10,650 | 7,100 | 5,320 | 4,260 | 3,550 | 3,040 | 2,660 | 2,360 | 2,130 | 1,930 | 1,770 |
| 3-3/4 x 4-3/4   | 21,960   | 10,980 | 7,320 | 5,490 | 4,390 | 3,660 | 3,130 | 2,740 | 2,440 | 2,190 | 1,990 | 1,830 |
| 3-3/4 x 5-1/4   | 25,520   | 12,760 | 8,500 | 6,380 | 5,100 | 4,250 | 3,640 | 3,190 | 2,830 | 2,550 | 2,320 | 2,120 |
| 3-1/2 x 6   | 27,790   | 13,890 | 9,260 | 6,940 | 5,550 | 4,630 | 3,970 | 3,470 | 3,080 | 2,770 | 2,520 | 2,310 |

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|               |         |        |        |        |        |        |        |        |        |        |       |       |
|---------------|---------|--------|--------|--------|--------|--------|--------|--------|--------|--------|-------|-------|
| 4 x 6         | 32,980  | 16,490 | 10,990 | 8,240  | 6,590  | 5,490  | 4,710  | 4,120  | 3,660  | 3,290  | 2,990 | 2,740 |
| 5-1/2 x 5-1/2 | 44,300  | 22,150 | 14,760 | 11,070 | 8,860  | 7,380  | 6,320  | 5,530  | 4,920  | 4,430  | 4,020 | 3,690 |
| 7-1/2 x 7-1/2 | 100,500 | 50,250 | 33,500 | 25,120 | 20,100 | 16,750 | 14,350 | 12,560 | 11,160 | 10,050 | 9,130 | 8,370 |

For SI: 1 inch =m, 1 square foot = 0.0929 m<sup>2</sup>.

a. Sizes indicated are nominal width x length of the opening for rectangular piping.

b. For shapes not included in this table, Equation 11-1 shall be used to determine the equivalent circular diameter, De, of rectangular piping for use in interpolation using the data from Table 1106.2(1).

(Equation 11-1)

$$De = (\text{width} \times \text{length})^{1/2}$$

where:

De = equivalent circular diameter and De, width and length are in inches.

~~18.~~ [ ~~24.~~ ~~34.~~ ] Change Section 1106.3 and Table 1106.3 of the IPC to read:

1106.3 Building storm drains and sewers. The size of the building storm drain, building storm sewer and their horizontal branches having a slope of 1/2 unit or less vertical in 12 units horizontal (4% slope) shall be based on the maximum projected roof area in accordance with Table 1106.3. The slope of horizontal branches shall be not less than 1/8 unit vertical in 12 units horizontal (1% slope) unless otherwise approved.

| Table 1106.3<br>Size of Horizontal Storm Drainage Piping |  |         |         |        |        |        |
|--|--|---------|---------|--------|--------|--------|
| Size of Horizontal Piping (inches)                       | Horizontally Projected Roof Area (square feet) |         |         |        |        |        |
|  | Rainfall rate (inches per hour)                |         |         |        |        |        |
|  | 1  | 2       | 3       | 4      | 5      | 6      |
| 1/8 unit vertical in 12 units horizontal (1% slope)      |  |         |         |        |        |        |
| 3  | 3,288  | 1,644   | 1,096   | 822    | 657    | 548    |
| 4  | 7,520  | 3,760   | 2,506   | 1,800  | 1,504  | 1,253  |
| 5  | 13,360   | 6,680   | 4,453   | 3,340  | 2,672  | 2,227  |
| 6  | 21,400   | 10,700  | 7,133   | 5,350  | 4,280  | 3,566  |
| 8  | 46,000   | 23,000  | 15,330  | 11,500 | 9,200  | 7,600  |
| 10   | 82,800   | 41,400  | 27,600  | 20,700 | 16,580 | 13,800 |
| 12   | 133,200  | 66,600  | 44,400  | 33,300 | 26,650 | 22,200 |
| 15   | 218,000  | 109,000 | 72,800  | 59,500 | 47,600 | 39,650 |
| 1/4 unit vertical in 12 units horizontal (2% slope)      |  |         |         |        |        |        |
| 3  | 4,640  | 2,320   | 1,546   | 1,160  | 928    | 773    |
| 4  | 10,600   | 5,300   | 3,533   | 2,650  | 2,120  | 1,766  |
| 5  | 18,880   | 9,440   | 6,293   | 4,720  | 3,776  | 3,146  |
| 6  | 30,200   | 15,100  | 10,066  | 7,550  | 6,040  | 5,033  |
| 8  | 65,200   | 32,600  | 21,733  | 16,300 | 13,040 | 10,866 |
| 10   | 116,800  | 58,400  | 38,950  | 29,200 | 23,350 | 19,450 |
| 12   | 188,000  | 94,000  | 62,600  | 47,000 | 37,600 | 31,350 |
| 15   | 336,000  | 168,000 | 112,000 | 84,000 | 67,250 | 56,000 |
| 1/2 unit vertical in 12 units horizontal (4% slope)      |  |         |         |        |        |        |
| 3  | 6,576  | 3,288   | 2,295   | 1,644  | 1,310  | 1,096  |
| 4  | 15,040   | 7,520   | 5,010   | 3,760  | 3,010  | 2,500  |



|    |         |         |         |         |        |        |
|----|---------|---------|---------|---------|--------|--------|
| 5  | 26,720  | 13,360  | 8,900   | 6,680   | 5,320  | 4,450  |
| 6  | 42,800  | 21,400  | 13,700  | 10,700  | 8,580  | 7,140  |
| 8  | 92,000  | 46,000  | 30,650  | 23,000  | 18,400 | 15,320 |
| 10 | 171,600 | 85,800  | 55,200  | 41,400  | 33,150 | 27,600 |
| 12 | 266,400 | 133,200 | 88,800  | 66,600  | 53,200 | 44,400 |
| 15 | 476,000 | 238,000 | 158,800 | 119,000 | 95,300 | 79,250 |

For SI: 1 inch = 25.4 mm, 1 square foot = 0.0929 m<sup>2</sup>.

49. [ ~~25- 35.~~ ] Change Section 1106.6 and Table 1106.6 of the IPC to read:

1106.6 Size of roof gutters. The size of semicircular gutters shall be based on the maximum projected roof area in accordance with Table 1106.6.

| Table 1106.6<br>Size of Semicircular Roof Gutters      |  |        |       |       |       |       |
|--|--|--------|-------|-------|-------|-------|
| Diameter of Gutters (inches)                           | Horizontally Projected Roof Area (square feet) |        |       |       |       |       |
|  | Rainfall rate (inches per hour)                |        |       |       |       |       |
|  | 1  | 2      | 3     | 4     | 5     | 6     |
| 1/16 unit vertical in 12 units horizontal (0.5% slope) |  |        |       |       |       |       |
| 3  | 680  | 340    | 226   | 170   | 136   | 113   |
| 4  | 1,440  | 720    | 480   | 360   | 288   | 240   |
| 5  | 2,500  | 1,250  | 834   | 625   | 500   | 416   |
| 6  | 3,840  | 1,920  | 1,280 | 960   | 768   | 640   |
| 7  | 5,520  | 2,760  | 1,840 | 1,380 | 1,100 | 918   |
| 8  | 7,960  | 3,980  | 2,655 | 1,990 | 1,590 | 1,325 |
| 10   | 14,400   | 7,200  | 4,800 | 3,600 | 2,880 | 2,400 |
| 1/8 unit vertical in 12 units horizontal (1% slope)    |  |        |       |       |       |       |
| 3  | 960  | 480    | 320   | 240   | 192   | 160   |
| 4  | 2,040  | 1,020  | 681   | 510   | 408   | 340   |
| 5  | 3,520  | 1,760  | 1,172 | 880   | 704   | 587   |
| 6  | 5,440  | 2,720  | 1,815 | 1,360 | 1,085 | 905   |
| 7  | 7,800  | 3,900  | 2,600 | 1,950 | 1,560 | 1,300 |
| 8  | 11,200   | 5,600  | 3,740 | 2,800 | 2,240 | 1,870 |
| 10   | 20,400   | 10,200 | 6,800 | 5,100 | 4,080 | 3,400 |
| 1/4 unit vertical in 12 units horizontal (2% slope)    |  |        |       |       |       |       |
| 3  | 1,360  | 680    | 454   | 340   | 272   | 226   |
| 4  | 2,880  | 1,440  | 960   | 720   | 576   | 480   |
| 5  | 5,000  | 2,500  | 1,668 | 1,250 | 1,000 | 834   |
| 6  | 7,680  | 3,840  | 2,560 | 1,920 | 1,536 | 1,280 |
| 7  | 11,040   | 5,520  | 3,860 | 2,760 | 2,205 | 1,840 |
| 8  | 15,920   | 7,960  | 5,310 | 3,980 | 3,180 | 2,655 |
| 10   | 28,800   | 14,400 | 9,600 | 7,200 | 5,750 | 4,800 |
| 1/2 unit vertical in 12 units horizontal (4% slope)    |  |        |       |       |       |       |
| 3  | 1,920  | 960    | 640   | 480   | 384   | 320   |
| 4  | 4,080  | 2,040  | 1,360 | 1,020 | 816   | 680   |
| 5  | 7,080  | 3,540  | 2,360 | 1,770 | 1,415 | 1,180 |
| 6  | 11,080   | 5,540  | 3,695 | 2,770 | 2,220 | 1,850 |

|    |        |        |        |        |       |       |
|----|--------|--------|--------|--------|-------|-------|
| 7  | 15,600 | 7,800  | 5,200  | 3,900  | 3,120 | 2,600 |
| 8  | 22,400 | 11,200 | 7,460  | 5,600  | 4,480 | 3,730 |
| 10 | 40,000 | 20,000 | 13,330 | 10,000 | 8,000 | 6,660 |

For SI: 1 inch = 25.4 mm, 1 square foot = 0.0929 m<sup>2</sup>.

[ ~~26- 36.~~ ] Add Section 1114 Values for Continuous Flow to the IPC.

[ ~~27- 37.~~ ] Add Section 1114.1 to the IPC to read:

1114.1 Equivalent roof area. Where there is a continuous or semicontinuous discharge into the building storm drain or building storm sewer, such as from a pump, ejector, air conditioning plant, or similar device, each gallon per minute (L/m) of such discharge shall be computed as being equivalent to 96 square feet (9 m<sup>2</sup>) of roof area, based on a rainfall rate of 1 inch (25.4 mm) per hour.

20. [ ~~28- 38.~~ ] Change Sections 1301.1 through 1301.12 and add Sections 1301.13 through 1301.18, including subsections, to the IPC to read:

1301.1 Scope. The provisions of Chapter 13 shall govern the materials, design, construction, and installation of nonpotable water systems subject to this code. In addition to the applicable provision of this section, reclaimed water shall comply with the requirements of Section 1304.

1301.1.1 Design of nonpotable water systems. All portions of nonpotable water systems subject to this code shall be constructed using the same standards and requirements for the potable water systems or drainage systems as provided for in this code unless otherwise specified in this chapter.

1301.2 Makeup water. Makeup water shall be provided for all nonpotable water supply systems. The makeup water system shall be designed and installed to provide supply of water in the amounts and at the pressures specified in this code. The makeup water supply shall be potable and be protected against backflow in accordance with the applicable requirements of Section 608.

1301.2.1 Makeup water sources. Potable water shall be provided as makeup water for reclaimed water systems. Nonpotable water shall be permitted to serve as makeup water for gray water and rainwater systems.

1301.2.2 Makeup water supply valve. A full-open valve shall be provided on the makeup water supply line.

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1301.2.3 Control valve alarm. Makeup water systems shall be fitted with a warning mechanism that alerts the user to a failure of the inlet control valve to close correctly. The alarm shall activate before the water within the storage tank begins to discharge into the overflow system.

1301.3 Sizing. Nonpotable water distribution systems shall be designed and sized for peak demand in accordance with approved engineering practice methods that comply with the applicable provisions of Chapter 6.

1301.4 Signage required. All nonpotable water outlets, other than water closets and urinals, such as hose connections, open-ended pipes, and faucets shall be identified at the point of use for each outlet with signage that reads as follows: "Nonpotable water is utilized for (insert application name). Caution: nonpotable water. DO NOT DRINK." The words shall be legibly and indelibly printed on a tag or sign constructed of corrosion-resistant waterproof material or shall be indelibly printed on the fixture. The letters of the words shall be not less than 0.5 inches (12.7 mm) in height and in colors in contrast to the background on which they are applied. The pictograph shown in Figure 1301.4 shall appear on the signage required by this section.



1301.5 Potable water supply system connections. Where a potable water supply system is connected to a nonpotable water system, the potable water supply shall be protected against backflow in accordance with the applicable provisions of Section 608.

1301.6 Nonpotable water system connections. Where a nonpotable water system is connected and supplies water to another nonpotable water system, the nonpotable water system that supplies water shall be protected against backflow in accordance with the applicable provisions of Section 608.

1301.7 Approved components and materials. Piping, plumbing components, and materials used in the nonpotable water drainage and distribution systems shall be approved for the intended application and compatible with the water and any disinfection or treatment systems used.

1301.8 Insect and vermin control. Nonpotable water systems shall be protected to prevent the entrance of insects and vermin into storage and piping systems. Screen materials shall be compatible with system material and shall not promote corrosion of system components.

1301.9 Freeze protection. Nonpotable water systems shall be protected from freezing in accordance with the applicable provisions of Chapter 3.

1301.10 Nonpotable water storage tanks. Nonpotable water storage tanks shall be approved for the intended application and comply with Sections 1301.10.1 through 1301.10.12.

1301.10.1 Sizing. The holding capacity of storage tanks shall be sized for the intended use.

1301.10.2 Inlets. Storage tank inlets shall be designed to introduce water into the tank and avoid agitating the contents of the storage tank. The water supply to storage tanks shall be controlled by fill valves or other automatic supply valves designed to stop the flow of incoming water before the tank contents reach the overflow pipes.

1301.10.3 Outlets. Outlets shall be located at least 4 inches (102 mm) above the bottom of the storage tank and shall not skim water from the surface.

1301.10.4 Materials and location. Storage tanks shall be constructed of material compatible with treatment systems used to treat water. Above grade storage vessels shall be constructed using opaque, UV-resistant materials such as tinted plastic, lined metal, concrete, or wood or painted to prevent algae growth. Above grade storage tanks shall be protected from direct sunlight unless their design specifically incorporates the use of the sunlight heat transfer. Wooden storage tanks shall be provided with a flexible liner. Storage tanks and their manholes shall not be located directly under soil or waste piping or sources of contamination.

1301.10.5 Foundation and supports. Storage tanks shall be supported on a firm base capable of withstanding the storage tank's weight when filled to capacity. Storage tanks shall be supported in accordance with the applicable provisions of the IBC.

1301.10.5.1 Ballast. Where the soil can become saturated, an underground storage tank shall be ballasted, or otherwise secured, to prevent the effects of buoyancy. The combined weight of the tank and hold down ballast shall meet or exceed the buoyancy force of the tank. Where the installation requires a foundation, the foundation shall be flat and shall be designed to support the storage tank weight when full, consistent with the bearing capability of adjacent soil.

1301.10.5.2 Structural support. Where installed below grade, storage tank installations shall be designed to withstand earth and surface structural loads without damage.

1301.10.6 Overflow. The storage tank shall be equipped with an overflow pipe having a diameter not less than that shown in Table 606.5.4. The overflow outlet shall discharge at a point not less than 6 inches (152 mm) above the roof or roof drain, floor or floor drain, or over an open water-supplied fixture. The overflow outlet shall terminate through a check valve. Overflow pipes shall not be directed on walkways. The overflow drain shall not be equipped with a shutoff valve. A minimum of one cleanout shall be provided on each overflow pipe in accordance with the applicable provisions of Section 708.

1301.10.7 Access. A minimum of one access opening shall be provided to allow inspection and cleaning of the tank interior. Access openings shall have an approved locking device or other approved method of securing access. Below grade storage tanks, located outside of the building, shall be provided with either a manhole not less than 24 inches (610 mm) square or a manhole with an inside diameter not less than 24 inches (610 mm). The design and installation of access openings shall prohibit surface water from entering the tank. Each manhole cover shall have an approved locking device or other approved method of securing access.

Exception: Storage tanks under 800 gallons (3028 L) in volume installed below grade shall not be required to be equipped with a manhole, but shall have an access opening not less than 8 inches (203 mm) in diameter to allow inspection and cleaning of the tank interior.

1301.10.8 Venting. Storage tanks shall be vented. Vents shall not be connected to sanitary drainage system. Vents shall be at least equal in size to the internal diameter of the drainage inlet pipe or pipes connected to the tank. Where installed at grade, vents shall be protected from contamination by means of a U-bend installed with the opening directed downward. Vent outlets shall extend a minimum of 12 inches (304.8 mm) above grade, or as necessary to prevent surface water from entering the storage tank. Vent openings shall be protected against the entrance of vermin and insects. Vents serving gray water tanks shall terminate in accordance with the applicable provisions of Sections 903 and 1301.8.

1301.10.9 Drain. Where drains are provided they shall be located at the lowest point of the storage tank. The tank drain pipe shall discharge as required for overflow pipes and shall not be smaller in size than specified in Table 606.5.7. A minimum of one cleanout shall be provided on each drain pipe in accordance with Section 708.

1301.10.10 Labeling and signage. Each nonpotable water storage tank shall be labeled with its rated capacity and the location of the upstream bypass valve. Underground and otherwise concealed storage tanks shall be labeled at all access points. The label shall read: "CAUTION: NONPOTABLE WATER – DO NOT DRINK." Where an opening is provided that could allow the entry of

personnel, the opening shall be marked with the words: "DANGER – CONFINED SPACE." Markings shall be indelibly printed on a tag or sign constructed of corrosion-resistant waterproof material mounted on the tank or shall be indelibly printed on the tank. The letters of the words shall be not less than 0.5 inches (12.7 mm) in height and shall be of a color in contrast with the background on which they are applied.

1301.10.11 Storage tank tests. Storage tanks shall be tested in accordance with the following:

1. Storage tanks shall be filled with water to the overflow line prior to and during inspection. All seams and joints shall be left exposed and the tank shall remain watertight without leakage for a period of 24 hours.
2. After 24 hours, supplemental water shall be introduced for a period of 15 minutes to verify proper drainage of the overflow system and verify that there are no leaks.
3. Following a successful test of the overflow, the water level in the tank shall be reduced to a level that is at 2 inches (50.8 mm) below the makeup water offset point. The tank drain shall be observed for proper operation. The makeup water system shall be observed for proper operation, and successful automatic shutoff of the system at the refill threshold shall be verified. Water shall not be drained from the overflow at any time during the refill test.
4. Air tests shall be permitted in lieu of water testing as recommended by the tank manufacturer or the tank standard.

1301.10.12 Structural strength. Storage tanks shall meet the applicable structural strength requirements of the IBC.

1301.11 Trenching requirements for nonpotable water system piping. Underground nonpotable water system piping shall be horizontally separated from the building sewer and potable water piping by 5 feet (1524 mm) of undisturbed or compacted earth. Nonpotable water system piping shall not be located in, under, or above sewage systems cesspools, septic tanks, septic tank drainage fields, or seepage pits. Buried nonpotable system piping shall comply with the requirements of this code for the piping material installed.

Exceptions:

1. The required separation distance shall not apply where the bottom of the nonpotable water pipe within 5 feet (1524 mm) of the sewer is equal to or greater than 12 inches (305 mm) above the top of the highest point of the sewer and the pipe materials conforms to Table 702.3.
2. The required separation distance shall not apply where the bottom of the potable water service pipe within 5 feet (1524 mm) of the nonpotable water pipe is a minimum of 12 inches (305 mm) above the top of the highest point of the nonpotable water pipe and the pipe materials comply with the requirements of Table 605.4.

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3. Nonpotable water pipe is permitted to be located in the same trench with building sewer piping, provided that such sewer piping is constructed of materials that comply with the requirements of Table 702.2.

4. The required separation distance shall not apply where a nonpotable water pipe crosses a sewer pipe, provided that the pipe is sleeved to at least 5 feet (1524 mm) horizontally from the sewer pipe centerline on both sides of such crossing with pipe materials that comply with Table 702.2.

5. The required separation distance shall not apply where a potable water service pipe crosses a nonpotable water pipe provided that the potable water service pipe is sleeved for a distance of at least 5 feet (1524 mm) horizontally from the centerline of the nonpotable pipe on both sides of such crossing with pipe materials that comply with Table 702.2.

1301.12 Outdoor outlet access. Sillcocks, hose bibs, wall hydrants, yard hydrants, and other outdoor outlets that are supplied by nonpotable water shall be located in a locked vault or shall be operable only by means of a removable key.

1301.13 Drainage and vent piping and fittings. Nonpotable drainage and vent pipe and fittings shall comply with the applicable material standards and installation requirements in accordance with provisions of Chapter 7.

1301.13.1 Labeling and marking. Identification of nonpotable drainage and vent piping shall not be required.

1301.14 Pumping and control system. Mechanical equipment, including pumps, valves, and filters, shall be accessible and removable in order to perform repair, maintenance, and cleaning. The minimum flow rate and flow pressure delivered by the pumping system shall be designed for the intended application in accordance with the applicable provisions of Section 604.

1301.15 Water-pressure reducing valve or regulator. Where the water pressure supplied by the pumping system exceeds 80 psi (552 kPa) static, a pressure-reducing valve shall be installed to reduce the pressure in the nonpotable water distribution system piping to 80 psi (552 kPa) static or less. Pressure-reducing valves shall be specified and installed in accordance with the applicable provisions of Section 604.8.

1301.16 Distribution pipe. Distribution piping utilized in nonpotable water stems shall comply with Sections 1301.16.1 through 1301.16.4.

1301.16.1 Materials, joints, and connections. Distribution piping and fittings shall comply with the applicable material standards and installation requirements in accordance with applicable provisions of Chapter 6.

1301.16.2 Design. Distribution piping shall be designed and sized in accordance with the applicable provisions of Chapter 6.

1301.16.3 Labeling and marking. Distribution piping labeling and marking shall comply with Section ~~608.8~~ 608.9.

1301.16.4 Backflow prevention. Backflow preventers shall be installed in accordance with the applicable provisions of Section 608.

1301.17 Tests and inspections. Tests and inspections shall be performed in accordance with Sections 1301.17.1 through 1301.17.5.

1301.17.1 Drainage and vent pipe test. Drain, waste, and vent piping used for gray water and rainwater nonpotable water systems shall be tested in accordance with the applicable provisions of Section 312.

1301.17.2 Storage tank test. Storage tanks shall be tested in accordance with the Section 1301.10.11.

1301.17.3 Water supply system test. Nonpotable distribution piping shall be tested in accordance with Section 312.5.

1301.17.4 Inspection and testing of backflow prevention assemblies. The testing of backflow preventers and backwater valves shall be conducted in accordance with Section 312.10.

1301.17.5 Inspection of vermin and insect protection. Inlets and vent terminations shall be visually inspected to verify that each termination is installed in accordance with Section 1301.10.8.

1301.18 Operation and maintenance manuals. Operations and maintenance materials for nonpotable water systems shall be provided as prescribed by the system component manufacturers and supplied to the owner to be kept in a readily accessible location.

~~21. [ 29- 39. ]~~ Change the title of Section 1302 of the IPC to "Gray Water Nonpotable Water Systems."

~~22. [ 30- 40. ]~~ Change Sections 1302.1 through 1302.6, including subsections, of the IPC to read as follows ~~and delete Sections 1302.7 through 1302.13:~~

1302.1 Gray water nonpotable water systems. This code is applicable to the plumbing fixtures, piping or piping systems, storage tanks, drains, appurtenances, and appliances that are part of the distribution system for gray water within buildings and to storage tanks and associated piping that are part of the distribution system for gray water outside of buildings. This code does not regulate equipment used for, or the methods of, processing, filtering, or treating gray water, that may be regulated by the Virginia Department of Health or the Virginia Department of Environmental Quality.

1302.1.1 Separate systems. Gray water nonpotable water systems, unless approved otherwise under the permit from

the Virginia Department of Health, shall be separate from the potable water system of a building with no cross connections between the two systems except as permitted by the Virginia Department of Health.

1302.2 Water quality. Each application of gray water reuse shall meet the minimum water quality requirements set forth in Sections 1302.2.1 through 1302.2.4 unless otherwise superseded by other state agencies.

1302.2.1 Disinfection. Where the intended use or reuse application for nonpotable water requires disinfection or other treatment or both, it shall be disinfected as needed to ensure that the required water quality is delivered at the point of use or reuse.

1302.2.2 Residual disinfectants. Where chlorine is used for disinfection, the nonpotable water shall contain not more than 4 parts per million (4 mg/L) of free chlorine, combined chlorine, or total chlorine. Where ozone is used for disinfection, the nonpotable water shall not exceed 0.1 parts per million (by volume) of ozone at the point of use.

1302.2.3 Filtration. Water collected for reuse shall be filtered as required for the intended end use. Filters shall be accessible for inspection and maintenance. Filters shall utilize a pressure gauge or other approved method to indicate when a filter requires servicing or replacement. Shutoff valves installed immediately upstream and downstream of the filter shall be included to allow for isolation during maintenance.

1302.2.4 Filtration required. Gray water utilized for water closet and urinal flushing applications shall be filtered by a 100 micron or finer filter.

1302.3 Storage tanks. Storage tanks utilized in gray water nonpotable water systems shall comply with Section 1301.10.

1302.4 Retention time limits. Untreated gray water shall be retained in storage tanks for a maximum of 24 hours.

1302.5 Tank Location. Storage tanks shall be located with a minimum horizontal distance between various elements as indicated in Table 1302.5.1.

| Element                         | Minimum Horizontal Distance from Storage Tank (feet) |
|---------------------------------|--|
| Lot line adjoining private lots | 5  |
| Sewage systems                  | 5  |
| Septic tanks                    | 5  |
| Water wells                     | 50   |

|                   |    |
|-------------------|----|
| Streams and lakes | 50 |
| Water service     | 5  |
| Public water main | 10 |

1302.6 Valves. Valves shall be supplied on gray water nonpotable water drainage systems in accordance with Sections 1302.6.1 and 1302.6.2.

1302.6.1 Bypass valve. One three-way diverter valve certified to NSF 50 or other approved device shall be installed on collection piping upstream of each storage tank, or drainfield, as applicable, to divert untreated gray water to the sanitary sewer to allow servicing and inspection of the system. Bypass valves shall be installed downstream of fixture traps and vent connections. Bypass valves shall be labeled to indicate the direction of flow, connection, and storage tank or drainfield connection. Bypass valves shall be provided with access for operation and maintenance. Two shutoff valves shall not be installed to serve as a bypass valve.

1302.6.2 Backwater valve. Backwater valves shall be installed on each overflow and tank drain pipe to prevent unwanted water from draining back into the storage tank. If the overflow and drain piping arrangement is installed to physically not allow water to drain back into the tank, such as in the form of an air gap, backwater valves shall not be required. Backwater valves shall be constructed and installed in accordance with Section 715.

~~23. [ 31, 41. ] Delete Sections 1302.7 through 1302.13.4, including subsections, of the IPC.~~

~~[ 32, 42. ] Change the title of Section 1303 of the IPC to "Rainwater Nonpotable Water Systems."~~

~~24. [ 33, 43. ] Change Sections 1303.1 through 1303.10, including subsections, of the IPC to read as follows and delete Sections 1303.11 through 1303.16:~~

~~1303.1 General. The provisions of this section shall govern the design, construction, installation, alteration, and repair of rainwater nonpotable water systems for the collection, storage, treatment, and distribution of rainwater for nonpotable applications. The provisions of CSA B805/ICC 805 shall be permitted as an alternative to the provisions contained in this section for the design, construction, installation, alteration, and repair of rainwater nonpotable water systems for the collection, storage, treatment, and distribution of rainwater for nonpotable applications. Roof runoff or stormwater runoff collection surfaces shall be limited to roofing materials, public pedestrian accessible roofs, and subsurface collection identified in CSA B805/ICC 805 Table 7.1. Stormwater runoff shall not be collected from any other surfaces.~~

1303.2 Water quality. Each application of rainwater reuse shall meet the minimum water quality requirements set

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forth in Sections 1303.2.1 through 1303.2.4 unless otherwise superseded by other state agencies.

1303.2.1 Disinfection. Where the intended use or reuse application for nonpotable water requires disinfection or other treatment or both, it shall be disinfected as needed to ensure that the required water quality is delivered at the point of use or reuse.

1303.2.2 Residual disinfectants. Where chlorine is used for disinfection, the nonpotable water shall contain not more than 4 parts per million (4 mg/L) of free chlorine, combined chlorine, or total chlorine. Where ozone is used for disinfection, the nonpotable water shall not exceed 0.1 parts per million (by volume) of ozone at the point of use.

1303.2.3 Filtration. Water collected for reuse shall be filtered as required for the intended end use. Filters shall be accessible for inspection and maintenance. Filters shall utilize a pressure gauge or other approved method to indicate when a filter requires servicing or replacement. Shutoff valves installed immediately upstream and downstream of the filter shall be included to allow for isolation during maintenance.

1303.2.4 Filtration required. Rainwater utilized for water closet and urinal flushing applications shall be filtered by a 100 micron or finer filter.

1303.3 Collection surface. Rainwater shall be collected only from aboveground impervious roofing surfaces constructed from approved materials. Overflow or discharge piping from appliances or equipment, or both, including but not limited to evaporative coolers, water heaters, and solar water heaters shall not discharge onto rainwater collection surfaces.

1303.4 Collection surface diversion. At a minimum, the first 0.04 inches (1.016 mm) of each rain event of 25 gallons (94.6 L) per ~~4000~~ 1,000 square feet (92.9 m<sup>2</sup>) shall be diverted from the storage tank by automatic means and not require the operation of manually operated valves or devices. Diverted water shall not drain onto other collection surfaces that are discharging to the rainwater system or to the sanitary sewer. Such water shall be diverted from the storage tank and discharged in an approved location.

1303.5 Pre-tank filtration. Downspouts, conductors, and leaders shall be connected to a pre-tank filtration device. The filtration device shall not permit materials larger than 0.015 inches (0.4 mm).

1303.6 Roof gutters and downspouts. Gutters and downspouts shall be constructed of materials that are compatible with the collection surface and the rainwater quality for the desired end use. Joints shall be made watertight.

1303.6.1 Slope. Roof gutters, leaders, and rainwater collection piping shall slope continuously toward collection inlets. Gutters and downspouts shall have a

slope of not less than 1 unit in 96 units along their entire length and shall not permit the collection or pooling of water at any point.

Exception: Siphonic roof drainage systems installed in accordance with Chapter 11 shall not be required to have slope.

1303.6.2 Size. Gutters and downspouts shall be installed and sized in accordance with Section 1106.6 and local rainfall rates.

1303.6.3 Cleanouts. Cleanouts or other approved openings shall be provided to permit access to all filters, flushes, pipes, and downspouts.

1303.7 Storage tanks. Storage tanks utilized in rainwater nonpotable water systems shall comply with Section 1301.10.

1303.8 Location. Storage tanks shall be located with a minimum horizontal distance between various elements as indicated in Table 1303.8.1.

| Element                         | Minimum Horizontal Distance from Storage Tank (feet) |
|---------------------------------|--|
| Lot line adjoining private lots | 5  |
| Sewage systems                  | 5  |
| Septic tanks                    | 5  |

1303.9 Valves. Valves shall be installed in collection and conveyance drainage piping of rainwater nonpotable water systems in accordance with Sections 1303.9.1 and 1303.9.2.

1303.9.1 Influent diversion. A means shall be provided to divert storage tank influent to allow maintenance and repair of the storage tank system.

1303.9.2 Backwater valve. Backwater valves shall be installed on each overflow and tank drain pipe to prevent unwanted water from draining back into the storage tank. If the overflow and drain piping arrangement is installed to physically not allow water to drain back into the tank, such as in the form of an air gap, backwater valves shall not be required. Backwater valves shall be constructed and installed in accordance with Section 715.

1303.10 Tests and inspections. Tests and inspections shall be performed in accordance with Sections 1303.10.1 through 1303.10.2.

1303.10.1 Roof gutter inspection and test. Roof gutters shall be inspected to verify that the installation and slope is in accordance with Section 1303.6.1. Gutters shall be tested by pouring a minimum of one gallon of water into the end of the gutter opposite the collection point. The

gutter being tested shall not leak and shall not retain standing water.

1303.10.2 Collection surface diversion test. A collection surface diversion test shall be performed by introducing water into the gutters or onto the collection surface area. Diversion of the first quantity of water in accordance with the requirements of Section 1303.4 shall be verified.

~~25. [ 34. 44. ] Delete Sections 1303.11 through 1303.16.4, including subsections, of the IPC.~~

~~[ 35. 45. ] Change Sections 1304.1 and 1304.2 of the IPC to read as follows and delete Sections 1304.3 and 1304.4:~~

1304.1 General. Reclaimed water, water reclamation systems, reclaimed water distribution systems, and allowable nonpotable reuses of reclaimed water are as defined or specified in and governed by the Virginia Water Reclamation and Reuse Regulation (9VAC25-740). Permits from the Virginia State Water Control Board are required for such systems and reuses. The provisions of Section 1304 shall govern the design, construction, installation, alterations, and repair of plumbing fixtures, piping or piping systems, storage tanks, drains, appurtenances, and appliances that are part of the distribution system for reclaimed water within buildings and to storage tanks for reclaimed water as defined in the Virginia Water Reclamation and Reuse Regulation (9VAC25-740) and associated piping outside of buildings that deliver reclaimed water into buildings. Where conflicts occur between this code and the Virginia Water Reclamation and Reuse Regulation (9VAC25-740), the provisions of the Virginia Water Reclamation and Reuse Regulation (9VAC25-740) shall apply unless determined otherwise by the Virginia Department of Environmental Quality and DHCD through a memorandum of agreement.

1304.2 Design of reclaimed water systems. The design of reclaimed water systems shall conform to applicable requirements of Section 1301.

Exception: The design of reclaimed water systems shall conform to applicable requirements of the Virginia Water Reclamation and Reuse Regulation (9VAC25-740) for the following:

1. Identification, labeling, and posting of signage for reclaimed water systems in lieu of signage requirements described in Section 1301.4.
2. Sizing of system storage as defined in the Virginia Water Reclamation and Reuse Regulation (9VAC25-740), in addition to storage sizing requirements described in Section 1301.10.1.
3. Signage and labeling for reclaimed water storage in addition to labeling and signage requirements described in Section 1301.10.10.
4. Minimum separation distances and configurations for in-ground reclaimed water distribution piping in lieu of

trenching requirements for nonpotable water systems described in Section 1301.11.

~~[ 36. 46. ] Delete Sections 1304.3 and 1304.4.2, including subsections, of the IPC.~~

~~[ 37. 47. ] Add the following referenced standards to Chapter 15 as follows: (Standards not shown remain the same.)~~

| <u>Standard Reference Number</u> | <u>Title</u>  | <u>Referenced in Code Section Number</u> |
|----------------------------------|---|--|
| <u>ASTM F1871-2011</u>           | <u>Standard Specification for Folded/Formed Poly (Vinyl Chloride) Pipe Type A for Existing Sewer and Conduit Rehabilitation</u> | <u>717.6</u>                             |
| <u>ASTM F1504-2014</u>           | <u>Standard Specification for Folded Poly (Vinyl Chloride) (PVC) for Existing Sewer and Conduit Rehabilitation</u>              | <u>717.6</u>                             |
| <u>CSA B805-18/ICC 805-2018</u>  | <u>Rainwater Harvesting Systems</u>   | <u>1303.1</u>                            |

~~[ C. Modify the ] Group A-5 [ following Assembly "Description" category of Table 2902.1 of the IBC to read:~~

~~Stadiums, amusement parks, pools, bleachers, and grandstands for outdoor sporting events and activities.<sup>f-g</sup>~~

~~D. Add footnote ] "f" [ "g" to Table 2902.1 of the IBC to read: ]~~

~~f. [ g. The occupant load for pools shall be in accordance with the "Skating rinks, swimming pools" category of Table ] 4004.1.2 [ 4004.5.~~

C. Change Section 2902.1 of the IBC to read:

2902.1 Minimum number of fixtures. Plumbing fixtures shall be provided in the minimum number as shown in Table 403.1 of the VPC based on the actual use of the building or space. Uses not shown in Table 403.1 of the VPC shall be considered individually by the code official. The number of occupants shall be determined by this code.

D. Delete Table 2902.1 and Sections 2902.1.1 through 2902.6 ]

**13VAC5-63-330. Chapter 30 Elevators and conveying systems.**

A. Change Section 3002.4 of the IBC to read:

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3002.4 Elevator car to accommodate ambulance stretcher. Where elevators are provided in buildings four or more stories above, 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 an ambulance stretcher 24 inches by 84 inches (610 mm by 2134 mm) 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 3003.3 of the IBC to read:

3003.3 Fire service elevator keys. All elevators shall be equipped to operate with either a standardized or non-standardized fire service elevator key in accordance with the IFC.

C. Change Section 3005.4 of the IBC to read:

3005.4 Machine and control rooms, control spaces, and machinery spaces. Elevator machine rooms, rooms and spaces housing elevator controllers, and machinery spaces outside of but attached to a hoistway that have openings into the hoistway shall be enclosed with fire barriers constructed in accordance with Section 707 or horizontal assemblies constructed in accordance with Section 711, or both. The fire-resistance rating shall not be less than the required rating of the hoistway enclosure. 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.

~~Exception~~ Exceptions:

1. Where elevator machine rooms, rooms and spaces housing elevator controllers, and machinery spaces do not abut and do not have openings to the hoistway enclosure they serve, the fire barrier constructed in accordance with Section 707 or horizontal assemblies constructed in accordance with Section 711, 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 elevator machine rooms, rooms and spaces housing elevator controllers, and machinery spaces do not abut and have no openings to the hoistway enclosure they serve, the elevator machine rooms, rooms and spaces housing elevator controllers, and machinery spaces are not required to be fire-resistance rated.

D. Add Section 3005.7 to the IBC to read:

3005.7 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.

E. Delete Section 3006 of the IBC in its entirety.

F. Change the exception to 3007.6 to read:

Exception: Where a fire service access elevator has two entrances onto a floor, the second entrance shall be permitted to be protected in accordance with IBC Section 3006.3.

G. Change Section 3008.1 of the IBC to read:

3008.1 General. Where elevators in buildings greater than 420 feet (~~428-016~~ 128,016 mm) in building height are to be used for occupant self-evacuation during fires, all passenger elevators for general public use shall comply with this section.

## **13VAC5-63-336. Chapter 31 Special construction.**

A. Change the title of IBC Section 3109 to read:

Swimming Pools, Swimming Pool Enclosures, and Aquatic Recreational Facilities.

B. Change Section 3109.1 of the IBC to read as follows, add Section 3109.1.1 to the IBC to read as follows, and delete the remainder of Section 3109 of the IBC:

3109.1 General. Swimming pools, swimming pool enclosures, and aquatic recreational facilities, as that term is defined in the ISPSC, shall comply with applicable provisions of the ISPSC.

3109.1.1 Changes to the ISPSC. The following changes shall be made to the ISPSC:

1. Add Section 410.2 and related subsections to the ISPSC to read:



410.2 Showers. Showers shall be in accordance with Sections 410.2.1 through 410.2.5.

410.2.1 Deck hand shower or shower spray unit. Not less than one and not greater than half of the total number of showers required by Section 410.1 shall be a hand shower or spray shower unit located on the deck of or at the entrance of each pool.

410.2.2 Anti-scald device. Where heated water is provided to the showers, the shower water supply shall be controlled by an anti-scald device.

410.2.3 Water heater and mixing valve. Bather access to water heaters and thermostatically controlled mixing valves for showers shall be prohibited.

410.2.4 Flow rate. Each showerhead shall have a water flow of not less than 2 gallons per minute (7.6 lpm).

410.2.5 Temperature. At each showerhead, the heated shower water temperature shall not exceed 120°F (49°C) and shall not be less than 90°F (32°C).

2. Change the title of Section 609 of the ISPSC to read:  
Dressing and Sanitary Facilities.

3. Change Section 609.3.1 of the ISPSC to read:

609.3.1 Deck hand shower or shower spray unit. Not less than one and not greater than half of the total number of showers required by Section 609.2 shall be a hand shower or shower spray unit located on the deck of or at the entrance of each pool.

C. Delete Section 3113 of the IBC in its entirety.

**13VAC5-63-340. Chapter 33 Safeguards during construction.**

A. Delete Section 3302.1 of the IBC.

B. Delete IBC Sections 3303 and 3305 and 3305.1 in their entirety.

C. Change Section 3310.2 of the IBC to read:

3310.2 Maintenance of means of egress. Means of egress and required accessible means of egress shall be maintained at all times during construction.

**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 |
|---------------------------|--|-----------------------------------|
| ASTM E329-02              | Standard Specification for Agencies Engaged in the Testing and/or Inspection of Materials Used in Construction | 1703.1, 1703.1.3                  |

|  |  |   |
|--|--|---|
| API 650-09                                 | Welded Steel Tanks for Oil Storage   | <del>428.2</del> <u>430.2</u>   |
| API 653-09                                 | Tank Inspection, Repair, Alteration and Reconstruction   | <del>428.4, 428.5</del> <u>430.4, 430.5</u>   |
| <del>ASME A18.1-2011</del>                 | <del>Safety Standard for Platform Lifts and Stairway Chairlifts</del>                              | <del>1109.8</del>   |
| NFPA 91-15                                 | Standard for Exhaust Systems for Air Conveying of Vapors, Mists and Particulate Solids             | <del>430.3.6</del> <u>428.3.7</u>   |
| <del>ISPSC-15</del><br><del>ISPSC-18</del> | International Swimming Pool and Spa Code   | 202, 3109.1, 3109.1.1   |
| TFI RMIP-09                                | Aboveground Storage Tanks Containing Liquid Fertilizer, Recommended Mechanical Integrity Practices | <del>428.2</del> <u>430.2,</u><br><del>428.4</del> <u>430.4,</u><br><del>428.5</del> <u>430.5</u> |
| UL 2075-13                                 | Standard for Gas and Vapor Detectors and Sensors   | 915.4, <u>915.5.1,</u><br><u>915.5.3</u>  |

**13VAC5-63-400. Chapter 1 Administration; Section 101 General.**

A. Section 101.1 Short title. The Virginia Uniform Statewide Building Code, Part II, Existing Buildings, may be cited as the "Virginia Existing Building Code" or as the "VEBC."

B. Section 101.2 Incorporation by reference. Chapters 2 - 16 of the ~~2015~~ 2018 International Existing Building Code, published by the International Code Council, Inc., are adopted and incorporated by reference to be an enforceable part of the VEBC. The term "IEBC" means the ~~2015~~ 2018 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 VEBC 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 catchlines of the Virginia Administrative Code sections and cross references between sections or chapters of the VEBC 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 VEBC, a chapter in the IEBC or a chapter in a referenced code or

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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 VEBC is comprised of the combination of (i) the provisions of Chapter 1, Administration, which are established herein, (ii) Chapters 2 - 16 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, including any new chapters added. The terminology "changes to the text of the incorporated chapters of the IEBC that are specifically identified, including any new chapters added" 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 VEBC, any reference to a provision of Chapter 1 of the IEBC in the provisions of Chapters 2 - 16 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 provisions of this code shall be used as follows:

1. The term "this code," or "the code," where used in the provisions of Chapter 1, in Chapters 2 - 16 of the IEBC, or in the state amendments to the IEBC, means the VEBC, unless the context clearly indicates otherwise.
2. The term "this code," or "the code," where used in a code or standard referenced in the VEBC, means that code or standard, unless the context clearly indicates otherwise.
3. The term "USBC" where used in this code, means the VCC, unless the context clearly indicates otherwise.
4. 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.
5. 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.
6. References to International Codes and standards, where used in this code, include state amendments made to those International Codes and standards in the VCC.

Note: See Section 101.2 of the VCC for a list of major codes and standards referenced in the VCC.

F. Section 101.6 Order of precedence. The provisions of this code shall be used as follows:

1. The provisions of Chapter 1 of this code supersede any provisions of Chapters 2 - 16 of the IEBC that address the same subject matter and impose differing requirements.

2. The provisions of Chapter 1 of this code supersede any provisions of the codes and standards referenced in the IEBC that address the same subject matter and impose differing requirements.

3. The state amendments to the IEBC supersede any provisions of Chapters 2 - 16 of the IEBC that address the same subject matter and impose differing requirements.

4. The state amendments to the IEBC supersede any provisions of the codes and standards referenced in the IEBC that address the same subject matter and impose differing requirements.

5. The provisions of Chapters 2 - 16 of the IEBC supersede any provisions of the codes and standards referenced in the IEBC that address the same subject matter and impose differing requirements.

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 - 16 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 - 16 of the IEBC or of the codes and standards referenced in the IEBC are specifically identified as valid administrative requirements in Chapter 1 of this code or in the state amendments to the IEBC, then such requirements are not deleted and replaced.

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

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

## **13VAC5-63-410. Section 102 Purpose and scope.**

A. Section 102.1 Purpose. In accordance with § 36-99.01 of the Code of Virginia, the General Assembly of Virginia has declared that (i) there is an urgent need to improve the housing conditions of low and moderate income individuals and families, many of whom live in substandard housing, particularly in the older cities of the Commonwealth; (ii) there are large numbers of older residential buildings in the Commonwealth, both occupied and vacant, which are in urgent need of rehabilitation and must be rehabilitated if the state's citizens are to be housed in decent, sound, and sanitary

conditions; and (iii) the application of those building code requirements currently in force to housing rehabilitation has sometimes led to the imposition of costly and time-consuming requirements that result in a significant reduction in the amount of rehabilitation activity taking place.

The General Assembly further declares that (i) there is an urgent need to improve the existing condition of many of the Commonwealth's stock of commercial properties, particularly in older cities; (ii) there are large numbers of older commercial buildings in the Commonwealth, both occupied and vacant, that are in urgent need of rehabilitation and that must be rehabilitated if the citizens of the Commonwealth are to be provided with decent, sound and sanitary work spaces; and (iii) the application of the existing building code to such rehabilitation has sometimes led to the imposition of costly and time-consuming requirements that result in a significant reduction in the amount of rehabilitation activity taking place.

B. Section 102.2 Scope. The provisions of this code shall govern construction and rehabilitation activities in existing buildings and structures.

C. 102.2.1 Change of occupancy to Group I-2 or I-3. A change of occupancy to Group I-2 or I-3 shall comply with the provisions of the VCC. Written application shall be made to the local building department for a new certificate of occupancy, and the new certificate of occupancy shall be obtained prior to the change of occupancy. When impractical to achieve compliance with the VCC for the new occupancy classification, the building official shall consider modifications upon application and as provided for in Section 106.3 of the VCC.

D. 102.2.2 Reconstruction, alteration, or repair in Group R-5 occupancies. Compliance with this section shall be an acceptable alternative to compliance with this code at the discretion of the owner or owner's agent. The VCC may be used for the reconstruction, alteration, or repair of Group R-5 buildings or structures subject to the following criteria:

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 the VCC 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 the VCC 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 of capacity.

Exceptions:

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

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.

5. 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 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 of replacement of glass in buildings constructed under any edition of the USBC shall be as required for new installations~~ installation or replacement of glass shall comply with Section R308 or Chapter 24 of the VCC.

[ E. 102.2.3 Additions. Where one or more newly constructed fire walls that comply with Section 706 of the VCC is provided between an addition and the existing building or structure or portions thereof, the addition shall be considered a separate building, and therefore, not an addition within the scope of this code. Such separate building, including the fire wall, shall be constructed in accordance with the VCC and shall not place the existing building or structure in nonconformance with the building code under which the existing building or structure or the affected portions thereof was built, or as previously approved. ]

**13VAC5-63-420. Section 103 Application of code.**

A. Section 103.1 General. All administrative provisions of the VCC, including requirements for permits, inspections and approvals by the local building department, provisions for appeals from decisions of the local building department and the issuance of modifications, are applicable to the use of this code, except where this code sets out differing requirements. Where there is a conflict between a general requirement and a specific requirement in the [ ~~IEBC~~ VEBC ], the specific requirement shall govern.

B. Section 103.1.1 Use of performance code. Compliance with the provisions of a nationally recognized performance code when approved as a modification shall be considered to constitute compliance with this code. All documents submitted as part of such consideration shall be retained in the permanent records of the local building department.

C. Section 103.1.2 Preliminary meeting. When requested by a prospective permit applicant or when determined necessary by the code official, the code official shall meet with the prospective permit applicant prior to the application for a

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permit to discuss plans for the proposed work or change of occupancy in order to establish the specific applicability of the provisions of this code.

D. Section 103.2 Change of occupancy. Prior to a change of occupancy of the building or structure, 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.

When impractical to achieve compliance with this code for the new occupancy, the building official shall consider modifications upon application and as provided for in Section 106.3 of the VCC.

E. Section 103.3 Retrofit requirements. The local building department shall enforce the provisions of Section 1101 that require certain existing buildings to be retrofitted with fire protection systems and other safety equipment. Retroactive fire protection system requirements contained in the IFC shall not be applicable unless required for compliance with the provisions of Section 1101.

F. Section 103.4 Nonrequired equipment. The following criteria for nonrequired equipment ~~is~~ are 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 VCC 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 the VCC. 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.

G. Section 103.4.1 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.

~~H. Section 103.5 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 in accordance with Section 113.3.1 of the VCC.~~

I. H. Section ~~403.6~~ 103.5 Requirements relating to maintenance. Any requirements of the IEBC requiring the maintenance of existing buildings or structures are invalid.

Note: Requirements for the maintenance of existing buildings and structures and for unsafe conditions are contained in the VMC.

~~J. I.~~ Section ~~403.7~~ 103.6 Use of Appendix A. Appendix A of the IEBC provides guidelines for the seismic retrofit of existing buildings. The use of this appendix is not mandatory but shall be permitted to be utilized at the option of an owner, the owner's agent or the RDP involved in a rehabilitation project. However, in no case shall the use of Appendix A be construed to authorize the lowering of existing levels of health or safety in buildings or structures being rehabilitated.

~~K. J.~~ Section ~~403.8~~ 103.7 Use of Appendix B. Appendix B of the IEBC provides supplementary accessibility requirements for existing buildings and facilities. All applicable requirements of Appendix B shall be met in buildings and structures being rehabilitated.

~~L. K.~~ Section ~~403.9~~ 103.8 Use of Resource A. Resource A of the IEBC provides guidelines for the evaluation of fire resistance ratings of archaic materials and may be used in conjunction with rehabilitation projects.

~~M. 103.10~~ L. 103.9 Construction documents. Construction documents shall be submitted with the application for a permit. The work proposed to be performed on an existing building or structure shall be classified on the construction documents as repairs, alterations, change of occupancy, addition, historic building, or moved building. ~~All work areas shall be identified on the construction documents.~~ Alterations shall further be ~~identified~~ classified as Level 1, ~~Level 2,~~ or Level 3 2.

Exception: ~~construction~~ Construction documents or classification of the work does not need to be submitted when the building official determines the proposed work does not require such documents, classification, or identification.

## 13VAC5-63-430. Chapter 2 Definitions.

A. Change Section 201.3 of the IEBC to read:

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the other International Codes, such terms shall have the meanings ascribed to them in those codes, except that terms that are not defined in this code and that are defined in the VCC shall take precedence over other definitions.

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

~~Alteration. Any construction or renovation to an existing structure other than a repair or addition.~~

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 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 706 of the VCC shall be considered as a separate building (see Section 503.1 of the VCC). ]~~

Change of occupancy. Either of the following shall be considered a change of occupancy where the current VCC requires a greater degree of accessibility, structural strength, fire protection, means of egress, ventilation or sanitation than is existing in the current building or structure:

1. Any change in the occupancy classification of a building or structure.
2. Any change in the purpose of, or a change in the level of activity within, a building or structure.

Note: The use and occupancy classification of a building or structure, shall be determined in accordance with Chapter 3 of the VCC.

Existing building. A building for which a legal certificate of occupancy has been issued under any edition of the USBC or approved by the building official when no legal certificate of occupancy exists, and that has been occupied for its intended use; or, a building built prior to the initial edition of the USBC.

Existing structure. A structure (i) for which a legal building permit has been issued under any edition of the USBC, (ii) that has been previously approved, or (iii) that was built prior to the initial edition of the USBC. For application of provisions in flood hazard areas, an existing structure is any building or structure for which the start of construction commenced before the effective date of the community's first flood plain management code, ordinance, or standard.

~~[ Substantial improvement. For the purpose of determining compliance with the flood provisions of this code, any improvement, including repair, reconstruction, rehabilitation, alteration, or addition, or other improvement of a building or structure or a portion thereof, the cost of which equals or exceeds 50% of the market value of the building or structure before the improvement or repair is started. If the building or structure has sustained substantial damage, any improvements are considered substantial improvement regardless of the actual improvement performed. The term does not, however, include either:~~

- ~~1. Any project for improvement of a building or structure required to correct existing health, sanitary, or safety code violations identified by the building official and that is the minimum necessary to assure safe living conditions; or~~

~~2. Any alteration of a historic structure, provided that the alteration will not preclude the building or structure's continued designation as a historic building or structure. ]~~

~~Work area. That intended room, space, or portion of a building or structure where a wall or walls are added, relocated, or removed. Work area excludes (i) the addition or elimination of any door or window; (ii) the reconfiguration or extension of any system; (iii) the installation of any additional equipment; (iv) the removal of finished flooring or ceiling materials; (v) adjacent rooms or other rooms, spaces, or portions of the building or structure where incidental work entailed by the intended work must be performed; and (vi) portions of the building or structure where work not initially intended is specifically required by this code.~~

C. Add the following definitions to Section 202 of the IEBC 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 of 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 706 of the VCC shall be considered as a separate building (see Section 503.1 of the VCC).~~

~~Existing structure. A structure (i) for which a legal building permit has been issued under any edition of the USBC, (ii) which has been previously approved, or (iii) which was built prior to the initial edition of the USBC. For application of provisions in flood hazard areas, an existing structure is any building or structure for which the start of construction commenced before the effective date of the community's first flood plain management code, ordinance, or standard.~~

Moved building or structure. An existing building or structure that is moved to a new location.

[ Roof covering. The covering applied to the roof deck or spaced supports for weather resistance, energy performance, fire classification, or appearance. ]

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

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wells. The word "structure" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. "Structure" shall not include roadway tunnels and bridges owned by the Virginia Department of Transportation, which shall be governed by construction and design standards approved by the Virginia Commonwealth Transportation Board.

D. Delete the following definitions from Section 202 of the IEBC:

Approved

Dangerous

Deferred submittal

Facility

Flood hazard area

Registered design professional in responsible charge

Relocatable building

[ Roof repair ]

Unsafe

Work area

## 13VAC5-63-431. Chapter 3 General provisions and special detailed requirements.

A. Change IEBC Section 301 to General.

B. Change Section 301.1 and delete Sections 301.1.1 through 301.1.4.2, including tables, of the IEBC; to read:

301.1 Applicability. The applicable provisions of this chapter shall be used in conjunction with the requirements in this code, and shall apply to all construction and rehabilitation.

C. ~~Add~~ Change Section 301.2 to the IEBC to read:

301.2 Occupancy and use. When determining the appropriate application of the referenced sections of this code, the occupancy and use of a building shall be determined in accordance with Chapter 3 of the VCC.

D. Change IEBC Section 302 to Building Materials and Systems.

E. Change Sections 302.1 through [ 302.3 ] of the IEBC to read:

~~302.1 Existing materials. Materials already in use in a building in compliance with requirements or approvals in effect at the time of their erection or installation shall be permitted to remain in use unless the VCC would not permit their use in buildings or structures of similar occupancy, purpose, and location.~~

~~302.2~~ 302.1 New and replacement materials. Except as otherwise required or permitted by this code, materials

permitted by the applicable code for new construction shall be used. Like materials shall be permitted for repairs and alterations, provided no hazard to life, health or property is created. Hazardous materials shall not be used where the VCC would not permit their use in buildings or structures of similar occupancy, purpose, and location.

~~302.3~~ 302.2 Existing seismic force-resisting systems. Where the existing seismic force-resisting system is a type that can be designated ordinary, values of  $R$ ,  $\Omega_0$ , and  $C_d$  for the existing seismic force-resisting system shall be those specified by the VCC for an ordinary system unless it is demonstrated that the existing system will provide performance equivalent to that of a detailed, intermediate, or special system.

[ 302.3 Smoke alarms. Repair or replacement of smoke alarms shall be with devices listed in accordance with UL217 and that are no more than 10 years from the date of manufacture. Battery-only powered devices shall be powered by a 10-year sealed battery. ]

F. Delete Sections ~~302.4 and 302.5~~ 302.3 through 302.6 of the IEBC.

G. ~~Add~~ Change IEBC Section 303 to Fire escapes.

H. ~~Add~~ Change Sections 303.1 through 303.3.2, including subsections, and add Sections 303.4 through 303.6, ~~including subsections~~, to the IEBC to read:

303.1 Where permitted. Fire escapes shall ~~be permitted only as provided for in Sections 303.1.1 through 303.1.4~~ comply with this section and shall not constitute more than 50% of the required number of exits nor more than 50% of the required exit capacity.

303.1.1 Existing fire escapes. Existing fire escapes shall continue to be accepted as a component in the means of egress ~~in existing buildings only~~.

303.1.2 New fire escapes. ~~Newly~~ For other than Group I-2, newly constructed fire escapes ~~for existing buildings~~ shall be permitted only where exterior stairs cannot be utilized due to lot lines limiting stair size or due to the sidewalks, alleys, or roads at grade level. ~~New fire escapes shall not incorporate ladders or access by windows.~~

Exception: ~~Fire~~ Replacement fire escapes ~~that are replaced or repaired shall only be required to~~ or existing fire escapes undergoing repairs shall comply with Sections 303.3 and 303.4 if feasible, and if not feasible, ~~such that the replaced or repaired fire escape is not less safe than its existing condition to the greatest extent possible.~~

~~303.1.3 Limitations. Fire escapes shall comply with this section and shall not constitute more than 50% of the required number of exits nor more than 50% of the required exit capacity.~~

~~303.1.4 Fire escapes required. For other than Group I-2, where more than one exit is required, newly constructed fire escapes complying with Section 303.6 shall be accepted as providing one of the required means of egress. Replacement fire escapes or existing fire escapes undergoing repairs shall comply with Sections 303.3 and 303.4 if feasible, and if not feasible, to the greatest extent possible.~~

303.2 Location. Where located on the front of the building and where projecting beyond the building line, the lowest landing shall not be less than 7 feet (2134 mm) or more than 12 feet (3658 mm) above grade, and shall be equipped with a counterbalanced stairway to the street. In alleyways and thoroughfares less than 30 feet (9144 mm) wide, the clearance under the lowest landing shall not be less than 12 feet (3658 mm).

303.3 Construction. The fire escape shall be designed to support a live load of 100 pounds per square foot (4788 Pa) and shall be constructed of steel or other approved noncombustible materials. Fire escapes constructed of wood not less than nominal 2 inches (51 mm) thick are permitted on buildings of Type V construction. Walkways and railings located over or supported by combustible roofs in buildings of Types III and IV construction are permitted to be of wood not less than nominal 2 inches (51 mm) thick.

303.4 Dimensions. Stairs shall be at least 22 inches (559 mm) wide with risers not more than, and treads not less than, 8 inches (203 mm) and landings at the foot of stairs not less than 40 inches (1016 mm) wide by 36 inches (914 mm) long, located not more than 9 inches (203 mm) below the door.

303.5 Opening protectives. Openings within 10 feet (3048 mm) of newly constructed fire escape stairways shall be protected by fire assemblies having minimum 3/4-hour-fire-resistance ratings.

Exception: Opening protection shall not be required in buildings equipped throughout with an approved automatic sprinkler system.

303.6 Fire escape access and details. Newly constructed fire escapes shall comply with all of the following requirements:

1. Occupants shall have unobstructed access to the fire escape without having to pass through a room subject to locking.
2. Access to a new fire escape shall be through a door, except that windows shall be permitted to provide access from single dwelling units or sleeping units in Group Groups R-1, R-2 and I-1 occupancies or to provide access from spaces having a maximum occupant load of 10 in other occupancy classifications.

2.1. The window shall have a minimum net clear opening of 5.7 square feet (0.53 m<sup>2</sup>) or 5 square feet (0.46 m<sup>2</sup>) where located at grade.

2.2. The minimum net clear opening height shall be 24 inches (610 mm) and net clear opening width shall be 20 inches (508 mm).

2.3. The bottom of the clear opening shall not be greater than 44 inches (1118 mm) above the floor.

2.4. The operation of the window shall comply with the operational constraints of the VCC.

3. In all buildings of Group E occupancy, up to and including the 12th grade, buildings of Group I occupancy, rooming houses and child care centers, ladders of any type are prohibited on fire escapes used as a required means of egress.

I. ~~Add IEBC~~ Change Section 304 to Glass replacement and replacement windows.

J. ~~Add Sections~~ Change Section 304.1 and add Sections 304.2 through 304.3, including subsections, 304.3.1 to the IEBC to read:

304.1 ~~Conformance~~ 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 shall comply with Chapter 24 of the VCC.~~

304.2 Replacement window opening devices. In Group R-2 or R-3 buildings containing dwelling units, window opening control devices complying with ASTM F 2090 shall be installed where an existing window is replaced and where all of the following apply to the replacement window:

1. The window is operable;
2. The window replacement includes replacement of the sash and the frame;
3. The top of the sill of the window opening is at a height less than 36 inches (915 mm) above the finished floor;
4. The window will permit openings that will allow passage of a 4-inch diameter (102 mm) sphere when the window is in its largest opened position; and
5. The vertical distance from the top of the sill of the window opening to the finished grade or other surface below, on the exterior of the building, is greater than 72 inches (1829 mm).

The window opening control device, after operation to release the control device allowing the window to fully open, shall not reduce the minimum net clear opening area of the window unit to less than the area required by Section 1029.2 of the VCC.

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1. Operable windows where the top of the sill of the window opening is located more than 75 feet (22 860 mm) above the finished grade or other surface below, on the exterior of the room, space or building, and that are provided with window fall prevention devices that comply with ASTM F 2006.

2. Operable windows with openings that are provided with window fall prevention devices that comply with ASTM F 2090.

304.3 Replacement window emergency escape and rescue openings. Where windows are required by the VCC or International Residential Code to provide emergency escape and rescue openings in Groups R-2 and R-3 occupancies and one-family and two-family dwellings and townhouses regulated by the International Residential Code, replacement windows shall be exempt from the requirements of Sections 1030.2, 1030.3, and ~~1030.5~~ 1030.4 of the VCC or Sections R310.2.1, R310.2.2, and R310.2.3 of the International Residential Code, provided the replacement window meets the following conditions:

1. The replacement window is the manufacturer's largest standard size window that will fit within the existing frame or existing rough opening. The replacement window shall be permitted to be of the same operating style as the existing window or a style that provides for an equal or greater window opening area than the existing window.
2. The replacement of the window is not part of a change of occupancy.

304.3.1 Operational constraints. Where bars, grilles, grates, or similar devices are installed over emergency escape and rescue openings as permitted by Section 1030.4 of the VCC, smoke alarms shall also be provided in accordance with Section 907.2.11 of the VCC.

K. ~~Add IEBC~~ Change Section 305 Seismic force-resisting systems.

L. ~~Add~~ Change Sections 305.1 and 305.2, including subsections, to the IEBC to read:

305.1 General. Where this code requires consideration of the seismic force-resisting system of an existing building subject to repair, alteration, change of occupancy, addition or ~~relocation~~ moving of existing buildings, the seismic evaluation and design shall be based on Section 305.2 ~~regardless of which compliance method is used.~~

305.2 Seismic evaluation and design procedures. The seismic evaluation and design shall be based on the procedures specified in the VCC or ASCE 41. The procedures contained in Appendix A of this code shall be permitted to be used as specified in Section 305.2.2.

305.2.1 Compliance with VCC-level seismic forces. Where compliance with the seismic design provisions of the VCC

is required, the criteria shall be in accordance with one of the following:

1. 100% of the values in the VCC. Where the existing seismic force-resisting system is a type that can be designated as "Ordinary," values of  $R$ ,  $\Omega_0$ , and  $C_d$  used for analysis in accordance with Chapter 16 of the VCC shall be those specified for structural systems classified as "Ordinary" in accordance with Table 12.2-1 of ASCE 7, unless it can be demonstrated that the structural system will provide performance equivalent to that of a "Detailed," "Intermediate" or "Special" system.
2. ASCE 41, using a Tier 3 procedure and the two level performance objective in Table 305.2.1 for the applicable risk category.

| Risk Category<br>(Based on VCC<br>Table 1604.5) | Structural<br>Performance Level<br>for Use with BSE-<br>1E Earthquake<br>Hazard Level | Structural<br>Performance Level<br>for Use with BSE-<br>2N Earthquake<br>Hazard Level |
|---|---|---|
| I   | Life Safety (S-3)   | Collapse<br>Prevention (S-5)  |
| II  | Life Safety (S-3)   | Collapse<br>Prevention (S-5)  |
| III   | Damage Control<br>(S-2)   | Limited Safety (S-<br>4)  |
| IV  | Immediate<br>Occupancy (S-1)  | Life Safety (S-3)   |

305.2.2 Compliance with reduced VCC-level seismic forces. Where seismic evaluation and design is permitted to meet reduced VCC seismic force levels, the criteria used shall be in accordance with one of the following:

1. The VCC using 75% of the prescribed forces. Values of  $R$ ,  $\Omega_0$  and  $C_d$  used for analysis shall be as specified in Section 305.2.1 of this code.
2. Structures or portions of structures that comply with the requirements of the applicable chapter in Appendix A as specified in Items 2.1 through 2.5 and subject to the limitations of the respective Appendix A chapters shall be deemed to comply with this section.
  - 2.1. The seismic evaluation and design of unreinforced masonry bearing wall buildings in Risk Category I or II are permitted to be based on the procedures specified in Appendix Chapter A1.
  - 2.2. Seismic evaluation and design of the wall anchorage system in reinforced concrete and reinforced masonry wall



buildings with flexible diaphragms in Risk Category I or II are permitted to be based on the procedures specified in Chapter A2.

2.3. Seismic evaluation and design of cripple walls and sill plate anchorage in residential buildings of light-frame wood construction in Risk Category I or II are permitted to be based on the procedures specified in Chapter A3.

2.4. Seismic evaluation and design of soft, weak, or open-front wall conditions in multiunit residential buildings of wood construction in Risk Category I or II are permitted to be based on the procedures specified in Chapter A4.

2.5. Seismic evaluation and design of concrete buildings assigned to Risk Category I, II, or III are permitted to be based on the procedures specified in Chapter A5.

3. ASCE 41, using the performance objective in Table 305.2.2 for the applicable risk category.

| Risk Category<br>(Based on VCC Table 1604.5) | Structural Performance Level for Use with BSE-1E Earthquake Hazard Level |
|--|--|
| I  | Life Safety (S-3)  |
| II   | Life Safety (S-3)  |
| III  | Damage Control (S-2 <sup>a</sup> )                                       |
| IV   | Immediate Occupancy (S-1)  |

a. Tier 1 evaluation at the Damage Control performance level shall use the Tier 1 Life Safety checklists and Tier 1 Quick Check provision midway between those specified for Life Safety and Immediate Occupancy performance

M. Delete Sections 305.3 through 305.9, including subsections, of the IEBC.

N. Add IEBC Section 306 ~~Group B teaching and research~~ Higher education laboratories.

N. O. Add Section 306.1, including subsections, to the IEBC to read:

306.1 Change of occupancy in existing ~~Group B teaching and research~~ higher education laboratories. Where the use of new or different hazardous materials or a change in the amount of hazardous materials in existing ~~Group B testing and research laboratories in educational occupancies above the 12th grade~~ higher education laboratories would constitute a change of occupancy, this section shall be permitted to be used as an acceptable alternative to compliance with change of occupancy requirements to permit the increased amounts of hazardous materials stipulated without the laboratories being classified as

Group H. In addition, ~~as set out in Section 5001.7 of such laboratories shall comply with the applicable operational and maintenance requirements in Chapter 38 of the SFPC; approval.~~ Approval under this section is contingent upon operational requirements in the SFPC being complied with and maintained.

306.1.1 Hazardous materials in existing ~~Group B teaching and research~~ higher education laboratories. The percentage of maximum allowable quantities of hazardous materials per control area and the number of control areas permitted at each floor level within an existing building shall be permitted to comply with Table 302.6.1(1) in buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 of the VCC or shall be permitted to comply with Table 302.6.1(2) in buildings not equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 of the VCC.

| Floor Level       | Percentage of the Maximum Allowable Quantity per Control Area <sup>a</sup> | Number of Control Areas per Floor | Fire-Resistance Rating for Fire Barriers and Horizontal Assemblies in Hours <sup>b</sup> |                       |
|-------------------|--|-----------------------------------|--|-----------------------|
|                   |  |                                   | Fire Barriers  | Horizontal Assemblies |
| Above Grade Plane | Higher than 20   | 5                                 | 1  | 2                     |
|                   | 10-20  | 10                                | 1  | 2                     |
|                   | 7-9  | 25                                | 2  | 2                     |
|                   | 4-6  | 50                                | 2  | 2                     |
|                   | 3  | 75                                | 2  | 1                     |
|                   | 2  | 100                               | 3  | 1                     |
| Below Grade Plane | 1  | 100                               | 4  | 1                     |
|                   | 1  | 75                                | 3  | 1                     |
|                   | 2  | 50                                | 2  | 1                     |
|                   | Lower than 2   | Not Allowed                       | Not Allowed  | Not Allowed           |

a. Percentage shall be of the maximum allowable quantity per control area shown in Tables 307.1(1) and 307.1(2) of the VCC, with all increases allowed in the notes to those tables.

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b. Separation shall include fire barriers and horizontal assemblies as necessary to provide separation from other portions of the building.

Table 306.1.1(2)

Design and Number of Control Areas in Existing Buildings Not Equipped throughout with an Automatic Sprinkler System in Accordance with Section 903.3.1.1 of the VCC with ~~Group B Teaching and Research Laboratories in Educational Occupancies above the 12th Grade~~ Higher Education Laboratories

| Floor Level       |               | Percentage of the Maximum Allowable Quantity per Control Area <sup>a</sup> | Number of Control Areas per Floor | Fire-Resistance Rating for Fire Barriers and Horizontal Assemblies in Hours <sup>b</sup> |
|-------------------|---------------|--|-----------------------------------|--|
| Above Grade Plane | Higher than 9 | 5  | 1                                 | 2  |
|                   | 7-9           | 10   | 2                                 | 2  |
|                   | 4-6           | 25   | 2                                 | 2  |
|                   | 3             | 75   | 2                                 | 1  |
|                   | 2             | 100  | 3                                 | 1  |
|                   | 1             | 100  | 4                                 | 1  |
| Below Grade Plane | 1             | 75   | 3                                 | 1  |
|                   | 2             | 50   | 2                                 | 1  |
|                   | Lower than 2  | Not Allowed  | Not Allowed                       | Not Allowed  |

a. Percentage shall be of the maximum allowable quantity per control area shown in Tables 307.1(1) and 307.1(2) of the VCC, with all increases allowed in the notes to those tables.

b. Separation shall include fire barriers and horizontal assemblies as necessary to provide separation from other portions of the building.

306.1.2 Automatic fire alarm and detection systems. ~~An automatic~~ A fire alarm system shall be provided throughout the building in accordance with Section 907 of the VCC. An automatic fire detection system shall be provided in the control area in accordance with Section 907 of the VCC where ~~pyrophics or Class 4 oxidizers are used and~~ the building is not equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 of the VCC.

306.1.3 System supervision and monitoring. Automatic fire ~~alarm and~~ detection systems shall be electronically supervised and monitored by an approved supervising

station or, where approved, shall initiate an audible and visual signal at a constantly attended onsite location.

306.1.4 Restricted materials in storage and use. Where approved by the building official, the storage and use of the following hazardous materials prohibited by VCC Table 307.1(1) in buildings not equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 shall be allowed within a control area at 25% of Table 307.1(1) limits for a building equipped throughout with an automatic sprinkler system:

1. Pyrophorics.
2. Class 4 oxidizers.

No additional quantity increases shall be allowed. All such materials shall be stored and used in accordance with Sections 3805.2.1 and 3805.2.2 of the SFPC.

~~Q. P. Add IEBC Section 307 Reroofing and roof repair.~~  
~~P. Q. [ Add Sections 307.1 through 307.7, including subsections, to the IEBC to read:~~

~~307.1 Reroofing. Materials and methods of application used for recovering or replacing an existing roof covering shall comply with this section and the applicable requirements of Chapter 15 of the VCC.~~

~~Exceptions:~~

- ~~1. Roof replacement of roof recover of existing low slope roof coverings shall not be required to meet the minimum design slope requirement of one quarter unit vertical in 12 units horizontal (2% (2.0% slope) in Section 1507 of the VCC for roofs that provide positive roof drainage.~~
- ~~2. Recovering or replacing an existing roof covering shall not be required to meet the requirement of secondary (emergency overflow) drains or scuppers in Section 1503.4 1502 of the VCC for roofs that provide for positive roof drainage. For the purposes of this exception, existing secondary drainage or scupper systems required in accordance with the VCC shall not be removed unless they are replaced by secondary drains or scuppers designed and installed in accordance with Section 1503.4 1502 of the VCC.~~

~~307.2 Structural and construction loads. Structural roof components shall be capable of supporting the roof covering system and the material and equipment loads that will be encountered during installation of the system.~~

~~Exceptions:~~

- ~~1. Structural elements where the additional dead load from the roofing or equipment does not increase the force in the element by more than 5.0%.~~
- ~~2. Buildings constructed in accordance with the International Residential Code or the conventional light frame construction methods of the International Building~~

~~Code and where the dead load from the roofing or equipment is not increased by more than 5.0%.~~

~~3. Addition of a second layer of roof covering weighing three pounds per square foot (0.1437 kN/m<sup>2</sup>) or less over an existing, single layer of roof covering.~~

307.3 Roof replacement. Roof replacement shall include the removal of all existing layers of roof coverings down to the roof deck.

Exception: Where the existing roof assembly includes an ice barrier membrane that is adhered to the roof deck, the existing ice barrier membrane shall be permitted to remain in place and covered with an additional layer of ice barrier membrane in accordance with Section 1507 of the VCC.

~~307.3.1 Roof recover limitation. A roof recover shall not be permitted where any of the following conditions occur:~~

~~1. Where the existing roof or roof covering is water soaked or has deteriorated to the point that the existing roof or roof covering is not adequate as a base for additional roofing.~~

~~2. Where the existing roof covering is slate, clay, cement, or asbestos cement tile.~~

~~3. Where the existing roof has two or more applications of any type of roof covering.~~

307.3.1 ~~307.3.2~~ Roof recover. The installation of a new roof covering over an existing roof covering shall be permitted where any of the following conditions occur:

1. Complete and separate roofing systems, such as standing seam metal roof systems, that are designed to transmit the roof loads directly to the building's structural system and that do not rely on existing roofs and roof coverings for support, shall not require the removal of existing roof coverings.

2. Metal panel, metal shingle and concrete and clay tile roof coverings shall be permitted to be installed over existing wood shake roofs when applied in accordance with Section 307.4.

3. The application of a new protective coating over an existing spray polyurethane foam roofing system shall be permitted without tear off of existing roof coverings.

4. Where the new roof covering is installed in accordance with the roof covering manufacturer's approved instructions.

Exceptions: A roof recover shall not be permitted where any of the following conditions occur:

1. Where the existing roof or roof covering is water soaked or has deteriorated to the point that the existing roof or roof covering is not adequate as a base for additional roofing.

2. Where the existing roof covering is slate, clay, cement, or asbestos cement tile.

3. Where the existing roof has two or more applications of any type of roof covering.

307.4 Roof recovering. Where the application of a new roof covering over wood shingle or shake roofs creates a combustible concealed space, the entire existing surface shall be covered with gypsum board, mineral fiber, glass fiber or other approved materials securely fastened in place.

307.5 Reinstallation of materials. Existing slate, clay, or cement tile shall be permitted for reinstallation, except that damaged, cracked or broken slate or tile shall not be reinstalled. Existing vent flashing, metal edgings, drain outlets, collars, and metal counter flashings shall not be reinstalled where rusted, damaged, or deteriorated. Aggregate surfacing materials shall not be reinstalled.

307.6 Flashings. Flashings shall be reconstructed in accordance with approved manufacturer's installation instructions. Metal flashing to which bituminous materials are to be adhered shall be primed prior to installation.

307.7 Roof repair. Roof repairs shall comply with this section. Work on nondamaged components that is necessary for the required repair of damaged components shall be considered part of the roof repair and shall not be subject to the requirements of other parts of this code.

Exception: Routine maintenance required by this section, ordinary repairs exempt from permit in accordance with Section 108.2 of the VCC, and abatement of wear due to normal service conditions shall not be subject to the requirements for roof repairs in this section.

307.7.1 Building materials and systems. Building materials and systems shall comply with the requirements of Sections ~~Section~~ 307.7.1.1 and 307.7.1.2.

307.7.1.1 Existing materials. Materials already in use in a building in compliance with requirements or approvals in effect at the time of their erection or installation shall be permitted to remain in use unless determined by the building official to be unsafe.

307.7.1.2 ~~307.7.1.1~~ New and replacement materials. Except as otherwise required or permitted by this code, materials permitted by the applicable code for new construction shall be used. Like materials shall be permitted for repairs, provided no hazard to life, health or property is created. Hazardous materials shall not be used where the code for new construction would not permit their use in buildings of similar occupancy, purpose and location. ]

**13VAC5-63-432.5. Chapter 4 Accessibility.**

A. Change IEBC Section 401 to General.

B. A. Change Section 401.1 of the IEBC to read:

401.1 Scope. The applicable provisions of this chapter shall apply to all construction and rehabilitation.

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~~C. B.~~ Delete Sections ~~401.1-4~~ 401.2 through 401.3 of the IEBC.

~~D. C.~~ Change IEBC Section 402 ~~of~~ to Change of Occupancy.

~~E. D.~~ Change Sections Section 402.1 through [ ~~and add~~ Sections 402.2 and 402.3 ] of [ ~~to of~~ ] the IEBC to read:

402.1 Change of occupancy. Existing buildings or structures that undergo a change of occupancy [ ~~shall comply with this section~~ are not required to be provided with additional accessibility features. Any alterations undertaken in connection with a change of occupancy shall conform to the applicable requirements of Section 404 ].

[ ~~Exception: Type B dwelling or sleeping units required by Section 1107 of the VCC are not required to be provided in existing buildings and facilities undergoing a change of occupancy in conjunction with Level 2 alterations where the~~ ] work area [ ~~intended portion of a building or structure involving walls that are added, relocated, or removed is 50% or less of~~ ] the aggregate area of [ ~~the building area.~~

~~402.2 Partial change in occupancy. Where a portion of the building is changed to a new occupancy classification, additional accessible features are not required due to the change of occupancy.~~

~~402.3 Complete change of occupancy. Where an entire building undergoes a change of occupancy classification, it shall have all of the following accessible features:~~

- ~~1. At least one accessible building entrance.~~
- ~~2. At least one accessible route from an accessible building entrance to primary function areas.~~
- ~~3. Signage complying with Section 1111 of the VCC.~~
- ~~4. Accessible parking, where parking is being provided.~~
- ~~5. At least one accessible passenger loading zone, when loading zones are provided.~~
- ~~6. At least one accessible route connecting accessible parking and accessible passenger loading zones to an accessible entrance.~~

~~Where it is technically infeasible to comply with the new construction standards for any of these requirements of a change of occupancy, Items 1 through 6 shall conform to the requirements to the maximum extent technically feasible.~~

~~Exception: The accessible features listed in Items 1 through 6 are not required for an accessible route to Type B units. ]~~

~~F. Delete Sections 402.3.1, 402.4 and 402.5 of the IEBC.~~

~~G. E.~~ Change IEBC Section 403 to Additions.

~~H. F.~~ Change Sections Section 403.1 through ~~403.3~~ of the IEBC to read:

403.1 Additions. Accessibility provisions for new construction shall apply to additions. An addition that affects the accessibility to, or contains an area of, a primary function

shall comply with the requirements in Section ~~440.7~~ 404.3, as applicable.

G. Add Sections 403.2 through 403.4 to the IEBC to read:

403.2 Accessible dwelling units and sleeping units. Where Group I-1, I-2, I-3, R-1, R-2, or R-4 dwelling or sleeping units are being added, the requirements of Section 1107 of the VCC for accessible units apply only to the quantity of spaces being added.

403.3 Type A dwelling or sleeping units. Where more than 20 Group R-2 dwelling or sleeping units are being added, the requirements of Section 1107 of the VCC for Type A units and Chapter 9 of the VCC for visible alarms apply only to the quantity of the spaces being added.

~~I. Delete Section 403.3.1.~~

~~J. Change Section 403.4 of the IEBC to read:~~

403.4 Type B dwelling or sleeping units. Where four or more Group I-1, I-2, R-1, R-2, R-3, or R-4 dwelling or sleeping units are being added, the requirements of Section 1107 of the VCC for Type B units and Chapter 9 of the VCC for visible alarms apply only to the quantity of spaces being added.

~~K. Delete Sections 403.4.1 through 403.11, including subsections, of the IEBC.~~

~~L. H.~~ Change IEBC Section 404 to Alterations.

~~M. I.~~ Change Sections Section 404.1 through ~~404.4.15,~~ including subsections, of the IEBC to read:

404.1 General. An alteration of an existing facility shall not impose a requirement for greater accessibility than that which would be required for new construction. Alterations shall not reduce or have the effect of reducing accessibility of a facility or portion of a facility.

J. Add Sections 404.2 through 404.4.15, including subsections, to the IEBC to read:

404.2 Alterations. A facility that is altered shall comply with the applicable provisions in this section and Chapter 11 of the VCC, except as modified by Sections 404.3 and 404.4, unless technically infeasible. Where compliance with this section is technically infeasible, the alteration shall provide access to the maximum extent technically feasible.

Exceptions:

1. The altered element or space is not required to be on an accessible route, unless required by Section 404.3.
2. Accessible means of egress required by Chapter 10 of the VCC are not required to be provided in existing facilities.
3. The alteration to Type A individually owned dwelling units within a Group R-2 occupancy shall be permitted to meet the provision for a Type B dwelling unit.

~~4. Type B dwelling or sleeping units required by Section 1107 of the VCC are not required to be provided in existing buildings and facilities undergoing a change of occupancy in conjunction with alterations where the work area is 50% or less of the aggregate area of the building.~~

404.3 Alterations affecting an area containing a primary function. Where an alteration affects [ ~~the accessibility to, or contains an area of~~ or could affect the usability of or access to an area containing a ] primary function, the route to the primary function area shall be accessible. The accessible route to the primary function area shall include toilet facilities and drinking fountains that shall also be accessible to and useable by individuals with disabilities, serving the area of primary function.

Exceptions:

1. The costs of providing the accessible route are not required to exceed 20% of the costs of the alterations affecting the area of primary function.
2. This provision does not apply to alterations limited solely to windows, hardware, operating controls, electrical outlets and signs.
3. This provision does not apply to alterations limited solely to mechanical systems, electrical systems, installation or alteration of fire protection systems and abatement of hazardous materials.
4. This provision does not apply to alterations undertaken for the primary purpose of increasing the accessibility of a facility.
5. This provision does not apply to altered areas limited to Type B dwelling and sleeping units.

404.4 Scoping for alterations. The provisions of Sections 404.4.1 through [ ~~404.4.14~~ 404.1.15 ] shall apply to alterations to existing buildings and facilities.

404.4.1 Entrances. Where an alteration includes alterations to an entrance, and the facility has an accessible entrance on an accessible route, the altered entrance is not required to be accessible unless required by Section 404.3. Signs complying with Section 1111 of the VCC shall be provided.

Exception: Where an alteration includes alterations to an entrance, and the facility has an accessible entrance, the altered entrance is not required to be accessible, unless required by Section ~~410.7~~ 404.3. Signs complying with Section 1111 of the VCC shall be provided.

404.4.2 Elevators. Altered elements of existing elevators shall comply with ASME A17.1/CSA B44 and ICC A117.1. Such elements shall also be altered in elevators programmed to respond to the same hall call control as the altered elevator.

404.4.3 Platform lifts. Platform (wheelchair) lifts complying with ICC A117.1 and installed in accordance with ASME

A18.1 shall be permitted as a component of an accessible route.

404.4.4 Stairways and escalators. ~~In alterations, change of occupancy or additions where~~ Where an escalator or stairway is added where none existed previously and major structural modifications are necessary for installation, an accessible route shall be provided between the levels served by the escalator or stairways in accordance with Section 1104.4 of the VCC.

404.4.5 Ramps. Where steeper slopes than allowed by Section 1012.2 of the VCC are necessitated by space limitations, the slope of ramps in or providing access to existing facilities shall comply with Table 404.4.5.

| Table 404.4.5<br>Ramps                      |              |
|---|--------------|
| Slope                                       | Maximum Rise |
| Steeper than 1:10 but not steeper than 1:8  | 3 inches     |
| Steeper than 1:12 but not steeper than 1:10 | 6 inches     |
| For SI: 1 inch = 25.4 mm                    |              |

404.4.6 Accessible dwelling or sleeping units. Where Group I-1, I-2, I-3, R-1, R-2, or R-4 dwelling or sleeping units are being altered, the requirements of Section 1107 of the VCC for Accessible units apply only to the quantity of the spaces being altered.

404.4.7 Type A dwelling or sleeping units. Where more than 20 Group R-2 dwelling or sleeping units are being altered, the requirements of Section 1107 of the VCC for Type A units and Chapter 9 of the VCC for visible alarms apply only to the quantity of the spaces being altered.

404.4.8 Type B dwelling or sleeping units. Where four or more Group I-1, I-2, R-1, R-2, R-3, or R-4 dwelling or sleeping units are being altered ~~and where the work area is greater than 50% of the aggregate area of the building~~, the requirements of Section 1107 of the VCC for Type B units and Chapter 9 of the VCC for visible alarms apply only to the quantity of the spaces being altered.

Exceptions: ~~Group~~ Groups I-1, I-2, R-2, R-3, and R-4 dwelling or sleeping units where the first certificate of occupancy was issued before March 15, 1991, are not required to provide Type B dwelling or sleeping units.

404.4.9 Jury boxes and witness stands. In alterations, accessible wheelchair spaces are not required to be located within the defined area of raised jury boxes or witness stands and shall be permitted to be located outside these spaces where ramp or lift access poses a hazard by restricting or projecting into a required means of egress.

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404.4.10 Toilet and bathing rooms. Where it is technically infeasible to alter existing toilet and bathing rooms to be accessible, an accessible single-user or family or assisted-use toilet or bathing room constructed in accordance with Section 1109.2.1 of the VCC is permitted. The single-user or family or assisted-use toilet or bathing room shall be located on the same floor and in the same area as the existing toilet or bathing rooms. At the inaccessible toilet and bathing rooms, provide directional signs indicating the location of the nearest single-user or family or assisted-use toilet room or bathing room. These directional signs shall include the International Symbol of Accessibility and sign characters shall meet the visual character requirements in accordance with ICC A117.1.

[ 404.4.10.1 Additional toilet and bathing facilities. In assembly and mercantile occupancies, where additional toilet fixtures are added, not fewer than one accessible family or assisted-use toilet room shall be provided where required by Section 1109.2.1 of the International Building Code. In recreational facilities, where additional bathing rooms are being added, not fewer than one family or assisted-use bathing room shall be provided where required by Section 1109.2.1 of the International Building Code. ]

404.4.11 Dressing, fitting and locker rooms. Where it is technically infeasible to provide accessible dressing, fitting or locker rooms at the same location as similar types of rooms, one accessible room on the same level shall be provided. Where separate-sex facilities are provided, accessible rooms for each sex shall be provided. Separate sex facilities are not required where only unisex rooms are provided.

404.4.12 Fuel dispensers. Operable parts of replacement fuel dispensers shall be permitted to be 54 inches (1370 mm) maximum, measuring from the surface of the vehicular way where fuel dispensers are installed on existing curbs.

404.4.13 Thresholds. The maximum height of thresholds at doorways shall be 3/4 inch (19.1 mm). Such thresholds shall have beveled edges on each side.

404.4.14 Amusement rides. Where the structural or operational characteristics of an amusement ride are altered to the extent that the amusement ride's performance differs from that specified by the manufacturer or the original design, the amusement ride shall comply with requirements for new construction in Section 1110.4.8 of the VCC.

404.4.15 Dining areas. An accessible route to raised or sunken dining areas or to outdoor seating areas is not required provided that the same services and décor are provided in an accessible space usable by any occupant and not restricted to use by people with a disability.

N. ~~Delete Sections 404.2.1, 404.2.2, 404.2.3, 404.3.1 and 404.5 of the IEBC.~~

~~O. K. Change Section 405 to Historic Buildings.~~

~~P. L. Change Section 405.1, including subsections, to read:~~

~~405.1 General. These provisions shall apply to facilities designated as historic buildings or structures that undergo alterations [~~or a change of occupancy,~~] unless technically infeasible. Where compliance with the requirements for accessible routes, entrances or toilet rooms would threaten or destroy the historic significance of the facility, the alternative requirements of Sections 405.1.1 through [ ~~405.1.4~~ 405.1.5 ] for that element shall be permitted.~~

~~[ Exception: Type B dwelling or sleeping units required by Section 1107 of the VCC are not required to be provided in historical buildings. ]~~

M. Add Sections 405.1.1 through [ ~~405.1.4~~ 405.1.5 ] to the IEBC to read:

405.1.1 Site arrival points. At least one accessible route from a site arrival point to an accessible entrance shall be provided.

405.1.2 Multilevel buildings and facilities. An accessible route from an accessible entrance to public spaces on the level of the accessible entrance shall be provided.

405.1.3 Entrances. [~~At least one main entrance shall be accessible.~~

~~Exceptions:~~

~~1. If a main entrance cannot be made accessible, an accessible nonpublic entrance that is unlocked while the building is occupied shall be provided; or~~

~~2. If a main entrance cannot be made accessible, a locked accessible entrance with a notification system or remote monitoring shall be provided.~~

Where an entrance cannot be made accessible in accordance with Section 404.4.1, an accessible entrance that is unlocked while the building is occupied shall be provided; or, a locked accessible entrance with a notification system or remote monitoring shall be provided. ]

Signs complying with Section 1111 of the VCC shall be provided at the primary [~~entrance~~ entrances] and the accessible entrance.

405.1.4 Toilet and bathing facilities. Where toilet rooms are provided, at least one accessible single-user or family or assisted-use toilet or bathing room complying with [ ~~Section~~ Sections ] 1109.2.1 of the VCC [ and Section 403.2.1 of the International Plumbing Code ] shall be provided.

[ 405.1.5 Type B units. Type B dwelling or sleeping units required by Section 1107 of the VCC are not required to be provided in historic buildings or structures. ]

~~Q. N.~~ Delete Sections 405.2 through ~~405.5~~ 405.2.5, including subsections, of the IEBC.

~~R. O.~~ Delete Sections 406, 407, and ~~408, 409 and 410~~ of the IEBC in their entirety.

**13VAC5-63-433. Chapter 5 Repairs.**

A. Change Section 501.1 and 501.2 of the IEBC to read:

501.1 Scope. Repairs, including the patching or restoration or replacement of damaged materials, elements, equipment or fixtures ~~for the purpose of maintaining such components in good or sound condition with respect to existing loads or performance requirements,~~ shall comply with the requirements of this chapter. Repairs to historic buildings need only comply with Chapter 9. Portions of the existing building or structure not being repaired shall not be required to comply with the requirements of this code applicable to newly constructed buildings or structures. Work on nondamaged components that is necessary for the required repair of damaged components shall be considered part of the repair and shall not be subject to the provisions of Chapter 6, ~~7 or 8~~. Routine maintenance required by Section 302, ordinary repairs exempt from permit in accordance with Section 108.2 of the VCC, and abatement of wear due to normal service conditions shall not be subject to the requirements for repairs in this section.

~~Exception: Repairs complying with the requirements of the building code under which the building or structure or the affected portions thereof was built, or as previously approved by the building official, shall be considered in compliance with the provisions of this code, unless the building or structure or the affected portions thereof is undergoing a substantial structural alteration as described in Section 604.7.1. New structural members added as part of the alteration or repairs shall comply with the VCC. Repairs of existing buildings in flood hazard areas shall comply with Section 503.~~

501.2 Conformance. The work shall not make the building less conforming than it was before the repair was undertaken. Repairs shall be done in a manner that maintains the following:

1. Level of fire protection that is existing.
2. Level of protection that is existing for the means of egress.
3. Level of accessibility that is existing.

B. Delete Section 501.1.1 of the IEBC.

C. Change Section 502 to Structural.

D. Change Sections 502.1 ~~and 502.2, including subsections,~~ of through 502.4 and add Section 502.4.1 to the IEBC to read:

502.1 General. Structural repairs shall be in compliance with this section and Section 501.2. Regardless of the scope of repair, new structural members and connections used for

repair or rehabilitation shall comply with the detailing provisions of the VCC for new buildings of similar structure, purpose and location.

~~502.2 Repairs to damaged buildings. Repairs to damaged buildings shall comply with this section.~~

~~502.2.1~~ 502.2 Less than substantial structural damage. For damage less than substantial structural damage, repairs shall be allowed that restore the building to its predamage state. ~~New structural members and connection used for this repair shall comply with the detailing provisions of the VCC for new buildings of similar structure, purpose, and location.~~

~~502.2.2~~ 502.3 Substantial structural damage to vertical elements of the lateral force-resisting system. A building that has sustained substantial structural damage to the vertical elements of its lateral force-resisting system shall be evaluated in accordance with Section ~~502.2.2.1~~ 502.3.1 and either repaired in accordance with Section ~~502.2.2.2~~ 502.3.2 or repaired and rehabilitated in accordance with Section ~~502.2.2.3~~ 502.3.3, depending on the results of the evaluation.

Exceptions:

1. Buildings assigned to Seismic Design Category A, B, or C whose substantial structural damage was not caused by earthquake need not be evaluated or rehabilitated for load combinations that include earthquake effects.
2. One-family and two-family dwellings need not be evaluated or rehabilitated for load combinations that include earthquake effects.

~~502.2.2.1~~ 502.3.1 Evaluation. The building shall be evaluated by a registered design professional, and the evaluation findings shall be submitted to the building official. The evaluation shall establish whether the damaged building if repaired to its predamage state, would comply with the provisions of the VCC for load combinations that include wind or earthquake effects, except that the seismic forces shall be the reduced VCC-level seismic forces.

Wind loads for this evaluation shall be those prescribed in Section 1609 of the VCC. Earthquake loads for this evaluation, if required, shall be permitted to be 75% of those prescribed in Section 1613 of the VCC. Alternatively, compliance with ASCE 41, using the performance objective in Table 305.2.2 for the applicable risk category, shall be deemed to meet the earthquake evaluation requirement.

~~502.2.2.2~~ 502.3.2 Extent of repair for compliant buildings. If the evaluation establishes that the building in its predamage condition complies with the provisions of Section ~~502.2.2.1~~ 502.3.1, then repairs shall be permitted that restore the building to its predamage state.

~~502.2.2.3~~ 502.3.3 Extent of repair for noncompliant buildings. If the evaluation does not establish that the building in its predamage condition complies with the provisions of Section ~~502.2.2.1~~ 502.3.1, then the building

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shall be rehabilitated to comply with the provisions of this section. The wind loads for the repair shall be as required by the building code in effect at the time of original construction, unless the damage was caused by wind, in which case the wind loads shall be in accordance with the VCC. The earthquake loads for this rehabilitation design shall be those required by the building code in effect at the time of original construction, but not less than the reduced VCC-level seismic forces. New structural members and connections required by this rehabilitation design shall comply with the detailing provisions of the VCC for new buildings of similar structure, purpose and location. Alternatively, compliance with ASCE 41, using the performance objective in Table 305.2.2 for the applicable risk category, shall be deemed to meet the earthquake rehabilitation requirement.

~~502.2.3~~ 502.4 Substantial structural damage to gravity load-carrying components. Gravity load-carrying components that have sustained substantial structural damage shall be rehabilitated to comply with the applicable provisions for dead and live loads in the VCC. Snow loads shall be considered if the substantial structural damage was caused by or related to snow load effects. Existing gravity load carrying structural elements shall be permitted to be designed for live loads approved prior to the damage. If the approved live load is less than that required by Section 1607 of the VCC, the area designed for the nonconforming live load shall be posted with placards of approved design indicating the approved live load. Nondamaged gravity load-carrying components that receive dead, live, or snow loads from rehabilitated components shall also be rehabilitated if required to comply with the design loads of the rehabilitation design, or shown to have the capacity to carry the design loads of the rehabilitation design. New structural members and connections required by this rehabilitation design shall comply with the detailing provisions of the VCC for new buildings of similar structure purpose and location.

~~502.2.3.1~~ 502.4.1 Lateral force-resisting elements. Regardless of the level of damage to gravity elements of the lateral force-resisting system, if substantial structural damage to gravity load-carrying components was caused primarily by wind or earthquake effects, then the building shall be evaluated in accordance with Section ~~502.2.2.1~~ 502.3.1 and, if noncompliant, rehabilitated in accordance with Section ~~502.2.2.3~~ 502.3.3.

## Exceptions:

1. Buildings assigned to Seismic Design Category A, B, or C whose substantial structural damage was not caused by earthquake need not be evaluated or rehabilitated for load combinations that include earthquake effects.
2. One-family and two-family dwellings need not be evaluated or rehabilitated for load combinations that include earthquake effects.

E. Delete ~~Section 502.3~~ Sections 502.5 through 502.8 of the IEBC.

F. Change Section 503 to Flood Hazard Areas.

G. Change Section 503.1 of the IEBC to read:

503.1 Flood hazard areas. For buildings and structures, in flood hazard areas established in Section 1612.3 of the VCC, or Section R322 of the International Residential Code, as applicable, any repair that constitutes substantial improvement or repair of substantial damage of the existing building or structure shall comply with the flood design requirements for new construction and all aspects of the existing building or structure shall be brought into compliance with the requirements for new construction for flood design.

For buildings and structures in flood hazard areas established in Section 1612.3 of the VCC, or Section R322 of the International Residential Code, as applicable, any repairs that do not constitute substantial improvement or repair of substantial damage of the existing building or structure are not required to comply with the flood design requirements for new construction.

H. Delete ~~Section~~ Sections 503.2 through 503.16.3, including subsections, of the IEBC.

I. Change Section 504 to Electrical.

J. Change Section 504.1, including subsections, and add section 504.1.5 of the IEBC to read:

504.1 Material. Existing electrical wiring and equipment undergoing repair shall be allowed to be repaired or replaced with like material.

504.1.1 Receptacles. Replacement of electrical receptacles shall comply with the applicable requirements of Section 406.4(D) of NFPA 70.

504.1.2 Plug fuses. Plug fuses of the Edison-base type shall be used for replacements only where there is no evidence of over fusing or tampering per applicable requirements of Section 240.51(B) of NFPA 70.

504.1.3 Nongrounding-type receptacles. For replacement of nongrounding-type receptacles with grounding-type receptacles and for branch circuits that do not have an equipment grounding conductor in the branch circuitry, the grounding conductor of a grounding-type receptacle outlet shall be permitted to be grounded to any accessible point on the grounding electrode system or to any accessible point on the grounding electrode conductor in accordance with Section 250.130(C) of NFPA 70.

504.1.4 Group I-2 receptacles. Non-"hospital grade" receptacles in patient bed locations of Group I-2 shall be replaced with "hospital grade" receptacles, as required by NFPA 99 and Article 517 of NFPA 70.



504.1.5 Grounding of appliances. Frames of electric ranges, wall-mounted ovens, counter-mounted cooking units, clothes dryers and outlet or junction boxes that are part of the existing branch circuit for these appliances shall be permitted to be grounded to the grounded circuit conductor in accordance with Section 250.140 of NFPA 70.

K. Delete ~~Section~~ Sections 504.2 through 504.5 of the IEBC.

L. Change Section 505 to Mechanical.

M. Change Sections 505.1 and 505.2 of the IEBC to read:

505.1 General. Existing mechanical systems undergoing repair shall not make the building less conforming than it was before the repair was undertaken.

505.2 Mechanical draft systems for manually fired appliances and fireplaces. A mechanical draft system shall be permitted to be used with manually fired appliances and fireplaces where such a system complies with all of the following requirements:

1. The mechanical draft device shall be listed and installed in accordance with the manufacturer's installation instructions.
2. A device shall be installed that produces visible and audible warning upon failure of the mechanical draft device or loss of electrical power at any time that the mechanical draft device is turned on. This device shall be equipped with a battery backup if it receives power from the building wiring.
3. A smoke detector shall be installed in the room with the appliance or fireplace. This device shall be equipped with a battery backup if it receives power from the building wiring.

N. Delete Sections 505.3 and 505.4 of the IEBC.

O. Change Section 506 to Plumbing.

~~O. P.~~ Change Sections 506.1 and 506.2 of the IEBC to read:

506.1 Materials. Plumbing materials and supplies shall not be used for repairs that are prohibited in the International Plumbing Code.

506.2 Water closet replacement. The maximum water consumption flow rates and quantities for all replaced water closets shall be 1.6 gallons (6 L) per flushing cycle.

Exception: Blowout-design water closets 3.5 gallons (13 L) per flushing cycle.

~~P. Q.~~ Delete Section 506.1.1 and Sections 506.3 through 506.4.4, including subsections, of the IEBC.

R. [ Delete Change ] Section 507 [ of the IEBC in its entirety to Energy Conservation ].

~~Q. Delete Section 508 of the IEBC in its entirety.~~

~~R. Delete Section 509 of the IEBC in its entirety.~~

[ S. Add Sections 507.1 and 507.2 to the IEBC to read:

507.1 General. Except as permitted by Sections 302.1 and 501.1, repairs shall comply with the VECC.

Exception: Where a building was constructed to comply with the requirements of the building code under which the building or structure or the affected portion thereof was built, or as previously approved by the building official, repairs need not comply with the VECC, provided the repairs, as documented, do not result in reduced energy efficiency.

507.2 Application. For the purposes of this section, the following shall be considered repairs:

1. Glass-only replacements in an existing sash and frame.
2. Replacement of existing doors that separate conditioned space from the exterior shall not require the installation of a vestibule or revolving door, provided that an existing vestibule that separates a conditioned space from the exterior shall not be removed.
3. Repairs where only the bulb, the ballast or both within the existing luminaires in a space are replaced, provided that the replacement does not increase the installed interior lighting power. ]

**13VAC5-63-433.3. Chapter 6 Alterations.**

A. Change Sections 601.1 ~~through 601.5, including subsections,~~ and 601.2 of the IEBC to read:

601.1 General. Except as ~~provided by Section 905.1 modified in Chapter 9~~ or this chapter, alterations to any building or structure shall comply with the requirements of the VCC for new construction. Alterations shall be such that the existing building or structure is no less conforming to the provisions of the VCC than the existing building or structure was prior to the alteration. Portions of the building or structure not being altered shall not be required to comply with the requirements of the VCC.

Exceptions:

1. Any stairway replacing an existing stairway shall not be required to comply with the requirements of Section 1011 of the VCC where the existing space and construction does not allow a reduction in pitch or slope.
2. Handrails otherwise required to comply with Section 1011.11 of the VCC shall not be required to comply with the requirements of Section 1014.6 of the VCC regarding full extension of the handrails where such extensions would be hazardous due to plan configuration.
3. Where the current level of safety or sanitation is proposed to be reduced, the portion altered shall conform to the requirements of the VCC.
4. Alterations complying with the requirements of the building code under which the building or structure or the

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affected portions thereof was built, or as previously approved by the building official, shall be considered in compliance with the provisions of this code, ~~unless the building or structure or the affected portions thereof is undergoing a substantial structural alteration as described in Section 604.7.1.~~ New structural members added as part of the alteration ~~or repairs~~ shall comply with the VCC. Alterations of existing buildings in flood hazard areas shall comply with Section 601.3.

601.2 Levels of alterations. Alterations to any building or structure shall be classified as the following:

B. Delete Section 601.1.1.

C. Add Sections 601.2.1 through 601.5, including subsections, to the IEBC to read:

601.2.1 Level 1. Level 1 alterations include the removal and replacement or the covering of existing materials, elements, equipment, or fixtures using new materials, elements, equipment, or fixtures that serve the same purpose, or the removal without replacement of materials, elements, equipment, or fixtures. Level 1 alterations shall comply with the applicable provisions Section 602.

601.2.2 Level 2. Level 2 alterations shall comply with the applicable provisions of Sections 602 and 603 and shall include the addition or elimination of any door or window, the reconfiguration or extension of any system, or the installation of any additional equipment and shall apply where the work area is less than 50% of the building area. Level 2 alterations shall comply with the applicable provisions Sections 602 and 603.

601.2.3 Level 3. Level 3 alterations ~~apply where the work area exceeds 50% of the building area. Level 3 alterations shall comply with the applicable provisions of Sections 602, 603 and 604.~~

601.2.3.1 ~~Special provisions. A building separated horizontally in compliance with VCC Section 510.2 shall be considered as separate and distinct buildings for the purpose of determining building area used for application of Section 601.2.3. the following:~~

1. The addition or elimination of any door or window.
2. The addition or elimination of any wall, floor, or ceiling assembly.
3. The reconfiguration or extension of any system.
4. The installation of any addition equipment [ ,materials, elements, or fixtures ].

601.3 Flood hazard areas. In flood hazard areas, alterations that constitute substantial improvement shall require that the building comply with Section 1612 of the VCC or Section R322 of the International Residential Code, as applicable.

601.4 Energy conservation. [~~Level 1, 2, and 3~~ Except as modified by this section,] alterations to [an] existing

~~[ buildings or structures are permitted without requiring the entire building or structure to comply with the energy requirements of the International Energy Conservation Code or International Residential Code. The alterations shall conform to the energy requirements of the International Energy Conservation Code or International Residential Code as they relate to new construction only.~~

~~Exception: Except for window and door openings, like materials, assemblies or thicknesses shall be permitted for alterations involving the exterior building thermal envelope, provided no hazard to life, health or property is created. Hazardous materials shall not be used where the code for new construction would not permit their use in buildings of similar occupaney, purpose and location. building, building system, or structure shall conform to the applicable provisions of the Virginia Energy Conservation Code or Virginia Residential Code as they relate to new construction without requiring the unaltered portions of the existing building, building system, or structure to comply with the VECC or VRC.~~

601.4.1 Opaque walls. Where the existing stud wall cavity that is part of the thermal envelope is exposed during the alteration, such exposed cavities between framing members shall be filled with insulation having a minimum nominal value of not less than R-30/inch or filled to the minimum prescriptive insulation requirement in Table R402.1.2 or Table C402.1.3 of the VECC.

Exception: Where less than 60 square feet (5.574 m<sup>2</sup>) of the existing stud cavities that are part of the thermal envelope are exposed.

601.4.2 Floors. Where the existing framed floor cavity that is part of the thermal envelop is exposed during the alteration, such exposed cavities between framing members shall be filled with insulation having a minimum nominal value of not less than R-30/inch or filled to the minimum prescriptive insulation requirement in Table R402.1.2 or Table C402.1.3 of the VECC.

Exception: Where less than 60 square feet (5.574 m<sup>2</sup>) of the existing framed floor cavities that are part of the thermal envelope are exposed.

601.4.3 Ceilings and vented attics. Where the existing rafter cavity that is part of the thermal envelope is exposed during the alteration, such exposed cavities between framing members shall be filled with insulation having a minimum nominal value of not less than R-30/inch or filled to the minimum prescriptive insulation requirement in Table R402.1.2 or Table C402.1.3 of the VECC. Where the existing framed floor or truss bottom chord cavity of a vented attic is exposed during the alteration, the exposed cavities shall be filled with insulation having a minimum nominal value of not less than R-30/inch or filled to the minimum prescriptive insulation requirement in Table

R402.1.2 or Table C402.1.3 of the VECC. If the existing insulation laying on such vented attic floor is removed, such insulation shall be replaced with insulation complying with the minimum prescriptive insulation requirement in Table R402.1.2 or Table C402.1.3 of the VECC.

Exception: Where less than 60 square feet (5.574 m<sup>2</sup>) of the existing rafter, framed vented attic floor, or truss bottom chord cavities that are part of the thermal envelope is exposed.

601.4.4 Fenestration. Where an existing fenestration unit is replaced, the replacement fenestration unit shall comply with the requirements for U-factor and SHGC as specified in Table R402.1.2 or Table C402.4 of the VECC, as applicable. Where more than one fenestration unit is to be replaced, an area-weighted average of the U-factor, SHGC, or both of all replacement fenestration units shall be permitted.

601.4.4.1 Converting fenestration unit to opaque wall. Where existing fenestration units are converted into an opaque exterior wall assembly, the new portion of wall shall comply with Section 601.4.1.

601.4.5 Roof replacement. Roof replacements shall comply with Section C402.2.1 and Section C402.1. C402.1.4, C402.1.5, or C407 of the VECC where all of the following conditions are met. For purposes of this section, roof area shall mean an area of the existing roof of the same building that is bounded by exterior walls, different roof levels, roof edges or perimeters, roof dividers, building expansion joints, or parapets.

1. The roof replacement exceeds 75% or 30,000 square feet (2787.1 m<sup>2</sup>) of the roof area, whichever is less.

2. The roof assembly is part of the building thermal envelope, as defined by the VECC.

3. The roof assembly contains insulation entirely above the roof deck.

601.4.6 Lighting. Lighting alterations shall comply with Section 601.4.6.1 or 601.4.6.2, as applicable.

601.4.6.1 Commercial Lighting. Altered commercial lighting shall comply with Section C405 of the VECC.

Exception: Alterations that replace less than 10% of the luminaires within a space, provided the replacement luminaires do not increase the existing interior lighting power as determined by Section C405.3.1 of the VECC.

601.4.6.2 Residential lighting. Altered residential lighting shall comply with Section R404 of the VECC.

Exception: Alterations that replace less than 50% of the total luminaires within a space, provided the replacement luminaires do not decrease the efficacy of the lighting equipment as required by Section R404.1 of the VECC.

601.4.7 Ducts. In R-5 occupancies, where ducts from an existing heating and cooling system are extended, such duct systems with less than 40 linear feet (12.19 m) in unconditioned spaces shall not be required to be tested in accordance with Section R403.3.3 of the VECC. ]

601.5 Accessibility. Accessibility shall be provided in accordance with applicable provisions of Section 404.

~~B. Change Section 602 to Level 1 Alterations.~~

~~C. D. Change Sections 602.1 through 602.3 and 602.2, including subsections, of the IEBC to read:~~

~~602.1 Scope. Level 1 alterations as described in Section 601.2.1 shall comply with the requirements of this section. Level 1 alterations to historic buildings shall comply with this chapter, except as modified in Chapter 9.~~

~~602.2 Conformance. Alterations shall be done in a manner that maintains the following:~~

- ~~1. Level of fire protection that is existing.~~
- ~~2. Level of protection that is existing for the means of egress.~~

~~E. Add Sections 602.3 through 602.3.5 to the IEBC to read:~~

~~602.3 Building elements and materials. Building elements and materials shall comply with the applicable provisions of Sections 302 and 602.3.1 through 602.3.5 602.3.3.~~

~~602.3.1 Interior finishes and trim. All newly installed interior finish and trim materials and wall, floor, and ceiling finishes shall comply with Chapter 8 of the VCC.~~

~~602.3.2 Interior floor finish. New interior floor finish, including new carpeting used as an interior floor finish material, shall comply with Section 804 of the VCC.~~

~~602.3.3 Interior trim. All newly installed interior trim materials shall comply with Section 806 of the VCC.~~

~~602.3.4 602.3.2 Materials and methods. All new work building elements and materials shall comply with the materials and methods requirements in the VCC, International Energy Conservation Code, International Mechanical Code, and International Plumbing Code, as applicable, that specify material standards, detail of installation and connection, joints, penetrations, and continuity of any element, component, or system in the building.~~

~~[ 602.3.2.1 Reroofing. Materials and methods of application used for recovering or replacing an existing roof covering shall comply with Chapter 15 of the VCC, except as modified by Section 302.1 and this section.~~

~~Exceptions:~~

~~1. Roof replacement or roof recover of existing low-slope roof coverings shall not be required to meet the minimum design slope requirement of one-quarter unit vertical in 12~~

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units horizontal (2.0% slope) in Section 1507 of the VCC for roofs that provide positive roof drainage.

2. Recovering or replacing an existing roof covering shall not be required to meet the requirement of secondary (emergency overflow) drains or scuppers in Section 1503.4 of the VCC for roofs that provide positive roof drainage. For the purposes of this exception, existing secondary drainage or scupper systems required in accordance with the VCC shall not be removed unless they are replaced by secondary drains or scuppers designed and installed in accordance with Section 1503.4 of the VCC.

3. Where the existing roof assembly includes an ice barrier membrane that is adhered to the roof deck, the existing ice barrier membrane shall be permitted to remain in place and covered with an additional layer of ice barrier membrane in accordance with Section 1507 of the VCC.

602.3.2.1.1 Roof recover permitted. The installation of a new roof covering over an existing roof covering shall be permitted where any of the following conditions occur:

1. Complete and separate roofing systems, such as standing-seam metal roof systems, that are designed to transmit the roof loads directly to the building's structural system and that do not rely on existing roofs and roof coverings for support, shall not require the removal of existing roof coverings.

2. Where the application of a new roof covering over wood shingle or shake roofs creates a combustible concealed space, the entire existing surface is covered with gypsum board, mineral fiber, glass fiber or other approved materials securely fastened in place.

3. The application of a new protective coating over an existing spray polyurethane foam roofing system shall be permitted without tearoff of existing roof coverings

4. Where the new roof covering is installed in accordance with the roof covering manufacturer's approved instructions.

602.3.2.1.2 Roof recover not permitted. A roof recover shall not be permitted where any of the following conditions occur:

1. Where the existing roof or roof covering is water soaked or has deteriorated to the point that the existing roof or roof covering is not adequate as a base for additional roofing.

2. Where the existing roof covering is slate, clay, cement, or asbestos-cement tile.

3. Where the existing roof has two or more applications of any type of roof covering.

602.3.2.1.3 Reinstallation of materials. Existing slate, clay or cement tile shall be permitted for reinstallation, except that damaged, cracked, or broken slate or tile shall not be reinstalled. Existing vent flashing, metal edgings, drain outlets, collars, and metal counter-flashings shall not be

reinstalled where rusted, damaged, or deteriorated. Aggregate surfacing materials shall not be reinstalled. Metal flashing to which bituminous materials are to be adhered shall be primed prior to installation.

602.3.2.2 Structural and construction loads. Structural roof components shall be capable of supporting the roof covering system and the material and equipment loads that will be encountered during installation of the systems.

Exception: Structural elements where the additional dead load from the roofing or equipment does not increase the force in the element by more than 5.0%; or where the addition of a second layer of roof covering weighing three pounds per square foot (0.1437kN/m) or less over an existing, single layer of roof covering. ]

602.3.5 602.3.3 International Fuel Gas Code. The following sections of the International Fuel Gas Code shall constitute the fuel gas materials and methods requirements for Level 1 alterations.

1. All of Chapter 3, entitled "General Regulations," except Sections 303.7 and 306.

2. All of Chapter 4, entitled "Gas Piping Installations," except Sections 401.8 and 402.3.2.1. Sections 401.8 and 402.3 shall apply when the work being performed increases the load on the system such that the existing pipe does not meet the size required by code. Existing systems that are modified shall not require resizing as long as the load on the system is not increased and the system length is not increased even if the altered system does not meet code minimums.

3. All of Chapter 5, entitled "Chimneys and Vents."

4. All of Chapter 6, entitled "Specific Appliances."

~~D. Change Section 603 to Level 2 Alterations.~~

~~E. F. Change Section 603.1 and 603.2, and add Sections 603.2 603.3 through 603.10 603.7.6, including subsections, of to the IEBC to read:~~

603.1 Scope. Level 2 alterations as described in Section 601.2.2 shall comply with the requirements of this section.

Exception: Buildings in which the alteration is exclusively the result of compliance with the accessibility requirements of Section 404.3 shall be permitted to comply with Section 602.

603.2 Level 1 alteration compliance. In addition to the requirements of this section, all ~~work~~ alterations shall comply with the applicable requirements of Section 602.

603.3 Compliance. All new construction elements, components, systems, and spaces shall comply with the requirements of the VCC.

Exceptions:

1. Windows may be added without requiring compliance with the light and ventilation requirements of the VCC.
2. ~~Newly installed electrical equipment shall comply with the requirements of Section 603.8.~~
3. ~~The length of dead-end corridors in newly constructed spaces shall only be required to comply with the provisions of Section 603.6.5.~~
2. Where an approved automatic sprinkler system is installed throughout the story, the required fire-resistance rating for any corridor located on the story shall be permitted to be reduced in accordance with the VCC. In order to be considered for a corridor rating reduction, such system shall provide coverage for the stairway landings serving the floor and the intermediate landings immediately below.
3. In other than Groups A and H occupancies, the maximum length of a newly constructed or extended dead-end corridor shall not exceed 50 feet (15240 mm) on floors equipped with an automatic sprinkler system installed in accordance with the VCC.
4. The minimum ceiling height of the newly created habitable and occupiable spaces and corridors shall be 7 feet (2134 mm).
5. Where provided in below-grade transportation stations, new escalators shall be permitted to have a clear width of less than 32 inches (815 mm).

~~603.4 Building elements and materials. The requirements of Section 603.4 are limited to work areas in which Level 2 alterations are being performed and shall apply beyond the work area where specified.~~

~~603.4.1 Vertical openings. Existing vertical openings shall comply with the provisions of Sections 603.4.1.1, 603.4.1.2, and 603.4.1.3.~~

~~603.4.1.1 Existing vertical openings. Existing interior vertical openings connecting two or more floors shall be enclosed with approved assemblies having a fire resistance rating of not less than one hour with approved opening protectives.~~

**Exceptions:**

1. ~~Where vertical opening enclosure is not required by the VCC or the International Fire Code.~~
2. ~~Interior vertical openings other than stairways may be blocked at the floor and ceiling of the work area by installation of not less than 2 inches (51 mm) of solid wood or equivalent construction.~~
3. ~~The enclosure shall not be required where:~~
  - 3.1. ~~Connecting the main floor and mezzanines; or~~
  - 3.2. ~~All of the following conditions are met:~~

- 3.2.1. ~~The communicating area has a low hazard occupancy or has a moderate hazard occupancy that is protected throughout by an automatic sprinkler system.~~
- 3.2.2. ~~The lowest or next to the lowest level is a street floor.~~
- 3.2.3. ~~The entire area is open and unobstructed in a manner such that it may be assumed that a fire in any part of the interconnected spaces will be readily obvious to all of the occupants.~~
- 3.2.4. ~~Exit capacity is sufficient to provide egress simultaneously for all occupants of all levels by considering all areas to be a single floor area for the determination of required exit capacity.~~
- 3.2.5. ~~Each floor level, considered separately, has at least one half of its individual required exit capacity provided by exits leading directly out of that level without having to traverse another communicating floor level or be exposed to the smoke or fire spreading from another communicating floor level.~~
4. ~~In Group A occupancies, a minimum 30-minute enclosure shall be provided to protect all vertical openings not exceeding three stories.~~
5. ~~In Group B occupancies, a minimum 30-minute enclosure shall be provided to protect all vertical openings not exceeding three stories. This enclosure, or the enclosure specified in Section 603.4.1.1, shall not be required in the following locations:~~
  - 5.1. ~~Buildings not exceeding 3,000 square feet (279 m<sup>2</sup>) per floor.~~
  - 5.2. ~~Buildings protected throughout by an approved automatic fire sprinkler system.~~
6. ~~In Group E occupancies, the enclosure shall not be required for vertical openings not exceeding three stories when the building is protected throughout by an approved automatic fire sprinkler system.~~
7. ~~In Group F occupancies, the enclosure shall not be required in the following locations:~~
  - 7.1. ~~Vertical openings not exceeding three stories.~~
  - 7.2. ~~Special purpose occupancies where necessary for manufacturing operations and direct access is provided to at least one protected stairway.~~
  - 7.3. ~~Buildings protected throughout by an approved automatic sprinkler system.~~
8. ~~In Group H occupancies, the enclosure shall not be required for vertical openings not exceeding three stories where necessary for manufacturing operations and every floor level has direct access to at least two remote enclosed stairways or other approved exits.~~
9. ~~In Group M occupancies, a minimum 30-minute enclosure shall be provided to protect all vertical openings not exceeding three stories. This enclosure, or the~~

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enclosure specified in Section 603.4.1.1, shall not be required in the following locations:

9.1. Openings connecting only two floor levels.

9.2. Occupancies protected throughout by an approved automatic sprinkler system.

10. In Group R-1 occupancies, the enclosure shall not be required for vertical openings not exceeding three stories in the following locations:

10.1. Buildings protected throughout by an approved automatic sprinkler system.

10.2. Buildings with less than 25 dwelling units or sleeping units where every sleeping room above the second floor is provided with direct access to a fire escape or other approved second exit by means of an approved exterior door or window having a sill height of not greater than 44 inches (1118 mm) and where:

10.2.1. Any exit access corridor exceeding 8 feet (2438 mm) in length that serves two means of egress, one of which is an unprotected vertical opening, shall have at least one of the means of egress separated from the vertical opening by a one-hour fire barrier; and

10.2.2. The building is protected throughout by an automatic fire alarm system, installed and supervised in accordance with the VCC.

11. In Group R-2 occupancies, a minimum 30-minute enclosure shall be provided to protect all vertical openings not exceeding three stories. This enclosure, or the enclosure specified in Section 603.4.1.1, shall not be required in the following locations:

11.1. Vertical openings not exceeding two stories with not more than four dwelling units per floor.

11.2. Buildings protected throughout by an approved automatic sprinkler system.

11.3. Buildings with not more than four dwelling units per floor where every sleeping room above the second floor is provided with direct access to a fire escape or other approved second exit by means of an approved exterior door or window having a sill height of not greater than 44 inches (1118 mm) and the building is protected throughout by an automatic fire alarm system complying with Section 603.5.4.

12. One-family and two-family dwellings.

13. Group S occupancies where connecting not more than two floor levels or where connecting not more than three floor levels and the structure is equipped throughout with an approved automatic sprinkler system.

14. Group S occupancies where vertical opening protection is not required for open parking garages and ramps.

603.4.1.2 Supplemental shaft and floor opening enclosure requirements. Where the work area on any floor exceeds

50% of that floor area, the enclosure requirements of Section 603.4.1 shall apply to vertical openings other than stairways throughout the floor.

Exception: Vertical openings located in tenant spaces that are entirely outside the work area.

603.4.1.3 Supplemental stairway enclosure requirements. Where the work area on any floor exceeds 50% of that floor area, stairways that are part of the means of egress serving the work area shall, at a minimum, be enclosed with smoke-tight construction on the highest work area floor and all floors below.

Exception: Where stairway enclosure is not required by the VCC or the International Fire Code.

603.4.2 Smoke compartments. In Group I-2 occupancies where the work area is on a story used for sleeping rooms for more than 30 patients, the story shall be divided into not less than two compartments by smoke barrier walls in accordance with Section 407.5 of the VCC as required for new construction.

603.4.3 Interior finish. The interior finish of walls and ceilings in exits and corridors in any work area shall comply with the requirements of the VCC.

Exception: Existing interior finish materials that do not comply with the interior finish requirements of the VCC shall be permitted to be treated with an approved fire-retardant coating in accordance with the manufacturer's instructions to achieve the required rating.

603.4.3.1 Supplemental interior finish requirements. Where the work area on any floor exceeds 50% of the floor area, Section 603.4.3 shall also apply to the interior finish in exits and corridors serving the work area throughout the floor.

Exception: Interior finish within tenant spaces that are entirely outside the work area.

603.4.4 Guards. The requirements of Sections 603.4.4.1 and 603.4.4.2 shall apply in all work areas.

603.4.4.1 Minimum requirement. Every portion of a floor, such as a balcony or a loading dock, that is more than 30 inches (762 mm) above the floor or grade below and is not provided with guards, or those in which the existing guards are judged to be in danger of collapsing, shall be provided with guards.

603.4.4.2 Design. Where there are no guards or where existing guards must be replaced, the guards shall be designed and installed in accordance with the VCC.

603.4.5 ~~603.4~~ Fire-resistance ratings. ~~Where approved by the code official, buildings~~ Buildings where an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 of the VCC has been added, and the building is now sprinklered throughout, the required fire-

resistance ratings of building elements and materials shall be permitted to meet the requirements of the current building code.

~~603.5 Fire protection. The requirements of Section 603.5 shall be limited to work areas in which Level 2 alterations are being performed, and where specified they shall apply throughout the floor on which the work areas are located or otherwise beyond the work area.~~

~~603.5.1 Corridor ratings. Where an approved automatic sprinkler system is installed throughout the story, the required fire-resistance rating for any corridor located on the story shall be permitted to be reduced in accordance with the VCC. In order to be considered for a corridor rating reduction, such system shall provide coverage for the stairway landings serving the floor and the intermediate landings immediately below.~~

~~603.5.2 Automatic sprinkler system. Automatic sprinkler systems shall be provided in accordance with the requirements of Sections 603.5.2.1 through 603.5.2.5. Installation requirements shall be in accordance with the VCC.~~

~~603.5.2.1 High rise buildings. In high rise buildings, work areas that have exits or corridors shared by more than one tenant or that have exits or corridors serving 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.~~

~~603.5.2.1.1 Supplemental automatic sprinkler system requirements. Where the work area on any floor exceeds 50% of that floor area, Section 603.5.2.1 shall apply to the entire floor on which the work area is located.~~

~~Exception: Occupied tenant spaces that are entirely outside the work area.~~

~~603.5.2.2 Groups A, B, E, F-1, H, I, M, R-1, R-2, R-4, S-1 and S-2. In buildings with occupancies in Groups A, B, E, F-1, H, I, M, R-1, R-2, R-4, S-1 and S-2, work areas that have exits or corridors shared by more than one tenant or that have exits or corridors serving 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 VCC as applicable to new construction; and~~
- ~~2. The work area exceeds 50% of the floor area.~~

~~Exception: If the building does not have sufficient municipal water supply for design of a fire sprinkler system available to the floor without installation of a new fire pump, work areas shall be protected by an automatic smoke detection system throughout all occupiable spaces other than sleeping~~

~~units or individual dwelling units that activates the occupant notification system in accordance with Sections 907.4, 907.5 and 907.6 of the VCC.~~

~~603.5.2.2.1 Mixed uses. In work areas containing mixed uses, one or more of which requires automatic sprinkler protection in accordance with Section 603.5.2.2, such protection shall not be required throughout the work area provided that the uses requiring such protection are separated from those not requiring protection by fire-resistance-rated construction having a minimum two-hour rating for Group H and a minimum one-hour rating for all other occupancy groups.~~

~~603.5.2.3 Windowless stories. Work located in a windowless story, as determined in accordance with the VCC, shall be sprinklered where the work area is required to be sprinklered under the provisions of the VCC for newly constructed buildings and the building has a sufficient municipal water supply without installation of a new fire pump.~~

~~603.5.2.4 Other required automatic sprinkler systems. In buildings and areas listed in Table 903.2.11.6 of the VCC, work areas that have exits or corridors shared by more than one tenant or that have exits or corridors serving an occupant load greater than 30 shall be provided with an automatic sprinkler system under the following conditions:~~

- ~~1. The work area is required to be provided with an automatic sprinkler system in accordance with the VCC applicable to new construction; and~~
- ~~2. The building has sufficient municipal water supply for design of an automatic sprinkler system available to the floor without installation of a new fire pump.~~

~~603.5.2.5 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 chemical and wet chemical extinguishing systems.~~
- ~~5. Automatic sprinkler systems installed in accordance with NFPA 13R where a common supply main is used to~~

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supply both domestic and automatic sprinkler systems and a separate shutoff valve for the automatic sprinkler system is not provided.

~~603.5.3 Standpipes. Where the work area includes exits or corridors shared by more than one tenant and is located more than 50 feet (15,240 mm) above or below the lowest level of fire department access, a standpipe system shall be provided. Standpipes shall have an approved fire department connection with hose connections at each floor level above or below the lowest level of fire department access. Standpipe systems shall be installed in accordance with the VCC.~~

~~Exceptions:~~

~~1. No pump shall be required provided that the standpipes are capable of accepting delivery by fire department apparatus of a minimum of 250 gallons per minute (gpm) at 65 pounds per square inch (psi) (946 L/m at 448KPa) to the topmost floor in buildings equipped throughout with an automatic sprinkler system or a minimum of 500 gpm at 65 psi (1892 L/m at 448KPa) to the topmost floor in all other buildings. Where the standpipe terminates below the topmost floor, the standpipe shall be designed to meet (gpm/psi) (L/m/KPa) requirements of this exception for possible future extension of the standpipe.~~

~~2. The interconnection of multiple standpipe risers shall not be required.~~

~~603.5.4 Fire alarm and detection. An approved fire alarm system shall be installed in accordance with Sections 603.5.4.1 through 603.5.4.3. Where automatic sprinkler protection is provided in accordance with Section 603.5.2 and is connected to the building fire alarm system, automatic heat detection shall not be required.~~

~~An approved automatic fire detection system shall be installed in accordance with the provisions of this code and NFPA 72. Devices, combinations of devices, appliances, and equipment shall be approved. The automatic fire detectors shall be smoke detectors, except that an approved alternative type of detector shall be installed in spaces such as boiler rooms, where products of combustion are present during normal operation in sufficient quantity to actuate a smoke detector.~~

~~603.5.4.1 Fire alarm requirements. A fire alarm system shall be installed in accordance with Sections 603.5.4.1.1 through 603.5.4.1.7 and Sections 1103.7 and 1103.8 of the IFC. Existing alarm notification appliances shall be automatically activated throughout the building. Where the building is not equipped with a fire alarm system, alarm-notification appliances within the work area shall be provided and automatically activated.~~

~~Exceptions:~~

~~1. Occupancies with an existing, previously approved fire alarm system.~~

~~2. Where selective notification is permitted, alarm-notification appliances shall be automatically activated in the areas selected.~~

~~603.5.4.1.1 Group E. Work areas classified as Group E occupancies.~~

~~603.5.4.1.2 Group I-1. Work areas classified as Group I-1 residential care/assisted living facilities.~~

~~603.5.4.1.3 Group I-2. Throughout occupancies classified as Group I-2 occupancies.~~

~~603.5.4.1.4 Group I-3. Work areas classified as Group I-3 occupancies.~~

~~603.5.4.1.5 Group R-1. Occupancies classified as Group R-1 occupancies.~~

~~603.5.4.1.6 Group R-2. Work areas classified as Group R-2 apartment buildings.~~

~~603.5.4.1.7 Group R-4. Work areas classified as Group R-4 residential care/assisted living facilities.~~

~~603.5.4.2 Supplemental fire alarm system requirements. Where the work area on any floor exceeds 50% of that floor area, Section 603.5.4.1 shall apply throughout the floor.~~

~~Exception: Alarm initiating and notification appliances shall not be required to be installed in tenant spaces outside of the work area.~~

~~603.5.4.3 Smoke alarms. Individual sleeping units and individual dwelling units in any work area in Group R and I-1 occupancies shall be provided with smoke alarms in accordance with the International Fire Code.~~

~~Exception: Interconnection of smoke alarms outside of the work area shall not be required.~~

~~603.6 Means of egress. The means of egress shall comply with the requirements of Section 603.6.~~

~~Exceptions:~~

~~1. Where the work area and the means of egress serving it complies with NFPA 101.~~

~~2. Means of egress conforming to the requirements of the building code under which the building was constructed shall be considered compliant means of egress.~~

~~603.6.1 General. The requirements of this section shall be limited to work areas that include exits or corridors shared by more than one tenant within the work area in which Level 2 alterations are being performed, and where specified they shall apply throughout the floor on which the work areas are located or otherwise beyond the work area.~~

~~603.6.2 Number of exits. The number of exits shall be in accordance with Sections 603.6.2.1 through 603.6.2.3.~~

~~603.6.2.1 Minimum number. Every story utilized for human occupancy on which there is a work area that includes exits~~



or corridors shared by more than one tenant within the work area shall be provided with the minimum number of exits based on the occupancy and the occupant load in accordance with the VCC. In addition, the exits shall comply with Sections 603.6.2.1.1 and 303.

603.6.2.1.1 Single exit buildings. Only one exit is required from buildings and spaces of the following occupancies:

1. In Groups A, B, E, F, M, U, and S occupancies, a single exit is permitted in the story at the level of exit discharge when the occupant load of the story does not exceed 50 and the exit access travel distance does not exceed 75 feet (22,860 mm).

2. Groups B, F-2, and S-2 occupancies not more than two stories in height that are not greater than 3,500 square feet per floor (326 m<sup>2</sup>), when the exit access travel distance does not exceed 75 feet (22,860 mm). The minimum fire-resistance rating of the exit enclosure and of the opening protection shall be one hour.

3. Open parking structures where vehicles are mechanically parked.

4. In Group R-4 occupancies, the maximum occupant load excluding staff is 16.

5. Groups R-1 and R-2 not more than two stories in height, when there are not more than four dwelling units per floor and the exit access travel distance does not exceed 50 feet (15,240 mm). The minimum fire-resistance rating of the exit enclosure and of the opening protection shall be one hour.

6. In multilevel dwelling units in buildings of occupancy Group R-1 or R-2, an exit shall not be required from every level of the dwelling unit provided that one of the following conditions is met:

6.1. The travel distance within the dwelling unit does not exceed 75 feet (22,860 mm); or

6.2. The building is not more than three stories in height and all third floor space is part of one or more dwelling units located in part on the second floor; and no habitable room within any such dwelling unit shall have a travel distance that exceeds 50 feet (15,240 mm) from the outside of the habitable room entrance door to the inside of the entrance door to the dwelling unit.

7. In Groups R-2, H-4, H-5 and I occupancies and in rooming houses and child care 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 and, in addition, staff of such family day homes shall not be counted for the purposes of establishing occupant loads.

8. In buildings of Group R-2 occupancy that are equipped throughout with an automatic fire sprinkler system, a

single exit shall be permitted from a basement or story below grade if every dwelling unit on that floor is equipped with an approved window providing a clear opening of at least 5 square feet (0.47 m<sup>2</sup>) in area, a minimum net clear opening of 24 inches (610 mm) in height and 20 inches (508 mm) in width, and a sill height of not more than 44 inches (1118 mm) above the finished floor.

9. In buildings of Group R-2 occupancy of any height with not more than four dwelling units per floor; with a smoke-proof enclosure or outside stairway as an exit; and with such exit located within 20 feet (6096 mm) of travel to the entrance doors to all dwelling units served thereby.

10. In buildings of Group R-3 occupancy equipped throughout with an automatic fire sprinkler system, only one exit shall be required from basements or stories below grade.

603.6.2.2 Mezzanines. Mezzanines in the work area and with an occupant load of more than 50 or in which the common path of egress travel distance to an exit or exit access doorway exceeds 75 feet (22,860 mm) shall have access to at least two independent means of egress.

Exception: Two independent means of egress are not required where the travel distance to an exit does not exceed 100 feet (30,480 mm) and the building is protected throughout with an automatic sprinkler system.

603.6.3 Egress doorways. Egress doorways in any work area shall comply with Sections 603.6.3.1 through 603.6.3.5.

603.6.3.1 Two egress doorways required. Work areas shall be provided with two egress doorways in accordance with the requirements of Sections 603.6.3.1.1 and 603.6.3.1.2.

603.6.3.1.1 Occupant load and travel distance. In any work area, all rooms and spaces having an occupant load greater than 50 or in which the common path of egress travel distance to an exit or exit access doorway exceeds 75 feet (22,860 mm) shall have a minimum of two egress doorways.

Exceptions:

1. Storage rooms having a maximum occupant load of 10.
2. Where the work area is served by a single exit in accordance with Section 603.6.2.1.1.

603.6.3.1.2 Group I-2. In buildings of Group I-2 occupancy, any patient sleeping room or suite of patient rooms greater than 1,000 square feet (93 m<sup>2</sup>) within the work area shall have a minimum of two egress doorways.

603.6.3.2 Door swing. In the work area and in the egress path from any work area to the exit discharge, all egress doors serving an occupant load greater than 50 shall swing in the direction of exit travel.

603.6.3.2.1 Supplemental requirements for door swing. Where the work area exceeds 50% of the floor area, door

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swing shall comply with Section 603.6.3.2 throughout the floor.

Exception: Means of egress within or serving only a tenant space that is entirely outside the work area.

603.6.3.3 Door closing. In any work area, all doors opening onto an exit passageway at grade or an exit stairway shall be self-closing or automatic-closing by listed closing devices.

Exceptions:

1. Where exit enclosure is not required by the VCC.
2. Means of egress within or serving only a tenant space that is entirely outside the work area.

603.6.3.3.1 Supplemental requirements for door closing. Where the work area exceeds 50% of the floor area, doors shall comply with Section 603.6.3.3 throughout the exit stairway from the work area to, and including, the level of exit discharge.

603.6.3.4 Panic hardware. In any work area, and in the egress path from any work area to the exit discharge, in buildings of Group A assembly occupancies with an occupant load greater than 100, all required exit doors equipped with latching devices shall be equipped with approved panic hardware.

603.6.3.4.1 Supplemental requirements for panic hardware. Where the work area exceeds 50% of the floor area, panic hardware shall comply with Section 603.6.3.4 throughout the floor.

Exception: Means of egress within a tenant space that is entirely outside the work area.

603.6.3.5 Emergency power source in Group I-3. Power operated sliding doors or power operated locks for swinging doors shall be operable by a manual release mechanism at the door. Emergency power shall be provided for the doors and locks in accordance with Section 2702 of the VCC.

Exceptions:

1. Emergency power is not required in facilities with 10 or fewer locks complying with the exception to Section 408.4.1 of the VCC.
2. Emergency power is not required where remote mechanical operating releases are provided.

603.6.4 Openings in corridor walls. Openings in corridor walls in any work area shall comply with Sections 603.6.4.1 through 603.6.4.4.

Exception: Openings in corridors where such corridors are not required to be rated in accordance with the VCC.

603.6.4.1 Corridor doors. Corridor doors in the work area shall not be constructed of hollow-core wood and shall not contain louvers. All dwelling unit or sleeping unit corridor doors in work areas in buildings of Groups R-1, R-2, and I-

1 shall be at least 1 3/8 inch (35 mm) solid-core wood or approved equivalent and shall not have any glass panels, other than approved wired glass or other approved glazing material in metal frames. All dwelling unit or sleeping unit corridor doors in work areas in buildings of Groups R-1, R-2, and I-1 shall be equipped with approved door closers. All replacement doors shall be 1 3/4 inch (44 mm) solid-bonded wood-core or approved equivalent, unless the existing frame will accommodate only a 1 3/8 inch (35 mm) door.

Exceptions:

1. Corridor doors within a dwelling unit or sleeping unit.
2. Existing doors meeting the requirements of Guidelines on Fire Ratings of Archaic Materials and Assemblies (VEBC Resource A) for a rating of 15 minutes or more shall be accepted as meeting the provisions of this requirement.
3. Existing doors in buildings protected throughout with an approved automatic sprinkler system shall be required only to resist smoke, be reasonably tight fitting, and shall not contain louvers.
4. In group homes with a maximum of 15 occupants and that are protected with an approved automatic detection system, closing devices may be omitted.
5. Door assemblies having a fire protection rating of at least 20 minutes.

603.6.4.2 Transoms. In all buildings of Group I-1, I-2, R-1 and R-2 occupancies, all transoms in corridor walls in work areas shall be either glazed with 1/4 inch (6.4 mm) wired glass set in metal frames or other glazing assemblies having a fire protection rating as required for the door and permanently secured in the closed position or sealed with materials consistent with the corridor construction.

603.6.4.3 Other corridor openings. In any work area, unless otherwise protected or fire resistant rated in accordance with Section 716 of the VCC, any other sash, grille, or opening in a corridor and any window in a corridor not opening to the outside air shall be sealed with materials consistent with the corridor construction.

603.6.4.3.1 Supplemental requirements for other corridor opening. Where the work area exceeds 50% of the floor area, Section 603.6.4.3 shall be applicable to all corridor windows, grills, sashes, and other openings on the floor.

Exception: Means of egress within or serving only a tenant space that is entirely outside the work area.

603.6.4.4 Supplemental requirements for corridor openings. Where the work area on any floor exceeds 50% of the floor area, the requirements of Sections 603.6.4.1 through 603.6.4.3 shall apply throughout the floor.

603.6.5 Dead-end corridors. Dead-end corridors in any work area shall not exceed 35 feet (10 670 mm).

Exceptions:

- ~~1. Where dead end corridors of greater length are permitted by the VCC.~~
- ~~2. In other than Group A and H occupancies, the maximum length of an existing dead end corridor shall be 50 feet (15,240 mm) in buildings equipped throughout with an automatic fire alarm system installed in accordance with the VCC.~~
- ~~3. In other than Group A and H occupancies, the maximum length of an existing dead end corridor shall be 70 feet (21,356 mm) in buildings equipped throughout with an automatic sprinkler system installed in accordance with the VCC.~~
- ~~4. In other than Group A and H occupancies, the maximum length of an existing, newly constructed, or extended dead end corridor shall not exceed 50 feet (15,240 mm) on floors equipped with an automatic sprinkler system installed in accordance with the VCC.~~

~~603.6.6 Means of egress lighting. Means of egress lighting shall be in accordance with this section, as applicable.~~

~~603.6.6.1 Artificial lighting required. Means of egress in all work areas shall be provided with artificial lighting in accordance with the requirements of the VCC.~~

~~603.6.6.2 Supplemental requirements for means of egress lighting. Where the work area on any floor exceeds 50% of that floor area, means of egress throughout the floor shall comply with Section 603.6.6.1.~~

~~Exception: Means of egress within or serving only a tenant space that is entirely outside the work area.~~

~~603.6.7 Exit signs. Exit signs shall be in accordance with this section, as applicable.~~

~~603.6.7.1 Work areas. Means of egress in all work areas shall be provided with exit signs in accordance with the requirements of the VCC.~~

~~603.6.7.2 Supplemental requirements for exit signs. Where the work area on any floor exceeds 50% of that floor area, means of egress throughout the floor shall comply with Section 603.6.7.1.~~

~~Exception: Means of egress within a tenant space that is entirely outside the work area.~~

~~603.6.8 Handrails. The requirements of Sections 603.6.8.1 and 603.6.8.2 shall apply to handrails from the work area floor to, and including, the level of exit discharge.~~

~~603.6.8.1 Minimum requirement. Every required exit stairway that is part of the means of egress for any work area and that has three or more risers and is not provided with at least one handrail, or in which the existing handrails are judged to be in danger of collapsing, shall be provided with handrails for the full length of the stairway on at least one~~

~~side. All exit stairways with a required egress width of more than 66 inches (1676 mm) shall have handrails on both sides.~~

~~603.6.8.2 Design. Handrails required in accordance with Section 603.6.8.1 shall be designed and installed in accordance with the provisions of the VCC.~~

~~603.6.9 Guards. The requirements of Sections 603.6.9.1 and 603.6.9.2 shall apply to guards from the work area floor to, and including, the level of exit discharge but shall be confined to the egress path of any work area.~~

~~603.6.9.1 Minimum requirement. Every open portion of a stairway, landing, or balcony that is more than 30 inches (762 mm) above the floor or grade below and is not provided with guards, or those portions in which existing guards are judged to be in danger of collapsing, shall be provided with guards.~~

~~603.6.9.2 Design. Guards required in accordance with Section 603.6.9.1 shall be designed and installed in accordance with the VCC.~~

603.5 In mechanically ventilated spaces, existing mechanical ventilation systems that are altered, reconfigured, or extended shall provide not less than 5 cubic feet per minute (cfm) (0.0024 m<sup>3</sup>/s) per person of outdoor air and not less than 15 cfm (0.0071 m<sup>3</sup>/s) of ventilation air per person or not less than the amount of ventilation air determined by the Indoor Air Quality Procedure of ASHRAE 62.

603.5.1 Local exhaust. All newly introduced devices, equipment, or operations that produce airborne particulate matter, odors, fumes, vapor, combustion products, gaseous contaminants, pathogenic and allergenic organisms, and microbial contaminants in such quantities as to affect adversely or impair health or cause discomfort to occupants shall be provided with local exhaust.

603.6 Plumbing. Where the occupant load of the story is increased by more than 20%, plumbing fixtures for the story shall be provided in quantities specified in the International Plumbing Code based on the increased occupant load.

603.7 Structural. Structural elements and systems within buildings undergoing Level 2 alterations shall comply with Sections 603.7.1 through 603.7.5 603.7.6.

603.7.1 New structural elements. New structural elements in alterations, including connections and anchorage, shall comply with the VCC.

603.7.2 Minimum design loads. The minimum design loads on existing elements of a structure that do not support additional loads as a result of an alteration shall be the loads applicable at the time the building was constructed.

603.7.3 Existing structural elements carrying gravity loads. Any existing gravity load-carrying structural element for which an alteration causes an increase in design gravity load

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of more than 5% shall be strengthened, supplemented, replaced or otherwise altered as needed to carry the increased gravity load required by the VCC for new structures. Any existing gravity load-carrying structural element whose gravity load-carrying capacity is decreased as part of the alteration shall be shown to have the capacity to resist the applicable design gravity loads required by the VCC for new structures.

Exception: Buildings of Group R occupancy with not more than five dwelling or sleeping units used solely for residential purposes where the existing building and its alteration comply with the conventional light-frame construction methods of the VCC or the provisions of the International Residential Code.

603.7.3.1 Design live load. Where the alteration does not result in increased design live load, existing gravity load-carrying structural elements shall be permitted to be evaluated and designed for live loads approved prior to the alteration. If the approved live load is less than that required by Section 1607 of the VCC, the area designed for the nonconforming live load shall be posted with placards of approved design indicating the approved live load. Where the alteration does result in increased design live load, the live load required by Section 1607 of the VCC shall be used.

603.7.4 Existing structural elements resisting lateral loads. Except as permitted by Section 603.7.5, where the alteration increases design lateral loads in accordance with Section 1609 or 1613 of the VCC, or where the alteration results in a prohibited structural irregularity as defined in ASCE 7, or where the alteration decreases the capacity of any existing lateral load-carrying structural element, the structure of the altered building or structure shall be shown to meet the requirements of Sections 1609 and 1613 of the VCC. For purposes of this section, compliance with ASCE 41, using a Tier 3 procedure and the two-level performance objective in Table 305.2.2 for the applicable risk category, shall be deemed to meet the requirements of Section 1613 of the VCC.

Exception:

1. Any existing lateral load-carrying structural element whose demand-capacity ratio with the alteration considered is not more than 10% greater than its demand-capacity ratio with the alteration ignored shall be permitted to remain unaltered. For purposes of calculating demand-capacity ratios, the demand shall consider applicable load combinations with design lateral loads or forces in accordance with VCC Sections 1609 and 1613. Reduced VCC level seismic forces in accordance with Section 305.2.2 shall be permitted. For purposes of this exception, comparisons of demand-capacity ratios and calculation of design lateral loads, forces and capacities shall account for the cumulative effects of additions and alterations since original construction.

2. Buildings of Group R occupancy with no more than five dwelling or sleeping units used solely for residential purposes that are altered based on the conventional light-frame construction methods of the VCC or in compliance with the provisions of the IRC.

3. Where such alterations involve only the lowest story of a building and the change of occupancy provisions of Chapter 7 do not apply, only the lateral force-resisting components in and below that story need comply with this section.

603.7.5 Voluntary lateral force-resisting system alterations. Alterations of existing structural elements and additions of new structural elements that are initiated for the purpose of increasing the lateral force-resisting strength or stiffness of an existing structure and that are not required by other sections of this code shall not be required to be designed for forces conforming to the VCC, provided that an engineering analysis is submitted to show that:

1. The capacity of existing structural elements required to resist forces is not reduced;
2. The lateral loading to existing structural elements is not increased either beyond its capacity or more than 10%;
3. New structural elements are detailed and connected to the existing structural elements as required by the VCC;
4. New or relocated nonstructural elements are detailed and connected to existing or new structural elements as required by the VCC; and
5. Voluntary alterations to lateral force-resisting systems conducted in accordance with Appendix A and the referenced standards of this code shall be permitted.

603.7.6 Voluntary seismic improvements. Alterations to existing structural elements or additions of new structural elements that are not otherwise required by this chapter and are initiated for the purpose of improving the performance of the seismic force resisting system of an existing structure or the performance of seismic bracing or anchorage of existing nonstructural elements shall be permitted, provided that an engineering analysis is submitted demonstrating the following:

1. The altered structure and the altered nonstructural elements are no less conforming to the provisions of the VCC with respect to earthquake design than they were prior to the alteration.
2. New structural elements are detailed as required for new construction.
3. New or relocated nonstructural elements are detailed and connected to existing or new structural elements as required for new construction.
4. The alterations do not create a structural irregularity as defined in ASCE 7 or make an existing structural irregularity more severe.

~~603.8 Electrical. Electrical elements and systems within buildings undergoing Level 2 alterations shall comply with Sections 603.8.1 through 603.8.3.~~

~~603.8.1 New installations. All newly installed electrical equipment and wiring relating to work done in any work area shall comply with all applicable requirements of NFPA 70 except as provided for in Section 603.8.3.~~

~~603.8.2 Existing installations. Existing wiring in all work areas in Groups A-1, A-2, A-5, H, and I occupancies shall be upgraded to meet the materials and methods requirements of Section 602.3.~~

~~603.8.3 Residential occupancies. In Groups R-2, R-3, R-4 and R-5 occupancies and buildings regulated by the International Residential Code, the requirements of Sections 603.8.3.1 through 603.8.3.7 shall be applicable only to work areas located within a dwelling unit.~~

~~603.8.3.1 Enclosed areas. All enclosed areas, other than closets, kitchens, basements, garages, hallways, laundry areas, utility areas, storage areas, and bathrooms shall have a minimum of two duplex receptacle outlets or one duplex receptacle outlet and one ceiling or wall type lighting outlet.~~

~~603.8.3.2 Kitchens. Kitchen areas shall have a minimum of two duplex receptacle outlets.~~

~~603.8.3.3 Laundry areas. Laundry areas shall have a minimum of one duplex receptacle outlet located near the laundry equipment and installed on an independent circuit.~~

~~603.8.3.4 Ground fault circuit interruption. Newly installed receptacle outlets shall be provided with ground fault circuit interruption as required by NFPA 70.~~

~~603.8.3.5 Minimum lighting outlets. At least one lighting outlet shall be provided in every bathroom, hallway, stairway, attached garage, and detached garage with electric power, and to illuminate outdoor entrances and exits.~~

~~603.8.3.6 Utility rooms and basements. At least one lighting outlet shall be provided in utility rooms and basements where such spaces are used for storage or contain equipment requiring service.~~

~~603.8.3.7 Clearance for equipment. Clearance for electrical service equipment shall be provided in accordance with the NFPA 70.~~

~~603.9 Mechanical. All work areas intended for occupancy and all spaces converted to habitable or occupiable space in any work area shall be provided with natural or mechanical ventilation in accordance with the International Mechanical Code.~~

~~Exception: Existing mechanical ventilation systems shall comply with the requirements of Section 603.9.1.~~

~~603.9.1 Altered existing systems. In mechanically ventilated spaces, existing mechanical ventilation systems that are~~

~~altered, reconfigured, or extended shall provide not less than 5 cubic feet per minute (cfm) (0.0024 m<sup>3</sup>/s) per person of outdoor air and not less than 15 cfm (0.0071 m<sup>3</sup>/s) of ventilation air per person; or not less than the amount of ventilation air determined by the Indoor Air Quality Procedure of ASHRAE 62.~~

~~603.9.2 Local exhaust. All newly introduced devices, equipment, or operations that produce airborne particulate matter, odors, fumes, vapor, combustion products, gaseous contaminants, pathogenic and allergenic organisms, and microbial contaminants in such quantities as to affect adversely or impair health or cause discomfort to occupants shall be provided with local exhaust.~~

~~603.10 Plumbing. Where the occupant load of the story is increased by more than 20%, plumbing fixtures for the story shall be provided in quantities specified in the International Plumbing Code based on the increased occupant load.~~

~~F. Change Section 604 to Level 3 Alterations.~~

~~G. Change Section 604.1 and add Sections 604.2 through 604.7, including subsections, to the IEBC to read:~~

~~604.1 Scope. Level 3 alterations as described in Section 601.2.3 shall comply with the requirements of this section.~~

~~Exception: Buildings in which the alteration is exclusively the result of compliance with the accessibility requirements of Section 404.3 shall be permitted to comply with Section 602.~~

~~604.2 Level 1 and Level 2 alterations compliance. In addition to the requirements of this section, work shall comply with the applicable requirements of Sections 602 and 603. The requirements of Sections 603.4, 603.5 and 603.6 shall apply within all work areas whether or not they include exits and corridors shared by more than one tenant and regardless of the occupant load.~~

~~Exception: Buildings in which the alteration affecting exits or shared egress access is exclusively the result of compliance with the accessibility requirements of Section 404.3 shall not be required to comply with this section.~~

~~604.3 Special use and occupancy. The following special uses and occupancies shall comply with the requirements of Section 603.6 except as specifically required in Sections 604.3.1 and 604.3.2.~~

~~604.3.1 High rise buildings. Any building having occupied floors more than 75 feet (22,860 mm) above the lowest level of fire department vehicle access shall comply with the requirements of Sections 604.3.1.1 and 604.3.1.2.~~

~~604.3.1.1 Recirculating air or exhaust systems. When a floor is served by a recirculating air or exhaust system with a capacity greater than 15,000 cubic feet per minute (701 m<sup>3</sup>/s), that system shall be equipped with approved smoke~~

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and heat detection devices installed in accordance with the International Mechanical Code.

~~604.3.1.2 Elevators. Where there are elevators for public use, at least one elevator serving the work area shall comply with this section. Existing elevators with a travel distance of 25 feet (7620 mm) or more above or below the main floor or other level of a building and intended to serve the needs of emergency personnel for firefighting or rescue purposes shall be provided with emergency operation in accordance with ASME A17.3. New elevators shall be provided with Phase I emergency recall operation and Phase II emergency in-car operation in accordance with ASME A17.1.~~

~~604.3.2 Boiler and furnace equipment rooms. Boiler and furnace equipment rooms adjacent to or within Groups I-1, I-2, I-4, R-1, R-2, and R-4 occupancies shall be enclosed by one-hour fire-resistance-rated construction.~~

~~Exceptions:~~

- ~~1. Steam boiler equipment operating at pressures of 15 pounds per square inch gauge (psig) (103.4 KPa) or less is not required to be enclosed.~~
- ~~2. Hot water boilers operating at pressures of 170 psig (1171 KPa) or less are not required to be enclosed.~~
- ~~3. Furnace and boiler equipment with 400,000 British thermal units (Btu) (4.22 by 108 J) per hour input rating or less is not required to be enclosed.~~
- ~~4. Furnace rooms protected with an automatic sprinkler system are not required to be enclosed.~~

~~604.4 Building elements and materials. Building elements and materials shall comply with the requirements of Section 603.6 except as specifically required in Sections 604.4.1 through 604.4.3.~~

~~604.4.1 Existing stairways. Existing stairways that are part of the means of egress shall be enclosed in accordance with Section 603.4.1.1, and its exceptions if applicable, from the highest work area floor to, and including, the level of exit discharge and all floors below.~~

~~604.4.2 Fire separation in Group R-3. Where the work area is in any attached dwelling unit in Group R-3 or any multiple single-family dwelling (townhouse), walls separating the dwelling units that are not continuous from the foundation to the underside of the roof sheathing shall be constructed to provide a continuous fire separation using construction materials consistent with the existing wall or complying with the requirements for new structures. All work shall be performed on the side of the dwelling unit wall that is part of the work area.~~

~~Exception: Where alterations or repairs do not result in the removal of wall or ceiling finishes exposing the structure, walls are not required to be continuous through concealed floor spaces.~~

~~604.4.3 Interior finish. Interior finish in exits serving the work area shall comply with Section 603.4.3 between the highest floor on which there is a work area to the floor of exit discharge.~~

~~604.5 Fire protection. Fire protection shall comply with the requirements of Section 603.5.2 except as specifically required in Sections 604.5.1 and 604.5.2.~~

~~604.5.1 Automatic sprinkler systems. An automatic sprinkler system shall be provided in a work area where required by Section 603.5.1.1 through 604.5.1.3 or Section 603.5.2.~~

~~604.5.1.1 High-rise buildings. An automatic sprinkler system shall be provided in work areas where the high-rise building has a sufficient municipal water supply for the design and installation of an automatic sprinkler system at the site.~~

~~604.5.1.2 Rubbish and linen chutes. Rubbish and linen chutes located in the work area shall be provided with automatic sprinkler system protection or an approved automatic fire-extinguishing system where protection of the rubbish and linen chute would be required under the provisions of the VCC for new construction.~~

~~604.5.1.3 Upholstered furniture or mattresses. Work areas shall be provided with an automatic sprinkler system in accordance with the VCC where any of the following conditions exist:~~

- ~~1. A Group F-1 occupancy used for the manufacture of upholstered furniture or mattresses exceeds 2,500 square feet (232 m<sup>2</sup>).~~
- ~~2. A Group S-1 occupancy used for the storage of upholstered furniture or mattresses exceeds 2,500 square feet (232 m<sup>2</sup>).~~

~~604.5.2 Fire alarm and detection systems. Fire alarm and detection shall be provided throughout the work area in accordance with Section 907 of the VCC as required for new construction.~~

~~604.5.2.1 Manual fire alarm systems. Where required by the VCC, a manual fire alarm system shall be provided throughout the work area. Alarm notification appliances shall be provided on such floors and shall be automatically activated as required by the VCC.~~

~~Exceptions:~~

- ~~1. Alarm initiating and notification appliances shall not be required to be installed in tenant spaces outside of the work area.~~
- ~~2. Visual alarm notification appliances are not required, except where an existing alarm system is upgraded or replaced or where a new fire alarm system is installed.~~

~~604.5.2.2 Automatic fire detection. Where required by the VCC for new buildings, automatic fire detection systems shall be provided throughout the work area.~~

~~604.6 Means of egress. The means of egress shall comply with the requirements of Section 603.6 except as specifically required in Sections 604.6.1 and 604.6.2.~~

~~604.6.1 Means of egress lighting. Means of egress from the highest work area floor to the floor of exit discharge shall be provided with artificial lighting within the exit enclosure in accordance with the requirements of the VCC.~~

~~604.6.2 Exit signs. Means of egress from the highest work area floor to the floor of exit discharge shall be provided with exit signs in accordance with the requirements of the VCC.~~

~~604.7 Structural. Structural alterations shall comply with the requirements of Section 603.6 except as specifically required in Sections 604.7.1 and 604.7.2.~~

~~604.7.1 Substantial structural alteration. Where more than 30% of the total floor and roof areas of the building or structure have been or are proposed to be involved in structural alteration within a five-year period, the evaluation and analysis shall demonstrate that the lateral load-resisting system of the altered building or structure complies with the International Building Code for wind loading and with reduced International Building Code level seismic force in accordance with Section 305.2.2. The areas to be counted toward the 30% shall be those areas tributary to the vertical load-carrying components, such as joists, beams, columns, walls and other structural components that have been or will be removed, added or altered, as well as areas such as mezzanines, penthouses, roof structures and in-filled courts and shafts.~~

~~604.7.2 Limited structural alteration. Where the work does not involve a substantial structural alteration and the building is not assigned to Seismic Design Category F, the existing elements of the lateral load-resisting system shall comply with Section 603.7.4.~~

~~H. G. Delete Sections 604, 605, 606, 607, and 608 and 609 of the IEBC in their entirety.~~

**13VAC5-63-433.5. Chapter 7 Change of occupancy.**

A. Change Sections 701.1 through 701.2 of the IEBC to read:

701.1 Scope. The provisions of this chapter shall apply where a change of occupancy occurs, except as modified by Section 906 for historic buildings. Compliance with the current VCC for the change of occupancy shall only be required as prescribed in this chapter. Compliance shall be only as necessary to meet the specific provisions of the applicable International Codes and is not intended to require the entire building be brought into compliance.

Exception: Compliance with the provisions of Chapter 14 shall be permitted in lieu of complying with this chapter for a change of occupancy.

701.2 Work undertaken in connection with a change of occupancy. Any repairs, alterations, or additions undertaken in connection with a change of occupancy shall conform to the applicable requirements for the work as classified in this code and as modified by this chapter.

B. Delete Section Sections 701.3 and 701.4 of the IEBC.

C. Change Section 702 to Special Use and Occupancy.

D. Change Sections 702.1 and 702.2 of the IEBC to read:

702.1 Compliance with the building code. Where a building undergoes a change of occupancy to one of the special use or occupancy categories described in Chapter 4 of the VCC, the building shall comply with all of the requirements of Chapter 4 of the VCC applicable to the special use or occupancy.

702.2 Incidental uses. Where a portion of a building undergoes a change of occupancy to one of the incidental uses listed in Table 509 of the VCC, the incidental use shall comply with the applicable requirements of Section 509 of the VCC.

E. Delete Sections 702.3 through 702.6 702.6.1, including subsections, of the IEBC.

F. Change Section 703 to Building Elements and Materials.

G. Change Section 703.1 of the IEBC and add Section 703.2, including subsections, to the IEBC to read:

703.1 Interior finish. In areas of the building undergoing a change of occupancy classification, the interior finish of walls and ceilings shall comply with the requirements of the VCC for the new occupancy classification.

703.2 Enclosure of vertical openings. When a change of occupancy classification is made to a higher hazard category as shown in Table 705.2, protection of existing vertical openings shall be in accordance with Sections 703.2.1 through 703.2.3.

703.2.1 Stairways. Interior stairways shall be protected as required by Section 705.1.

703.2.2 Other vertical openings. Interior vertical openings, other than stairways, within the area of the change of occupancy shall be protected as required by the VCC.

Exceptions:

1. Existing one-hour interior shaft enclosures shall be accepted where a higher rating is required.
2. Vertical openings, other than stairways, in buildings of other than Group I occupancy and connecting less than six stories shall not be required to be enclosed are permitted

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if the entire building is provided with an approved automatic sprinkler system.

703.2.3 Shaft openings. All openings into existing vertical shaft enclosures shall be protected by fire assemblies having a fire protection rating of not less than one hour and shall be maintained self-closing or shall be automatic-closing by actuation of a smoke detector. All other openings shall be fire protected in an approved manner. Existing fusible link-type automatic door-closing devices shall be permitted in all shafts except stairways if the fusible link rating does not exceed 135°F (57°C).

H. Change Section 704 to Fire Protection.

I. Change Section 704.1 of the IEBC and add Sections 704.2 [ ~~and~~ ] 704.3 [ ~~and~~ 704.4 ] to the IEBC to read:

704.1 Fire protection systems. Fire protection systems shall be provided in accordance with Sections 704.2 [ ~~and 704.3 through 704.4~~ ].

704.2 Fire sprinkler system. Where a building undergoes a change of occupancy that requires an automatic fire sprinkler system to be provided based on the new occupancy in accordance with [ ~~Chapter 9 Section 903~~ ] of the VCC, such [ ~~automatic fire sprinkler~~ ] system shall be provided throughout the area where the change of occupancy occurs.

704.3 Fire alarm and detection system. Where a building undergoes a change of occupancy that requires a fire alarm and detection system to be provided based on the new occupancy in accordance with [ ~~Chapter 9 Section 907~~ ] of the VCC, such [ ~~fire alarm and detection~~ ] system shall be provided throughout the area where the change of occupancy occurs. Existing alarm notification appliances shall be automatically activated throughout the building. Where the building is not equipped with a fire alarm system, alarm notification appliances shall be provided throughout the area where the change of occupancy occurs in accordance with Section 907 of the VCC as required for new construction.

[ ~~704.4 Standpipe system. Where a building undergoes a change of occupancy that requires a standpipe system to be provided based on the new occupancy in accordance with Section 905 of the VCC, such standpipe system shall be provided to serve the area where the change of occupancy occurs.~~ ]

J. Change Section 705 to Means of Egress.

K. Change Sections 705.1 through ~~705.2~~ 705.4, deleting subsections, and add Sections 705.3 and 705.4 to ~~delete~~ Sections 705.5 and 705.6 of the IEBC to read:

705.1 General. Means of egress in buildings undergoing a change of occupancy shall comply with Sections 705.2 through 705.4.

705.2 Means of egress, hazards. Hazard categories in regard to life safety and means of egress shall be in accordance with Table 705.2.

| RELATIVE HAZARD    | OCCUPANCY CLASSIFICATIONS   |
|--------------------|-----------------------------|
| 1 (Highest Hazard) | H                           |
| 2                  | I-2, I-3, I-4               |
| 3                  | A, E, I-1, M, R-1, R-2, R-4 |
| 4                  | B, F-1, R-3, S-1, R-5       |
| 5 (Lowest Hazard)  | F-2, S-2, U                 |

705.3 Means of egress for change to higher hazard category. When a change of occupancy classification is made to a higher hazard category (lower number) as shown in Table 705.2, the means of egress serving the area of the change of occupancy shall comply with the requirements of Chapter 10 of the VCC, except as modified in Sections 705.3.1 through 705.3.7.

Exceptions:

- ~~1. Existing interior stairways are permitted to be enclosed in accordance with Section 603.4.1.1 from the highest floor where the change of occupancy classification occurs to, and including, the level of exit discharge and all floors below.~~
- ~~2. An enclosure shall not be required for openings serving only one adjacent floor and that are not connected with corridors or stairways serving other floors.~~
- ~~3. Unenclosed existing stairways need not be enclosed in a continuous vertical shaft if each story is separated from other stories by one hour fire resistance rated construction or approved wired glass set in steel frames and all exit corridors are sprinklered. The openings between the corridor and the occupant space shall have at least one sprinkler head above the openings on the tenant side. The sprinkler system shall be permitted to be supplied from the domestic water supply systems, provided the system is of adequate pressure, capacity, and sizing for the combined domestic and sprinkler requirements.~~
- ~~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 extend to the underside of the floor or roof next above.~~
- ~~5. Existing corridor doorways, transoms, and other corridor openings are permitted to comply with the~~



~~requirements in Sections 603.6.4.1, 603.6.4.2, and 603.6.4.3 regardless of work areas.~~

~~6. Existing dead-end corridors are permitted to comply with the requirements in Section 603.6.5 regardless of work areas.~~

~~7. An existing operable window with clear opening area no less than 4 square feet (0.38 m<sup>2</sup>) and minimum opening height and width of 22 inches (559 mm) and 20 inches (508 mm), respectively, shall be accepted as an emergency escape and rescue opening.~~

~~8. Regardless of work areas, existing handrails are permitted to comply with the requirements of Section 603.6.8, and existing guards are permitted to comply with the requirements of Section 603.6.10.~~

~~9. Fire escapes in compliance with Section 303.~~

~~10. Existing stairways are not required to be altered to meet current tread depth and riser height requirements.~~

705.3.1 Corridor fire-resistance ratings. The following exceptions apply to the fire-resistance rated corridor provisions in the VCC:

1. 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 are equivalent to a one-hour fire-resistance rating. Such walls shall either terminate at the underside of a ceiling of equivalent construction or extend to the underside of the floor or roof next above.

2. Dwelling unit or sleeping unit corridor doors and transom openings are permitted to comply with any of the following:

2.1 Be at least 13/8-inch (35 mm) solid core wood or approved equivalent and shall not have any glass panels other than approved wired glass or other approved glazing material in metal frames and equipped with approved door closers.

2.2 Meet the requirements of "Guidelines on Fire Ratings of Archaic Materials and Assemblies" (VEBC Resource A) for a rating of 15 minutes or more shall be accepted as meeting the provisions of this requirement.

2.3 In buildings protected throughout with an approved automatic sprinkler system, resist smoke, be reasonably tight fitting, and not contain louvers.

2.4 In group homes with a maximum of 15 occupants and that are protected with an approved automatic smoke detection system, closing devices may be omitted.

2.5 Transoms in corridor walls shall be either glazed with 1/4-inch (6.4 mm) wired glass set in metal frames or other glazing assemblies having a fire protection rating as required for the door and permanently secured in the closed position or sealed with materials consistent with the corridor construction.

3. Openings in a corridor and any window in a corridor not opening to the outside air shall be sealed with materials consistent with the corridor construction.

705.3.2 Dead-end corridors. Dead-end corridors shall not exceed 35 feet (10670 mm).

Exceptions:

1. Where dead-end corridors of greater length are permitted by the VCC.

2. In other than Groups A and H occupancies, the maximum length of an existing dead-end corridor shall be 50 feet (15240 mm) in buildings equipped throughout with an automatic fire alarm system installed in accordance with the VCC.

3. In other than Groups A and H occupancies, the maximum length of an existing dead-end corridor shall be 70 feet (21356 mm) in buildings equipped throughout with an automatic sprinkler system installed in accordance with the VCC.

4. In other than Groups A and H occupancies, the maximum length of an existing, newly constructed, or extended dead-end corridor shall not exceed 50 feet (15240 mm) on floors equipped with an automatic sprinkler system installed in accordance with the VCC.

705.3.3 Emergency escape and rescue openings. An existing operable window with clear opening area no less than 4 square feet (0.38 m<sup>2</sup>) and minimum opening height and width of 22 inches (559 mm) and 20 inches (508 mm), respectively, shall be accepted as an emergency escape and rescue opening.

705.3.4 Fire escapes. Fire escapes in compliance with Section 303.

705.3.5 Interior stairway fire-resistance ratings. Existing interior stairways connecting two or more floors shall be enclosed with approved assemblies having a fire-resistance rating of not less than one hour with approved opening protectives from the highest floor where the change of occupancy classification occurs to, and including, the level of exit discharge and all floors below.

Exceptions:

1. Where interior stairway enclosure is not required by the VCC.

2. Unenclosed existing stairways need not be enclosed in a continuous vertical shaft if each story is separated from other stories by one-hour fire-resistance-rated construction or approved wired glass set in steel frames and all exit corridors are sprinklered. The openings between the corridor and the occupant space shall have at least one sprinkler head above the openings on the tenant side. The sprinkler system shall be permitted to be supplied from the domestic water supply systems, provided the system is of adequate pressure, capacity, and

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sizing for the combined domestic and sprinkler requirements.

3. In Group A occupancies, a minimum 30-minute enclosure shall be permitted to protect all interior stairways not exceeding three stories.

4. In Group B occupancies, a minimum 30-minute enclosure shall not be permitted to protect all interior stairways not exceeding three stories. This enclosure shall not be required in the following locations:

4.1 Buildings not exceeding 3,000 square feet (279 m<sup>2</sup>) per floor.

4.2 Buildings protected throughout by an approved automatic fire sprinkler system.

5. In Group E occupancies, the enclosure shall not be required for interior stairways not exceeding three stories when the building is protected throughout by an approved automatic fire sprinkler system.

6. In Group F occupancies, the enclosure shall not be required in the following locations:

6.1 Interior stairways not exceeding three stories.

6.2 Special purpose occupancies where necessary for manufacturing operations and direct access is provided to at least one protected stairway.

6.3 Buildings protected throughout by an approved automatic sprinkler system.

7. In Group H occupancies, the enclosure shall not be required for interior stairways not exceeding three stories where stairways are necessary for manufacturing operations and every floor level has direct access to at least two remote enclosed stairways or other approved exits.

8. In Group M occupancies, a minimum 30-minute enclosure shall be permitted to protect all interior stairways not exceeding three stories. This enclosure shall not be required in the following locations:

8.1 Stairways connecting only two floor levels.

8.2 Occupancies protected throughout by an approved automatic sprinkler system.

9. In Group R-1 occupancies, the enclosure shall not be required for interior stairways not exceeding three stories in the following locations:

9.1 Buildings protected throughout by an approved automatic sprinkler system.

9.2 Buildings with fewer than 25 dwelling units or sleeping units where every sleeping room above the second floor is provided with direct access to a fire escape or other approved second exit by means of an approved exterior door or window having a sill height of not greater than 44 inches (1118 mm) and where:

9.2.1 Any exit access corridor exceeding 8 feet (2438 mm) in length that serves two means of egress, one of which is an unprotected vertical opening, shall have at least one of

the means of egress separated from the vertical opening by a one-hour fire barrier; and

9.2.2 The building is protected throughout by an automatic fire alarm system, installed and supervised in accordance with the VCC.

10. In Group R-2 occupancies, a minimum 30-minute enclosure shall be permitted to protect interior stairways not exceeding three stories. This enclosure shall not be required in the following locations:

10.1 Interior stairways not exceeding two stories with not more than four dwelling units per floor.

10.2 Buildings protected throughout by an approved automatic sprinkler system.

10.3 Buildings with not more than four dwelling units per floor where every sleeping room above the second floor is provided with direct access to a fire escape or other approved second exit by means of an approved exterior door or window having a sill height of not greater than 44 inches (1118 mm), and the building is protected throughout by an automatic fire alarm system complying with the VCC.

11. Stairway enclosure is not required in one-family and two-family dwellings.

12. Group S occupancies where connecting not more than two floor levels or where connecting not more than three floor levels and the structure is equipped throughout with an approved automatic sprinkler system.

13. Group S occupancies where stairway protection is not required for open parking garages and ramps.

705.3.6 Stairway geometry. Existing stairways are not required to be altered to meet tread depth and riser height requirements of the VCC.

705.3.7 Stairway handrails. Existing stairways are required to have a VCC compliant handrail on one side up to a required egress width of 66 inches (1676 mm) and both sides when the required egress width exceeds 66 inches (1676 mm).

705.4 Means of egress for change of occupancy to equal or lower hazard category or without a change in classification. When a change of occupancy classification is made to an equal or lesser hazard category (higher number) as shown in Table 705.2 or a change of occupancy without a change of classification is made, the means of egress shall be deemed acceptable provided the means of egress serving the area of the change of occupancy meets the egress capacity and occupant load based means of egress provisions in Chapter 10 of the VCC for the new occupancy.

L. Change Section 706 to Heights and Areas.

M. Change Sections 706.1 through ~~706.5~~ 706.3, including subsections, and add Sections 706.4 and 706.5 of the IEBC to read:

706.1 General. Heights and areas of buildings and structures undergoing a change of occupancy classification shall comply with this Section.

706.2 Heights and areas, hazards. Hazard categories in regard to height and area shall be in accordance with Table 706.2.

| TABLE 706.2<br>HEIGHTS AND AREAS HAZARD CATEGORIES |                                      |
|--|--------------------------------------|
| RELATIVE HAZARD                                    | OCCUPANCY CLASSIFICATIONS            |
| 1 (Highest Hazard)                                 | H                                    |
| 2  | A-1, A-2, A-3, A-4, I, R-1, R-2, R-4 |
| 3  | E, F-1, S-1, M                       |
| 4 (Lowest Hazard)                                  | B, F-2, S-2, A-5, R-3, R-5, U        |

706.3 Height and area for change to higher hazard category. When a change of occupancy classification is made to a higher hazard category as shown in Table 706.2, heights and areas of buildings and structures shall comply with the requirements of Chapter 5 of the VCC for the new occupancy classification.

Exception: For high-rise buildings constructed in compliance with a previously issued permit, the type of construction reduction specified in Section 403.2.1 of the VCC is permitted. This shall include the reduction for columns. The high-rise building is required to be equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 of the VCC.

706.3.1 Fire wall alternative. In other than Groups H, F-1 and S-1, fire barriers and horizontal assemblies constructed in accordance with Sections 707 and 711, respectively, of the VCC shall be permitted to be used in lieu of fire walls to subdivide the building into separate buildings for the purpose of complying with the area limitations required for the new occupancy where all of the following conditions are met:

1. The buildings are protected throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 of the International Building Code.
2. The maximum allowable area between fire barriers, horizontal assemblies, or any combination thereof shall not exceed the maximum allowable area determined in accordance with Chapter 5 of the VCC without an increase allowed for an automatic sprinkler system in accordance with Section 506 of the VCC.
3. The fire-resistance rating of the fire barriers and horizontal assemblies shall be not less than that specified for fire walls in Table 706.4 of the VCC.

Exception: Where horizontal assemblies are used to limit the maximum allowable area, the required fire-resistance rating of the horizontal assemblies shall be permitted to be reduced by one hour provided the height and number of stories increases allowed for an automatic sprinkler system by Section 504 of the VCC are not used for the buildings.

706.4 Height and area for change to equal or lesser hazard category. When a change of occupancy classification is made to an equal or lesser hazard category as shown in Table 706.2, the height and area of the existing building shall be deemed acceptable.

706.5 Fire barriers. When a change of occupancy classification is made to a higher hazard category as shown in Table 706.2, fire barriers in separated mixed use buildings shall comply with the fire-resistance requirements of the VCC.

Exception: Where the fire barriers are required to have a one-hour-fire-resistance rating, existing wood lath and plaster in good condition or existing 1/2-inch-thick (12.7 mm) gypsum wallboard shall be permitted.

~~N. Delete Section 706.6 of the IEBC~~ Change Section 707 to Exterior Wall Fire-Resistance Ratings.

~~O. Change Section 707 to Exterior Wall Fire-Resistance Ratings~~ Section 707.1 and add Sections 707.2 through 707.4 to the IEBC to read:

~~P. Change Sections 707.1 through 707.3, deleting subsections, of the IEBC and add Section 707.4 to the IEBC to read:~~

707.1 Exterior wall fire-resistance ratings, hazards. Hazard categories in regard to fire-resistance ratings of exterior walls shall be in accordance with Table 707.1.

| TABLE 707.1<br>EXPOSURE OF EXTERIOR WALLS HAZARD CATEGORIES |                           |
|---|---------------------------|
| RELATIVE HAZARD   | OCCUPANCY CLASSIFICATIONS |
| 1 (Highest Hazard)  | H                         |
| 2   | F-1, M, S-1               |
| 3   | A, B, E, I, R             |
| 4 (Lowest Hazard)   | F-2, S-2, U               |

707.2 Exterior wall rating for change of occupancy classification to a higher hazard category. When a change of occupancy classification is made to a higher hazard category as shown in Table 707.1, exterior walls shall have fire resistance and exterior opening protectives as required by the VCC.

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Exception: A two-hour-fire-resistance rating shall be allowed where the building does not exceed three stories in height and is classified as one of the following groups: A-2 and A-3 with an occupant load of less than 300, B, F, M, or S.

707.3 Exterior wall rating for change of occupancy classification to an equal or lesser hazard category. When a change of occupancy classification is made to an equal or lesser hazard category as shown in Table 707.1, existing exterior walls, including openings, shall be accepted.

707.4 Opening protectives. Openings in exterior walls shall be protected as required by the VCC. Where openings in the exterior walls are required to be protected because of their distance from the lot line, the sum of the area of such openings shall not exceed 50% of the total area of the wall in each story.

Exceptions:

1. Where the VCC permits openings in excess of 50%.
2. Protected openings shall not be required in buildings of Group R occupancy that do not exceed three stories in height and that are located not less than 3 feet (914 mm) from the lot line.
3. Where exterior opening protectives are required, an automatic sprinkler system throughout may be substituted for opening protection.
4. Exterior opening protectives are not required when the change of occupancy group is to an equal or lower hazard classification in accordance with Table 707.1.

P. Add Section 708 Electrical and Lighting.

~~Q.~~ Change Section 708 to Electrical and Lighting.

~~R.~~ Change Section 708.1 of the IEBC and add Sections 708.2

Q. Add Sections 708.1 through 708.4 to the IEBC to read:

708.1 Special occupancies. Where a building undergoes a change of occupancy to one of the following special occupancies as described in NFPA 70, the electrical wiring and equipment of the building that contains the proposed occupancy shall comply with the applicable requirements of NFPA 70:

1. Hazardous locations.
2. Commercial garages, repair, and storage.
3. Aircraft hangars.
4. Gasoline dispensing and service stations.
5. Bulk storage plants.
6. Spray application, dipping, and coating processes.
7. Health care facilities.
8. Places of assembly.
9. Theaters, audience areas of motion picture and television studios, and similar locations.

10. Motion picture and television studios and similar locations.

11. Motion picture projectors.

12. Agricultural buildings.

708.2 Service upgrade. When a new occupancy is required to have a higher electrical load demand per NFPA 70 and the service cannot accommodate the increased demand, the service shall be upgraded to meet the requirements of NFPA 70 for the new occupancy.

708.3 Number of electrical outlets. Where a building undergoes a change of occupancy, the number of electrical outlets shall comply with NFPA 70 for the new occupancy.

708.4 Lighting. Lighting shall comply with the requirements of the VCC for the new occupancy.

~~S.~~ R. Add Section 709 Mechanical and Ventilation.

~~T.~~ S. Add Section 709.1 to the IEBC to read:

709.1 Mechanical and ventilation requirements. Where a building undergoes a change of occupancy such that the new occupancy is subject to different kitchen exhaust requirements or to increased ventilation requirements in accordance with the International Mechanical Code, the new occupancy shall comply with the respective International Mechanical Code provisions.

~~U.~~ T. Add Section 710 Plumbing.

~~V.~~ U. Add Sections 710.1 through 710.3 to the IEBC to read:

710.1 Increased demand. Where a building or portion thereof undergoes a change of occupancy, such that the new occupancy is subject to increased or different plumbing fixture requirements or to increased water supply requirements in accordance with the International Plumbing Code, the new occupancy shall comply with the respective International Plumbing Code provisions.

Exception: In other than Group R or I occupancies or child care facilities classified as Group E, where the occupant load is increased by 20% or less in the area where the change of occupancy occurs, additional plumbing fixtures required based on the increased occupant load in quantities specified in the International Plumbing Code are not required.

710.2 Interceptor required. If the new occupancy will produce grease or oil-laden wastes, interceptors shall be provided as required in the International Plumbing Code.

710.3 Chemical wastes. If the new occupancy will produce chemical wastes, the following shall apply:

1. If the existing piping is not compatible with the chemical waste, the waste shall be neutralized prior to entering the drainage system, or the piping shall be changed to a compatible material.

2. No chemical waste shall discharge to a public sewer system without the approval of the sewage authority.

~~W.~~ V. Add Section 711 Structural.

~~X.~~ W. Add Sections 711.1 through 711.3, including subsections, to the IEBC to read:

711.1 Gravity loads. Buildings subject to a change of occupancy where such change in the nature of occupancy results in higher uniform or concentrated loads based on Table 1607.1 of the VCC shall comply with the gravity load provisions of the VCC.

Exception: Structural elements whose stress is not increased by more than 5%.

711.2 Snow and wind loads. Buildings and structures subject to a change of occupancy where such change in the nature of occupancy results in higher wind or snow risk categories based on Table 1604.5 of the VCC shall be analyzed and shall comply with the applicable wind or snow load provisions of the VCC.

Exception: Where the new occupancy with a higher risk category is less than or equal to 10% of the total building floor area. The cumulative effect of the area of occupancy changes shall be considered for the purposes of this exception.

711.3 Seismic loads. Existing buildings with a change of occupancy shall comply with the seismic provisions of Sections 711.3.1 and 711.3.2.

711.3.1 Compliance with VCC-level seismic forces. Where a building is subject to a change of occupancy that results in the building being assigned to a higher risk category based on Table 1604.5 of the VCC, the building shall comply with the requirements for VCC-level seismic forces as specified in Section 305.2.1 for the new risk category.

Exceptions:

1. Specific detailing provisions required for a new structure are not required to be met where it can be shown that an equivalent level of performance and seismic safety is obtained for the applicable risk category based on the provision for reduced VCC-level seismic forces as specified in Section 305.2.2.

2. Where the area of the new occupancy with a higher hazard category is less than or equal to 10% of the total building floor area and the new occupancy is not classified as Risk Category IV. For the purposes of this exception, buildings occupied by two or more occupancies not included in the same risk category, shall be subject to the provisions of Section 1604.5.1 of the VCC. The cumulative effect of the area of occupancy changes shall be considered for the purposes of this exception.

3. Unreinforced masonry bearing wall buildings in Risk Category III when assigned to Seismic Design Category A

or B shall be allowed to be strengthened to meet the requirements of Appendix Chapter A1 of this code Guidelines for the Seismic Retrofit of Existing Buildings (GSREB).

4. Specific seismic detailing requirements of Section 1613 of the VCC for a new structure shall not be required to be met where the seismic performance is shown to be equivalent to that of a new structure. A demonstration of equivalence shall consider the regularity, overstrength, redundancy, and ductility of the structure.

5. When a change of occupancy results in a structure being reclassified from Risk Category I or II to Risk Category III and the structure is located where the seismic coefficient, SDS, is less than 0.33, compliance with the seismic requirements of Section 1613 of the VCC is not required.

711.3.2 Access to Risk Category IV. Where a change of occupancy is such that compliance with Section 711.3.1 is required and the building is assigned to Risk Category IV, the operational access to the building shall not be through an adjacent structure, unless that structure conforms to the requirements for Risk Category IV structures. Where operational access is less than 10 feet (3048 mm) from either an interior lot line or from another structure, access protection from potential falling debris shall be provided by the owner of the Risk Category IV structure.

~~Y.~~ X. Add Section 712 Accessibility.

~~Z.~~ Y. Add Section 712.1 to the IEBC to read:

712.1 General. Existing buildings that undergo a change of occupancy classification shall comply with Section 402.

**13VAC5-63-434. Chapter 8 Additions.**

A. Change Sections 801.1 through 801.3 of the IEBC to read:

801.1 Scope. Additions to any building or structure shall comply with the requirements of the VCC for new construction without requiring the existing building or structure to comply with any requirements of those codes or of these provisions, except as required by this chapter. Where an addition impacts the existing building or structure, that portion shall comply with this code. Where a fire wall that complies with Section 706 of the VCC is provided between the addition and the existing building, the addition shall be considered a separate building.

[ Note: Where one or more newly constructed fire walls that comply with Section 706 of the VCC are provided between an existing building or structure or portions thereof, and a new building, this chapter is not applicable per Section 102.2.3. ]

801.2 Creation or extension of nonconformity. An addition shall not create or extend any nonconformity in the existing building to which the addition is being made with regard to

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accessibility, structural strength, fire safety, means of egress, or the capacity of mechanical, plumbing, or electrical systems. Alterations to the existing building or structure shall be made so that the existing building or structure, together with the addition, are no less conforming to the provisions of the VCC than the existing building or structure was prior to the addition.

801.3 Other work. Any repair or alteration work within an existing building to which an addition is being made shall comply with the applicable requirements for the work as classified in this code.

B. Change Section 802 to Heights and Areas.

C. Change ~~Section~~ Sections 802.1 through 802.3, deleting subsections, of the IEBC to read:

802.1 Height limitations. No addition shall increase the height of an existing building beyond that permitted under the applicable provisions of Chapter 5 of the VCC for new buildings.

~~D. Add Sections 802.2 and 802.3 to the IEBC to read:~~

802.2 Area limitations. No addition shall increase the area of an existing building beyond that permitted under the applicable provisions of Chapter 5 of the VCC for new buildings unless fire separation as required by the VCC is provided.

~~Exception:~~ Exceptions: The following shall be permitted beyond that permitted by the VCC.

1. In-filling of floor openings and nonoccupiable appendages such as elevator and exit stairway shafts shall be permitted beyond that permitted by the VCC.

2. The addition of nonoccupiable spaces such as elevators, stairs, and vestibules.

802.3 Fire protection systems. Existing fire areas increased by the addition shall comply with Chapter 9 of the VCC.

D. Delete Sections 802.4 through 802.6, including subsections, of the IEBC.

E. Change Section 803 to Structural.

F. Change Sections 803.1 through ~~803.5~~ 803.4, including subsections, and delete Sections 803.2.2, 803.2.3, 803.4.1, 803.5.1 and 803.5.2 803.1.1, 803.2.1.1, 803.2.2, 803.2.2.1, 803.2.3, 803.2.4, and 803.4.1 through 803.4.3, including subsections, of the IEBC.

803.1 Compliance with the VCC. Additions to existing buildings or structures are new construction and shall comply with the VCC.

803.2 Existing structural elements carrying gravity load. Any existing gravity load-carrying structural element for which an addition and its related alterations cause an increase in design gravity load of more than ~~5%~~ 5.0% shall

be strengthened, supplemented, replaced or otherwise altered as needed to carry the increased gravity load required by the VCC for new structures. Any existing gravity load-carrying structural element whose gravity load-carrying capacity is decreased shall be considered an altered element subject to the requirements of Section 603.7.3. Any existing element that will form part of the lateral load path for any part of the addition shall be considered an existing lateral load-carrying structural element subject to the requirements of Section 803.3.

Exception: Buildings of Group R occupancy with no more than five dwelling units or sleeping units used solely for residential purposes where the existing building and the addition comply with the conventional light-frame construction methods of the VCC or the provisions of the International Residential Code.

803.2.1 Design live load. Where the addition does not result in increased design live load, existing gravity load-carrying structural elements shall be permitted to be evaluated and designed for live loads approved prior to the addition. If the approved live load is less than that required by Section 1607 of the VCC, the area designed for the nonconforming live load shall be posted with placards of approved design indicating the approved live load. Where the addition does result in increased design live load, the live load required by Section 1607 of the VCC shall be used.

803.3 Existing structural elements carrying lateral load. Where the addition is structurally independent of the existing structure, existing lateral load-carrying structural elements shall be permitted to remain unaltered. Where the addition is not structurally independent of the existing structure, the existing structure and its addition acting together as a single structure shall be shown to meet the requirements of Sections 1609 and 1613 of the VCC. For purposes of this section, compliance with ASCE 41, using a Tier 3 procedure and the two-level performance objective in Table 305.2.1 for the applicable risk category, shall be deemed to meet the requirements of Section 1613.

Exceptions:

1. Any existing lateral load-carrying structural element whose demand-capacity ratio with the addition considered is not more than 10% greater than its demand-capacity ratio with the addition ignored shall be permitted to remain unaltered. For purposes of this exception, comparisons of demand-capacity ratios and calculation of design lateral loads, forces and capacities shall account for the cumulative effects of additions and alterations since original construction. For purposes of calculating demand-capacity ratios, the demand shall consider applicable load combinations involving VCC-level seismic forces in accordance with Section 305.2.1.

2. Buildings of Group R occupancy with no more than five dwelling or sleeping units used solely for residential

purposes where the existing building and the addition comply with the conventional light-frame construction methods of the VCC or the provisions of the International Residential Code.

803.4 Voluntary addition of structural elements to improve the lateral force-resisting system. Voluntary addition of structural elements to improve the lateral force-resisting system of an existing building shall comply with Section 603.7.5.

G. Add Section 803.5 to the IEBC to read:

803.5 Snow drift loads. Any structural element of an existing building subjected to additional loads from the effects of snow drift as a result of an addition shall comply with the VCC.

Exceptions:

1. Structural elements whose stress is not increased by more than ~~5%~~ 5.0%.
2. Buildings of Group R occupancy with no more than five dwelling units or sleeping units used solely for residential purposes where the existing building and the addition comply with the conventional light-frame construction methods of the VCC or the provisions of the International Residential Code.

~~G. Delete Section 803.6 from the IEBC.~~

H. Change Section 804 to Flood Hazard Areas.

I. Change Section 804.1, ~~and delete Sections 804.2, 804.3, and 804.4, including subsections,~~ of the IEBC to read:

804.1 Flood hazard areas. Additions and foundations in flood hazard areas shall comply with the following requirements:

1. For horizontal additions that are structurally interconnected to the existing building:
  - 1.1. If the addition and all other proposed work, when combined, constitute substantial improvement, the existing building and the addition shall comply with Section 1612 of the International Building Code or Section R322 of the International Residential Code, as applicable.
  - 1.2. If the addition constitutes substantial improvement, the existing building and the addition shall comply with Section 1612 of the International Building Code or Section R322 of the International Residential Code, as applicable.
2. For horizontal additions that are not structurally interconnected to the existing building:
  - 2.1. The addition shall comply with Section 1612 of the International Building Code or Section R322 of the International Residential Code, as applicable.
  - 2.2. If the addition and all other proposed work when combined constitute substantial improvement, the existing building and the addition shall comply with Section 1612

of the International Building Code or Section R322 of the International Residential Code, as applicable.

3. For vertical additions and all other proposed work that when combined constitute substantial improvement, the existing building shall comply with Section 1612 of the International Building Code or Section R322 of the International Residential Code, as applicable.

4. For a raised or extended foundation, if the foundation work and all other proposed work when combined constitute substantial improvement, the existing building shall comply with Section 1612 of the International Building Code or Section R322 of the International Residential Code, as applicable.

5. For a new foundation or replacement foundation, the foundation shall comply with Section 1612 of the International Building Code or Section R322 of the International Residential Code, as applicable.

J. [ Change Section 805 to Energy Conservation.

K. Change Sections 805.1, 805.2, 805.3, 805.3.1, and 805.3.2 and add Sections 805.2.1, 805.2.1.1, 805.2.1.2, 805.2.1.3, 805.2.1.4, and 805.2.2 to the IEBC to read:

805.1 General. Additions to an existing building, or portion thereof, shall conform to the provisions of the VECC as those provisions relate to new construction without requiring the unaltered portion of the existing building to comply with the VECC. Additions shall not overload existing building systems. An addition shall be deemed to comply with the VECC if the addition alone complies or if the existing building and addition comply with the VECC as a single building.

805.2 Residential compliance. Residential additions shall comply with Section 805.2.1 or 805.2.2.

805.2.1 Prescriptive compliance. Additions shall comply with Sections 805.2.1.1 through 805.2.1.4.

805.2.1.1 Building envelope. New building envelope assemblies that are part of the addition shall comply with Sections R402.1, R402.2, R402.3.1 through R402.3.5, and R402.4 of the VECC.

Exception: The building envelope of the addition shall be permitted to comply through a Total UA analysis, as determined in Section R402.1.5 of the VECC, where the existing building and the addition, and any alterations that are part of the project, is less than or equal to the Total UA generated for the existing building.

805.2.1.2 Heating and cooling systems. New heating, cooling and duct systems that are part of the addition shall comply with Section R403 of the VECC.

805.2.1.3 Service hot water systems. New service hot water systems that are part of the addition shall comply with Section R403.4 of the VECC.

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805.2.1.4 Lighting. New lighting systems that are part of the addition shall comply with Section R404.1 of the VECC.

805.2.2 Performance compliance. The addition shall comply with the simulated performance alternative where the annual energy cost or energy use of the addition and the existing building, and any alterations that are part of the project, is less than or equal to the annual energy code of the existing building when modeled in accordance with Section R405 of the VECC.805.3 Commercial Compliance. Commercial additions shall comply with Section 805.3.1 or 805.3.2.

Exception: Commercial additions complying with ANSI/ASHRAE/IESNA 90.1.805.3.1 Prescriptive compliance. Additions shall comply with Sections C402, C403, C404, and C405 of the VECC.

805.3.2 Performance compliance. The addition shall comply with the simulated performance alternative where the annual energy cost or energy use of the addition and the existing building, and any alterations that are part of the project, is less than or equal to the annual energy cost or use of the existing building when modeled in accordance with Section C407 of the VECC.

L.] Delete Sections [ 805, 805.3.1.1, 805.3.1.2, 805.3.1.2.1, 805.3.1.2.2, 805.3.1.2.3, 805.3.3 through 805.11.2, ] 806, 807, 808, 809, and 810, and 811, in their entirety, from [ , including Tables, ] of the IEBC.

## **13VAC5-63-434.5. Chapter 9 Historic buildings.**

A. Change Sections 901.1 and 901.2 of the IEBC to read:

901.1 Scope. It is the intent of this chapter to provide means for the preservation of historic buildings. The provisions of this code relating to construction involving historic buildings shall not be mandatory unless such [ a ] construction constitutes a life safety hazard. Accessibility shall be provided in accordance with Section 405.

901.2 Report. The code official shall be permitted to require that a historic building undergoing repair, alteration or change of occupancy be investigated and evaluated by an RDP or other qualified person or agency as a condition of determining compliance with this code.

B. Add Section 901.3 to the IEBC to read:

901.3 Special occupancy exceptions. When a building in Group R-3 is also used for Group A, B, or M purposes such as museum tours, exhibits, and other public assembly activities, or for museums less than 3,000 square feet (279 m<sup>2</sup>), the code official may determine that the occupancy is Group B when life safety conditions can be demonstrated in accordance with Section 901.2. Adequate means of egress in such buildings, which may include a means of maintaining doors in an open position to permit egress, a limit on building occupancy to an occupant load permitted by the means of egress capacity, a limit on occupancy of certain

areas or floors, or supervision by a person knowledgeable in the emergency exiting procedures, shall be provided.

C. Change Section 902 to Flood hazard areas.

D. Change Section 902.1 of the IEBC to read:

902.1 Flood hazard areas. In flood hazard areas, if all proposed work, including repairs, work required because of a change of occupancy, and alterations, constitutes substantial improvement, then the existing building shall comply with Section 1612 of the International Building Code or Section R322 of the International Residential Code, as applicable.

Exception: If an historic building will continue to be an historic building after the proposed work is completed, then the proposed work is not considered a substantial improvement. For the purposes of this exception, an historic building is:

1. Listed or preliminarily determined to be eligible for listing in the National Register of Historic Places;
2. Determined by the Secretary of the U.S. Department of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined to qualify as an historic district; or
3. Designated as historic under a state or local historic preservation program that is approved by the Department of Interior.

E. Delete ~~Section~~ Sections 902.1.1, 902.1.2, and 902.2 of the IEBC.

F. Change Section 903 to Repairs.

G. Change Sections 903.1 through 903.3, including deleting subsections, of the IEBC to read:

903.1 General. Repairs to any portion of an historic building or structure shall be permitted with original or like materials and original methods of construction, subject to the provisions of this chapter. Hazardous materials, such as asbestos and lead-based paint, shall not be used where the code for new construction would not permit their use in buildings of similar occupancy, purpose and location.

903.2 Moved buildings. Foundations of moved historic buildings and structures shall comply with the VCC. Moved historic buildings shall otherwise be considered an historic building for the purposes of this code. Moved historic buildings and structures shall be sited so that exterior wall and opening requirements comply with the VCC or with the compliance alternatives of this code.

903.3 Replacement. Replacement of existing or missing features using original materials shall be permitted. Partial replacement for repairs that match the original in configuration, height, and size shall be permitted. Replacement glazing in hazardous locations shall comply



with the safety glazing requirements of Chapter 24 of the VCC.

Exception: Glass block walls, louvered windows, and jalousies repaired with like materials.

H. Change Section 904 to Fire Safety.

I. Change Sections 904.1 and 904.2, deleting subsections, of the IEBC to read:

~~904.1 Scope. Except as provided in Section 901, historic buildings undergoing alterations, changes of occupancy, or that are moved shall comply with this section.~~

~~904.2 General. Every historic building that does not conform to the construction requirements specified in this code for the occupancy or use and that constitutes a distinct fire hazard as defined in this code shall be provided with an approved automatic fire extinguishing system as determined appropriate by the code official. However, an automatic fire extinguishing system shall not be used to substitute for, or act as an alternative to, the required number of exits from any facility.~~

J. Add Sections 904.3 through 904.12, including subsections, to the IEBC to read:

~~904.3 Means of egress. Existing door openings and corridor and stairway widths less than those specified elsewhere in this code shall be permitted, provided there is sufficient width and height for a person to pass through the opening or traverse the means of egress. The front or main exit doors need not swing in the direction of the path of exit travel, provided that other approved means of egress having sufficient capacity to serve the total occupant load are provided.~~

~~904.4 Transoms. In fully sprinklered buildings of Group R-1, R-2 or R-3 occupancy, existing transoms in corridors and other fire resistance rated walls may be maintained if fixed in the closed position. A sprinkler shall be installed on each side of the transom.~~

~~904.5 Interior finishes. The existing finishes of walls and ceilings shall be accepted when it is demonstrated that they are the historic finishes.~~

~~904.6 Stairway enclosure. In buildings of three stories or less, exit enclosure construction shall limit the spread of smoke by the use of tight fitting doors and solid elements. Such elements are not required to have a fire resistance rating.~~

~~904.7 One-hour fire resistant assemblies. Where one-hour fire resistance rated construction is required by these provisions, it need not be provided, regardless of construction or occupancy, where the existing wall and ceiling finish is wood or metal lath and plaster.~~

~~904.8 Glazing in fire resistance rated systems. Historic glazing materials are permitted in interior walls required to have a one-hour fire resistance rating where the opening is provided with approved smoke seals and the area affected is provided with an automatic sprinkler system.~~

~~904.9 Stairway railings. Grand stairways shall be accepted without complying with the handrail and guard requirements. Existing handrails and guards at all stairways shall be permitted to remain, provided they are not structurally dangerous.~~

~~904.10 Guards. Guards shall comply with Sections 904.10.1 and 904.10.2.~~

~~904.10.1 Height. Existing guards shall comply with the requirements of Section 501.2.~~

~~904.10.2 Guard openings. The spacing between existing intermediate railings or openings in existing ornamental patterns shall be accepted. Missing elements or members of a guard may be replaced in a manner that will preserve the historic appearance of the building or structure.~~

~~904.11 Exit signs. Where exit sign or egress path marking location would damage the historic character of the building, alternative exit signs are permitted with approval of the code official. Alternative signs shall identify the exits and egress path.~~

~~904.12 Automatic fire extinguishing systems. Every historical building that cannot be made to conform to the construction requirements specified in the VCC for the occupancy or use and that constitutes a distinct fire hazard shall be deemed to be in compliance if provided with an approved automatic fire extinguishing system.~~

~~Exception: When the code official approves an alternative life safety system.~~

K. ~~H.~~ Delete [ the technical provisions of ] Section 904 in [ ~~its~~ their ] entirety [ and change the title of Section 904 to read:

SECTION 904 (RESERVED) ].

L. Change Section 905 to Alterations.

~~L.~~ J. Change Section Sections 905.1 ~~to~~ and 905.2 of the IEBC to read:

905.1 General. The provisions of Chapter 6, as applicable, shall apply to facilities designated as historic structures that undergo alterations, unless technically infeasible.

905.2 Exit signs and egress path markings. Where new exit signs or egress path markings would damage the historic character of the building or structure, alternative exit signs and egress path markings are permitted with approval of the code official. Alternative signs and egress path markings shall identify the exits and egress path.

M. K. Delete Sections 905.2 and Section 905.3 of the IEBC.

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~~N. L.~~ Change Section 906 to Change of Occupancy.

~~O. M.~~ Change Sections 906.1 and ~~906.2 through 906.7~~ of the IEBC to read:

906.1 General. Historic buildings undergoing a change of occupancy shall comply with the applicable provisions of Chapter 7, except as specifically permitted in this chapter. When Chapter 7 requires compliance with specific requirements of Chapter 6 and when those requirements are subject to the exceptions elsewhere in ~~Section 903~~ this code, the same exceptions shall apply to this section.

906.2 Building area. ~~The~~ When a change of occupancy classification is made to a higher hazard category as indicated in Table 706.2, the allowable floor area for historic buildings undergoing a change of occupancy shall be permitted to exceed by 20% the allowable areas specified in Chapter 5 of the VCC.

~~P.~~ Add Sections 906.3 through 906.14 to the IEBC to read:

906.3 Location on property. Historic structures undergoing a change of use to a higher hazard category in accordance with Section 707.1 may use alternative methods to comply with the fire-resistance and exterior opening protective requirements. Such alternatives shall comply with Section 901.2.

906.4 Occupancy separation. Required occupancy separations of one hour may be omitted when the building is provided with an approved automatic sprinkler system throughout.

~~906.5 Roof covering. Regardless of occupancy or use group, Roof covering materials not less than Class C, when tested in accordance with ASTM E 108 or UL 790, shall be permitted where a fire retardant roof covering is required.~~

906.5 Automatic fire-extinguishing systems. Every historical building or portion thereof, that cannot be made to conform to the construction requirements specified in Chapter 7 or this chapter for the occupancy or use and such change constitutes a fire hazard, shall be deemed to be in compliance if those spaces undergoing a change of occupancy are provided with an approved automatic fire-extinguishing system.

Exception: When the building official approves an alternative life-safety system.

906.6 Means of egress. Existing door openings and corridor and stairway widths less than those ~~that would be acceptable for nonhistoric buildings under these provisions~~ required elsewhere in this code shall be permitted, provided there is sufficient width and height for a person to pass through the opening or traverse the exit and that the capacity of the exit system is adequate for the occupant load or where other operational controls to limit occupancy are approved by the code official.

906.7 Door swing. Existing front doors need not swing in the direction of exit travel, provided that other approved exits having sufficient capacity to serve the total occupant load are provided.

N. Add Sections 906.8 through 906.12 to the IEBC to read:

906.8 Transoms. In corridor walls required by ~~these provisions~~ Chapter 7 to be fire-resistance rated, existing transoms may be maintained if fixed in the closed position and fixed wired glass set in a steel frame or other approved glazing shall be installed on one side of the transom.

~~Exception: Transoms conforming to Section 904.4 shall be accepted.~~

~~906.9 Finishes. Where interior finish materials are required to have a flame spread index of Class C or better, when tested in accordance with ASTM E 84 or UL 723, existing nonconforming materials shall be surfaced with approved fire-retardant paint or finish. Exception: Existing nonconforming materials need not be surfaced with an approved fire-retardant paint or finish where the building is equipped throughout with an automatic sprinkler system installed in accordance with the VCC and the nonconforming materials can be substantiated as being historic in character.~~

906.9 Interior finishes and trim materials. When a change of occupancy classification is made to a higher hazard category as indicated in Table 705.2, existing nonconforming interior finish and trim materials shall be permitted to be treated with an approved fire-retardant coating in accordance with the manufacturer's instructions to achieve the required fire rating.

Exception: Such nonconforming materials need not be treated with an approved fire-retardant coating where the building is equipped throughout with an automatic sprinkler system installed in accordance with the VCC and the nonconforming materials can be substantiated as being historic in character.

906.10 One-hour-fire-resistant assemblies. Where one-hour-fire-resistance-rated construction is required by ~~these provisions~~ this code, it need not be provided, regardless of construction or occupancy, where the existing wall and ceiling finish is wood lath and plaster.

906.11 Stairways, railings, and guards. Existing stairways, railings, and guards shall comply with the requirements of ~~these provisions~~ Section 705. The code official shall ~~grant alternatives for stairways~~ approve alternative stairways, railings, and guards if ~~alternative stairways are~~ found to be acceptable or ~~are~~ judged to meet the intent of ~~these provisions~~. ~~Existing stairways shall comply with Section 904~~ Section 705.

Exception: For buildings less than 3,000 square feet (279 m<sup>2</sup>), existing conditions are permitted to remain at all stairways, railings, and guards.

~~906.12 Exit signs. Where exit signs would damage the historic character of the building or structure, alternative locations shall be permitted. Such signs shall identify the exits and exit paths.~~

~~906.13 906.12 Exit stair live load. Existing stairways in buildings changed to a Group R-1 or R-2 occupancy. When a change of occupancy classification is made to a higher hazard category as indicated in Table 706.2, existing stairways shall be permitted to remain where it can be shown that the stairway can support a 75-pounds-per-square-foot (366 kg/m<sup>2</sup>) live load.~~

~~906.14 Natural light. When the natural light requirements of Section 709.1 will lead to loss of historic character or historic materials in the building, the existing level of natural lighting shall be considered acceptable.~~

~~Q. Q.~~ Change Section 907 to Structural.

~~R. P.~~ Change Section 907.1 of the IEBC to read:

907.1 General. Historic buildings shall comply with the applicable structural provisions for the work as classified in Section ~~403.10~~ 103.9.

Exception: The code official shall be authorized to accept existing floors and approve operational controls that limit the live load on any such floor.

~~S. Delete Sections 907.2 through 907.4, including subsections, of the IEBC.~~

~~T. Delete Section 908 of the IEBC in its entirety.~~

**13VAC5-63-435. Chapter 10 Moved buildings and structures.**

A. Change Section 1001 to General.

B. Change Sections 1001.1 through 1001.3, deleting subsections, of the IEBC to read:

1001.1 Scope. This chapter provides requirements for moved buildings and structures.

1001.2 Conformance. Any repair, alteration, or change of occupancy undertaken within the moved building or structure shall comply with the requirements of this code applicable to the work being performed. Any field fabricated elements shall comply with the requirements of the VCC or the International Residential Code as applicable.

1001.3 Required inspection and repairs. The code official shall be authorized to inspect, or to require approved professionals to inspect at the expense of the owner, the various structural parts of a moved building or structure to verify that structural components and connections have not sustained structural damage. Any repairs required by the

code official as a result of such inspection shall be made prior to the final approval.

C. Change Section 1002 to Requirements.

D. Change Sections 1002.1 and 1002.2 and add Section 1002.2.1 to the IEBC to read:

1002.1 Location on the lot. The building or structure shall be located on the lot in accordance with the requirements of the VCC or the International Residential Code as applicable.

1002.2 Foundation. The foundation system of moved buildings and structures shall comply with the VCC or the International Residential Code as applicable.

1002.2.1 Connection to the foundation. The connection of the moved building or structure to the foundation shall comply with the VCC or the International Residential Code as applicable.

E. Add Sections 1002.3 through 1002.6, including subsections, to the IEBC to read:

1002.3 Wind loads. Buildings and structures shall comply with VCC or International Residential Code wind provisions at the new location as applicable.

Exceptions:

1. Detached one-family and two-family dwellings and Group U occupancies where wind loads at the new location are not higher than those at the previous location.
2. Structural elements whose stress is not increased by more than 10%.

1002.4 Seismic loads. Buildings and structures shall comply with VCC or International Residential Code seismic provisions at the new location as applicable.

Exceptions:

1. Structures in Seismic Design Categories A and B and detached one-family and two-family dwellings in Seismic Design Categories A, B, and C where the seismic loads at the new location are not higher than those at the previous location.
2. Structural elements whose stress is not increased by more than 10%.

1002.5 Snow loads. Buildings and structures shall comply with VCC or International Residential Code snow loads as applicable where snow loads at the new location are higher than those at the previous location.

Exception: Structural elements whose stress is not increased by more than ~~5%~~ 5.0%.

1002.6 Flood hazard areas. If moved into a flood hazard area, buildings and structures shall comply with Section 1612 of the VCC, or Section R322 of the International Residential Code, as applicable.

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F. Delete Sections 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, and ~~1011, and 1012~~ of the IEBC in their entirety.

## 13VAC5-63-435.5. Chapter 11 Retrofit requirements.

~~A. Replace Chapter 11 of the IEBC with the following:~~

~~B. Change the title of Chapter 11 of the IEBC to "Retrofit Requirements."~~

~~C. Add IEBC [ for ] Section 1101 General.~~

~~D. Add Section 1101.1 to the IEBC to read:~~

~~1101.1 Scope. In accordance with Section 103.7 of the VCC and as set out in this code 103.3, the following buildings are required to be provided with certain fire protection equipment or systems or other retrofitted components.~~

~~E. Add Section 1101.2 to the IEBC to read:~~

~~1101.2 Smoke ~~detectors~~ alarms in colleges and universities. In accordance with § 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~~ alarm 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~~ alarms 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 that is patrolled 24 hours a day by military guards.~~

~~F. Add Section 1101.3 to the IEBC to read:~~

~~1101.3 Smoke ~~detectors~~ alarms in certain juvenile care facilities. In accordance with § 36-99.4 of the Code of Virginia, battery-powered or AC-powered smoke ~~detectors~~ alarms shall be installed in all local and regional detention homes, group homes, and other residential care facilities for children and juveniles that are operated by or under the auspices of the Virginia Department of Juvenile Justice, regardless of when the building was constructed, by July 1, 1986, in accordance with the provisions of this code that were in effect on July 1, 1984. Administrators of such homes and facilities shall be responsible for the installation of the smoke ~~detector~~ alarm devices.~~

~~G. Add Section 1101.4 to the IEBC to read:~~

~~1101.4 Smoke ~~detectors~~ alarms for the deaf and hearing-impaired. In accordance with § 36-99.5 of the Code of Virginia, smoke ~~detectors~~ alarms 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 and boarding and lodging houses arranged for shelter and sleeping accommodations of more than five individuals; or
3. All buildings arranged for use as one-family or two-family dwelling units.

A tenant shall be responsible for the maintenance and operation of the smoke ~~detector~~ alarm in the tenant's unit.

A hotel or motel shall have available no fewer than one such smoke ~~detector~~ alarm 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~~ alarms for the hearing impaired. Visual ~~detectors~~ alarms shall be provided for all meeting rooms for which an advance request has been made.

~~H. Add Sections 1101.5, 1101.5.1, and 1101.5.2 to the IEBC to read:~~

~~1101.5 Assisted living facilities (formerly known as adult care residences or homes for adults). Existing In accordance with § 36-99.5 of the Code of Virginia, existing assisted living facilities licensed by the Virginia Department of Social Services shall comply with ~~sections~~ Sections 1101.5.1 and 1101.5.2.~~

~~1101.5.1 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.~~

~~1101.5.2 Single-station and multiple-station smoke ~~detectors~~ alarms. Battery-powered or AC-powered single-station and multiple-station smoke ~~detectors~~ alarms 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-station and multiple-station smoke ~~detectors~~ alarms.~~

~~I. Add Section 1101.6 to the IEBC to read:~~

~~1101.6 Smoke ~~detectors~~ alarms in buildings containing dwelling units. AC-powered smoke ~~detectors~~ alarms with~~

battery backup or an equivalent device shall be required to be installed to replace a defective or inoperative battery-powered smoke ~~detector~~ alarm 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~~ alarms in working condition.

~~J. Add Section 1101.7 to the IEBC to read:~~

1101.7 Fire suppression, fire alarm, and fire detection systems in nursing homes and facilities. ~~Fire~~ In accordance with § 36-99.5 of the Code of Virginia, 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.

~~K. Add Section 1101.8 to the IEBC to read:~~

1101.8 Fire suppression systems in hospitals. ~~Fire~~ In accordance with § 36-99.1 of the Code of Virginia, 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.

~~L. Add Section 1101.9 to the IEBC to read:~~

1101.9 Identification of disabled parking spaces by above grade signage. ~~All~~ In accordance with § 36-99.11 of the Code of Virginia, all parking spaces reserved for the use of persons with disabilities 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 persons with disabilities. 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 disabled within the meaning of this section. All above grade disabled parking space signs shall have the bottom edge of the sign no lower than 4 feet (1219 mm) nor higher than 7 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 4 feet above the parking surface.

~~M. Add Section 1101.10 to the IEBC to read:~~

1101.10 Smoke ~~detectors~~ alarms in hotels and motels. Smoke ~~detectors~~ alarms 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.

~~N. Add Section 1101.11 to the IEBC to read:~~

1101.11 Sprinkler systems in hotels and motels. By September 1, 1997, an automatic sprinkler system shall be installed in hotels and motels as required by the edition of VR 394-01-22, USBC, Volume II, in effect on March 1, 1990, regardless of when constructed.

~~O. Add Section 1101.12 to the IEBC to read:~~

1101.12 Fire suppression systems in dormitories. ~~All~~ In accordance with § 36-99.3 of the Code of Virginia, an automatic fire suppression system shall be provided throughout all buildings having a Group R-2 fire area that are more than 75 feet (22,860 mm) or six stories above the lowest level of exit discharge and 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 of the 1983 or later editions of NFPA 13.
2. Any dormitory at a state-supported military college or university that 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.

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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 hoistways 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 m<sup>2</sup>) 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~~ alarm 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~~ alarm 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 m<sup>2</sup>) and 120 square feet (11.16 m<sup>2</sup>), provided the sprinkler is located to protect the lavatory area and the plumbing fixtures are of a noncombustible material.

3.5. Existing standpipe residual pressure shall be permitted to be reduced when the standpipe serves as the water supply for the fire suppression system, provided the water supply requirements of NFPA 13-94 are met.

3.6. Limited service controllers shall be permitted for fire pumps when used in accordance with their listing.

3.7. Where a standby power system is required, a source of power in accordance with Section 701-11(d) or 701-11(e) of NFPA 70-96 shall be permitted.

~~P. Add Section 1101.13 to the IEBC to read:~~

1101.13 Fire extinguishers and smoke ~~detectors~~ alarms in SRCFs. SRCFs 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, SRCFs shall provide at least one approved and properly installed battery operated smoke ~~detector~~ alarm outside of each sleeping area in the vicinity of bedrooms and bedroom hallways and on each additional floor.

~~Q. Add Section 1101.14 to the IEBC to read:~~

1101.14 Smoke ~~detectors~~ alarms in adult day care centers. ~~Battery powered~~ In accordance with § 36-99.5 of the Code of Virginia, battery-powered or AC-powered smoke ~~detector~~ alarm 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~~ alarms 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.

~~R. Add Section 1101.15 to the IEBC to read:~~

1101.15 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 owner's authorized agent.

~~S. Add Section 1101.16 to the IEBC to read:~~

1101.16 ALFSTs. Existing ALFSTs, regardless of when constructed, shall by October 1, 2011, meet the applicable requirements of API 653 and TFI RMIP for suitability for service and inspections and shall provide a secondary containment system complying with Section ~~426.3~~ 430.3 of the VCC.

~~T. Add Section 1101.17 to the IEBC to read:~~

~~1101.17 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.~~

[ 1101.17 Address identification. Existing buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall not be spelled out. Each character shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 1/2 inch (12.7 mm). Address identification shall be provided in additional approved locations to facilitate emergency response. Where

access is by means of private road and the building address cannot be viewed from the public way, a monument, pole or other approved sign or means shall be used to identify the structure.

1101.18 Fire department connection sign. On existing buildings, wherever the fire department connection is not visible to approaching fire apparatus, the fire department connection shall be indicated by an approved sign mounted on the street front or on the side of the building. Such sign shall have the letters "FDC" not less than 6 inches (152 mm) high and words in letters not less than 2 inches (51 mm) high or an arrow to indicate the location. Such signs shall be maintained and subject to the approval of the fire code official. ]

~~U. Delete Sections 1102 through 1106 of the IEBC in their entirety.~~

**13VAC5-63-438. Chapter 12 Construction safeguards.**

~~A. Replace Chapter 12 of the IEBC with the following:~~

~~B. Change the title of Chapter 12 of the IEBC to "Construction Safeguards."~~

~~C. Add 1. Section 1201 General.~~

~~D. Add Sections 1201.1 through 1201.4 to the IEBC to read:~~

1201.1 Scope. The provisions of this chapter shall govern safety during construction that is under the jurisdiction of this code and the protection of adjacent public and private properties.

1201.2 Storage and placement. Construction equipment and materials shall be stored and placed so as not to endanger the public, the workers, or adjoining property for the duration of the construction project.

1201.3 Alterations, repairs, and additions. Required exits, existing structural elements, fire protection devices, and sanitary safeguards shall be maintained at all times during alterations, repairs, or additions to any building or structure.

Exceptions:

1. When such required elements or devices are being altered or repaired, adequate substitute provisions shall be made.
2. When the existing building is not occupied.

1201.4 Manner of removal. Waste materials shall be removed in a manner which prevents injury or damage to persons, adjoining properties, and public rights-of-way.

~~E. Add Sections 1201.5 through 1201.7, including subsections, to the IEBC to read:~~

1201.5 Fire safety during construction. Fire safety during construction shall comply with the applicable requirements of the International Building Code and the applicable provisions of Chapter 33 of the International Fire Code.

1201.6 Protection of pedestrians. Pedestrians shall be protected during construction and demolition activities as required by ~~Section~~ Sections 1201.6.1 through 1201.6.7 and Table 1201.6. Signs shall be provided to direct pedestrian traffic.

1201.6.1 Walkways. A walkway shall be provided for pedestrian travel in front of every construction and demolition site unless the applicable governing authority authorizes the sidewalk to be fenced or closed. Walkways shall be of sufficient width to accommodate the pedestrian traffic, but in no case shall they be less than 4 feet (1219 mm) in width. Walkways shall be provided with a durable walking surface. Walkways shall be accessible in accordance with Chapter 11 of the International Building Code and shall be designed to support all imposed loads and in no case shall the design live load be less than 150 pounds per square foot (psf) (7.2 kN/m<sup>2</sup>).

1201.6.2 Directional barricades. Pedestrian traffic shall be protected by a directional barricade where the walkway extends into the street. The directional barricade shall be of sufficient size and construction to direct vehicular traffic away from the pedestrian path.

1201.6.3 Construction railings. Construction railings shall be at least 42 inches (1067 mm) in height and shall be sufficient to direct pedestrians around construction areas.

1201.6.4 Barriers. Barriers shall be a minimum of 8 feet (2438 mm) in height and shall be placed on the side of the walkway nearest the construction. Barriers shall extend the entire length of the construction site. Openings in such barriers shall be protected by doors which are normally kept closed.

1201.6.4.1 Barrier design. Barriers shall be designed to resist loads required in Chapter 16 of the International Building Code unless constructed as follows:

1. Barriers shall be provided with 2-inch by 4-inch top and bottom plates.
2. The barrier material shall be a minimum of 3/4-inch (19.1 mm) boards or 1/4-inch (6.4 mm) wood structural use panels.
3. Wood structural use panels shall be bonded with an adhesive identical to that for exterior wood structural use panels.
4. Wood structural use panels 1/4-inch (6.4 mm) or 1/2-inch (12.7 mm) in thickness shall have studs spaced not more than 2 feet (610 mm) on center.
5. Wood structural use panels 3/8-inch (9.5 mm) or 1/2-inch (12.7 mm) in thickness shall have studs spaced not more than 4 feet (1219 mm) on center, provided a 2-inch by 4-inch (51 mm by 102 mm) stiffener is placed horizontally at the mid-height where the stud spacing exceeds 2 feet (610 mm) on center.

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6. Wood structural use panels 5/8-inch (15.9 mm) or thicker shall not span over 8 feet (2438 mm).

1201.6.5 Covered walkways. Covered walkways shall have a minimum clear height of 8 feet (2438 mm) as measured from the floor surface to the canopy overhead. Adequate lighting shall be provided at all times. Covered walkways shall be designed to support all imposed loads. In no case shall the design live load be less than 150 psf (7.2 kN/m<sup>2</sup>) for the entire structure.

Exception: Roofs and supporting structures of covered walkways for new, light-frame construction not exceeding two stories above grade plane are permitted to be designed for a live load of 75 psf (3.6 kN/m<sup>2</sup>) or the loads imposed on them, whichever is greater. In lieu of such designs, the roof and supporting structure of a covered walkway are permitted to be constructed as follows:

1. Footings shall be continuous 2-inch by 6-inch members.
2. Posts not less than 4-inches by 6-inches shall be provided on both sides of the roof and spaced not more than 12 feet (3658 mm) on center.
3. Stringers not less than 4-inches by 12-inches shall be placed on edge upon the posts.
4. Joists resting on the stringers shall be at least 2-inches by 8-inches and shall be spaced not more than 2 feet (610 mm) on center.
5. The deck shall be planks at least 2 inches (51 mm) thick or wood structural panels with an exterior exposure durability classification at least 2-3/32-inch (18.3 mm) thick nailed to the joists.
6. Each post shall be knee-braced to joists and stringers by 2-inch by 4-inch minimum members 4 feet (1219 mm) long.
7. A 2-inch by 4-inch minimum curb shall be set on edge along the outside edge of the deck.

1201.6.6 Repair, maintenance and removal. Pedestrian protection required by Section 1201.6 shall be maintained in place and kept in good order for the entire length of time pedestrians may be endangered. The owner or the owner's agent, upon the completion of the construction activity, shall immediately remove walkways, debris, and other obstructions and leave such public property in as good a condition as it was before such work was commenced.

TABLE 1201.6  
PROTECTION OF PEDESTRIANS

| HEIGHT OF CONSTRUCTION | DISTANCE OF CONSTRUCTION TO LOT LINE | TYPE OF PROTECTION REQUIRED |
|------------------------|--------------------------------------|-----------------------------|
| 8 feet or less         | Less than 5 feet                     | Construction railings       |
|                        | 5 feet or more                       | None                        |

| More than 8 feet | Less than 5 feet   | Barrier and covered walkway |
|------------------|--|-----------------------------|
|                  | 5 feet or more, but not more than 1/4 the height of construction   | Barrier and covered walkway |
|                  | 5 feet or more, but between 1/4 and 1/2 the height of construction | Barrier                     |
|                  | 5 feet or more, but exceeding 1/2 the height of construction       | None                        |

1201.6.7 Adjacent to excavations. Every excavation on a site located 5 feet (1524 mm) or less from the street lot line shall be enclosed with a barrier not less than 6 feet (1829 mm) high. Where located more than 5 feet (1524 mm) from the street lot line, a barrier shall be erected when required by the code official. Barriers shall be of adequate strength to resist wind pressure as specified in Chapter 16 of the International Building Code.

1201.7 Facilities required. Sanitary facilities shall be provided during construction or demolition activities in accordance with the International Plumbing Code.

~~F. Change 2. Section 1202 to Protection of Adjoining Properties.~~

~~G. Change Section 1202.1 to the IEBC to read:~~

1202.1 Protection required. Adjoining public and private property shall be protected from damage during construction and demolition work. Protection must be provided for footings, foundations, party walls, chimneys, skylights, and roofs. Provisions shall be made to control water runoff and erosion during construction or demolition activities. The person making or causing an excavation to be made shall provide written notice to the owners of adjoining buildings advising them that the excavation is to be made and that the adjoining buildings should be protected. This notification shall be delivered not less than 10 days prior to the scheduled starting date of the excavation.

~~H. Delete Sections 1202.2 through 1202.4 of the IEBC.~~

~~I. Change 3. Section 1203 Temporary Use of Streets, Alleys and Public Property.~~

~~J. Change Sections 1203.1 through 1203.3 to the IEBC to read:~~

1203.1 Storage and handling of materials. The temporary use of streets or public property for the storage or handling of materials or equipment required for construction or



demolition and the protection provided to the public shall comply with the provisions of the applicable governing authority and this chapter.

1203.2 Obstructions. Construction materials and equipment shall not be placed or stored so as to obstruct access to fire hydrants, standpipes, fire or police alarm boxes, catch basins, or manholes nor shall such material or equipment be located within 20 feet (6.1 m) of a street intersection or placed so as to obstruct normal observations of traffic signals or to hinder the use of public transit loading platforms.

1203.3 Utility fixtures. Building materials, fences, sheds or any obstruction of any kind shall not be placed to obstruct free approach to any fire hydrant, fire department connection, utility pole, manhole, fire alarm box, or catch basin or to interfere with the passage of water in the gutter. Protection against damage shall be provided to such utility fixtures during the progress of the work, but sight of them shall not be obstructed.

~~K. Delete Sections 1203.4 through 1203.12, including subsections, of the IEBC.~~

~~L. Add 4, Section 1204 Fire Extinguishers.~~

~~M. Change Section 1204.1, deleting subsections, and add Section 1204.2 to the IEBC to read:~~

1204.1 Where required. All structures under construction, alteration, or demolition shall be provided with not less than one approved portable fire extinguisher in accordance with Section 906 of the International Building Code and sized for not less than ordinary hazard as follows:

1. At each stairway on all floor levels where combustible materials have accumulated.
2. In every storage and construction shed.
3. Additional portable fire extinguishers shall be provided where special hazards exist including the storage and use of flammable and combustible liquids.

1204.2 Fire hazards. The provisions of this code and of the International Fire Code shall be strictly observed to safeguard against all fire hazards attendant upon construction operations.

~~N. Change 5, Section 1205 to Means of Egress.~~

~~O. Change Sections 1205.1 and 1205.2 to the IEBC to read:~~

1205.1 Stairways required. Where a building has been constructed to a building height of 50 feet (15,240 mm) or four stories, or where an existing building exceeding 50 feet (15,240 mm) in building height is altered, at least one temporary lighted stairway shall be provided unless one or more of the permanent stairways are erected as the construction progresses.

1205.2 Maintenance of means of egress. Required means of egress shall be maintained at all times during construction,

demolition, remodeling or alterations, and additions to any building.

Exception: Approved temporary means of egress systems and facilities.

~~P. Delete Sections 1205.3 through 1205.15 of the IEBC.~~

~~Q. Change 6, Section 1206 to Standpipe Systems.~~

~~R. Change Sections 1206.1 through 1206.2 and add Section 1206.3 to the IEBC to read:~~

1206.1 Where required. In buildings required to have standpipes by Section 905.3.1 of the International Building Code, not less than one standpipe shall be provided for use during construction. Such standpipes shall be installed prior to construction exceeding 40 feet (12,192 mm) in height above the lowest level of fire department vehicle access. Such standpipe shall be provided with fire department hose connections at accessible locations adjacent to usable stairways. Such standpipes shall be extended as construction progresses to within one floor of the highest point of construction having secured decking or flooring.

1206.2 Buildings being demolished. Where a building or portion of a building is being demolished and a standpipe is existing within such a building, such standpipe shall be maintained in an operable condition to be available for use by the fire department. Such standpipe shall be demolished with the building but shall not be demolished more than one floor below the floor being demolished.

1206.3 Detailed requirements. Standpipes shall be installed in accordance with the provisions of Chapter 9 of the International Building Code.

Exception: Standpipes shall be either temporary or permanent in nature and with or without a water supply, provided that such standpipes conform to the requirements of Section 905 of the International Building Code as to capacity, outlets and materials.

~~S. Add 7, Section 1207 Automatic Sprinkler System.~~

~~T. Add Sections 1207.1 and 1207.2 to the IEBC to read:~~

1207.1 Completion before occupancy. In portions of a building where an automatic sprinkler system is required by this code, it shall be unlawful to occupy those portions of the building until the automatic sprinkler system installation has been tested and approved, except as provided in Section 110.3.

1207.2 Operation of valves. Operation of sprinkler control valves shall be permitted only by properly authorized personnel and shall be accompanied by notification of duly designated parties. When the sprinkler protection is being regularly turned off and on to facilitate connection of newly completed segments, the sprinkler control valves shall be

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checked at the end of each work period to ascertain that protection is in service.

~~U. Add 8. Section 1208 Accessibility.~~

~~V. Add Section 1208.1 to the IEBC to read:~~

~~1208.1 Construction sites. Structures, sites, and equipment directly associated with the actual process of construction, including scaffolding, bridging, material hoists, material storage, or construction trailers are not required to be accessible.~~

~~W. Add 9. Section 1209 Water Supply for Fire Protection.~~

~~X. Add Section 1209.1 to the IEBC to read:~~

~~1209.1 When required. An approved water supply for fire protection, either temporary or permanent, shall be made available as soon as combustible material arrives on the site.~~

## 10. Section 1210 Demolition.

1210.1 Construction documents. Construction documents and a schedule for demolition shall be submitted where required by the building official. Where such information is required, no work shall be done until such construction documents, schedule, or both are approved.

1210.2 Pedestrian protection. The work of demolishing any building shall not be commenced until pedestrian protection is in place as required by Chapter 33 of the VCC.

1210.3 Means of egress. A horizontal exit shall not be destroyed unless and until a substitute means of egress has been provided and approved.

1210.4 Vacant lot. Where a structure has been demolished or removed, the vacant lot shall be filled and maintained to the existing grade or in accordance with the ordinances of the jurisdiction having authority.

1210.5 Water accumulation. Provision shall be made to prevent the accumulation of water or damage to any foundations on the premises or the adjoining property.

1210.6 Utility connections. Service utility connections shall be discontinued and capped in accordance with the approved rules and the requirements of the applicable governing authority.

1210.7 Fire safety during demolition. Fire safety during demolition shall comply with the applicable requirements of the VCC and the applicable provisions of Chapter 33 of the International Fire Code.

## **13VAC5-63-439. Chapter 13 Referenced standards.**

[ Replace Chapter 13 of the IEBC with the following: ]

Referenced standards are listed in the following table:

| Standard reference number                          | Title  | Referenced in code section number   |
|--|--|---|
| API 653-09   | Tank Inspection, Repair, Alteration and Reconstruction                               | 1101.16   |
| ASCE/SEI 7- <del>10</del> <u>7-16</u>              | American Society of Civil Engineers Structural Engineering Institute                 | 305.2.1, 603.7.4, 603.7.6   |
| ASCE/SEI <del>41-13</del> <u>41-17</u>             | American Society of Civil Engineers Structural Engineering Institute                 | 305.2, 305.2.1, 305.2.2, <del>502.2.2.1, 502.2.2.3,</del> <u>502.3.1, 502.3.3, 603.7.4, 603.7.5, 603.7.6,</u> 803.3 |
| ASHRAE <del>62.1-2013</del> <u>62.1-2016</u>       | American Society of Heating, Refrigerating and Air Conditioning Engineers            | <del>603.9.1</del> <u>603.5</u>   |
| [ <u>ASHRAE 90.1-2016</u> ]                        | [ <u>American Society of Heating, Refrigerating and Air Conditioning Engineers</u> ] | [ <u>805.3</u> ]  |
| ASME A17.1/CSA <del>B44-2013</del> <u>B44-2016</u> | American Society of Mechanical Engineers   | 404.4.2, <del>604.3.1.2</del>   |
| ASME A17.3-2008                                    | <del>American Society of Mechanical Engineers</del>                                  | <del>604.3.1.2</del>  |
| ASME <del>A18.1-2008</del> <u>A18.1-2014</u>       | American Society of Mechanical Engineers   | 404.4.3   |
| ASTM E <del>84-13A</del>                           | <del>ASTM International</del>  | <del>906.9</del>  |
| ASTM E <del>108-11</del>                           | <del>ASTM International</del>  | <del>906.5</del>  |
| ASTM F <del>2006-10</del> <u>F2006-17</u>          | ASTM International   | 304.2   |
| ASTM F <del>2090-10</del> <u>F2090-17</u>          | ASTM International   | 304.2   |

|  |   |  |
|--|---|--|
| [ <u>IBC-18</u> ]                        | [ <u>International Building Code</u> ]  | [ <u>404.4.10.1, 706.3.1, 804.1, 902.1, 1201.5, 1201.6.1, 1201.6.4.1, 1201.6.7, 1204.1, 1206.1, 1206.3, 1403.19</u> ]                      |
| ICC A117.1-09                            | Accessible and Usable Buildings and Facilities  | 404.4.2, 404.4.3, 404.4.10   |
| [ <u>IECC-18</u> ]                       | [ <u>International Energy Conservation Code</u> ]   | [ <u>602.3.2</u> ]   |
| <del>IFC-15</del> <u>IFC-18</u>          | International Fire Code   | <u>103.3, [ 603.5.4.1, 1201.5, 1204.2, 1210.7 ]</u>  |
| [ <u>IFGC-18</u> ]                       | [ <u>International Fuel Gas Code</u> ]  | [ <u>602.3.3</u> ]   |
| [ <u>IMC-18</u> ]                        | [ <u>International Mechanical Code</u> ]  | [ <u>602.3.2, 709.1, 1403.7.1, 1403.8, 1403.8.1</u> ]  |
| [ <u>IPC-18</u> ]                        | [ <u>International Plumbing Code</u> ]  | [ <u>506.1, 602.3.2, 603.6, 710.1, 710.2, 1201.7</u> ]   |
| [ <u>IRC-18</u> ]                        | [ <u>International Residential Code</u> ]   | [ <u>304.3, 503.1, 601.3, 603.7.3, 803.2, 803.3, 803.5, 804.1, 902.1, 1001.2, 1002.1, 1002.2, 1002.3, 1002.5, 1002.6, 1401.3, 1401.5</u> ] |
| NFPA <del>13-13</del> <u>13-16</u>       | Standard for the Installation of Sprinkler Systems  | 1101.12  |
| [ <u>NFPA 13R-13</u> <del>13R-16</del> ] | [ <u>Standard for the Installation of Sprinkler Systems in Residential Occupancies up to and Including Four Stories in Height</u> ] | [ <u>603.5.2.5</u> ]   |
| NFPA 70-96                               | National Electrical Code  | 1101.12  |
| NFPA <del>70-14</del> <u>70-17</u>       | National Electrical Code  | 504.1.1, 504.1.2, 504.1.3, 504.1.4, 504.1.5, [ <u>603.8.1</u> ]  |

|  |   |  |
|--|---|--|
|  |   | <u>603.8.3.4, 603.8.3.7, ] 708.1, 708.2, 708.3</u> |
| [ <u>NFPA 72-13</u> <del>72-16</del> ]   | [ <u>National Fire Alarm and Signaling Code</u> ]   | [ <u>603.5.2.5, 603.5.4</u> ]                      |
| NFPA <del>99-15</del> <u>99-18</u>       | Health Care Facilities Code   | 504.1.4  |
| [ <u>NFPA 101-15</u> <del>101-18</del> ] | [ <u>Life Safety Code</u> ]   | [ <u>603.6</u> ]                                   |
| UL <del>723-08</del>                     | Standard for Test for Surface Burning Characteristics of Building Materials with Revisions Through September 2010 | 906.9  |
| UL 790-04                                | Standard Test Methods for Tests of Roof Coverings with Revisions through October 2008                             | 906.7  |
| [ <u>UL 217-06</u> ]                     | [ <u>Single and Multiple Station Smoke Alarms - with revisions through October 2015</u> ]                         | [ <u>302.3</u> ]                                   |
| TFI RMIP-09                              | Aboveground Storage Tanks Containing Liquid Fertilizer, Recommended Mechanical Integrity Practices                | 1101.16  |

**13VAC5-63-440. Chapter 14 Compliance alternative - Change of occupancy.**

A. ~~Change Section 1401.1 of the IEBC to read:~~ Replace Chapter 14 of the IEBC with the following [ : ]

[ for Section 1401 ] General [ ÷ ]

1401.1 Scope. The provisions of this chapter are intended to maintain or increase the current degree of public safety, health, and general welfare in existing buildings or structures, while permitting changes of occupancy without requiring full compliance with Chapter 7, except where compliance with other provisions of this code is specifically required in this chapter.

Exception: The provisions of this chapter shall not apply to buildings with occupancies in Group H or I.

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**B. Change Section 1401.1.1 of the IEBC to read:**

[ ~~1401.1.1-1401.2~~ ] Complete change of occupancy. Where an entire existing building undergoes a change of occupancy, the applicable provisions of this chapter for the new occupancy shall be used to determine compliance with this code.

Exception: Plumbing, mechanical, and electrical systems in buildings undergoing a change of occupancy shall be subject to any applicable requirements of Chapter 7.

**C. Change Section 1401.1.2 of the IEBC to read:**

[ ~~1401.1.2-1401.3~~ ] Partial change of occupancy. Where a portion of the building undergoes a change of occupancy and that portion is separated from the remainder of the building with fire barrier or horizontal assemblies having a fire-resistance rating as required by Table 508.4 of the VCC or Section R317 of the International Residential Code for the separate occupancies, or with approved compliance alternatives, the portion changed shall be made to conform to the provisions of this chapter.

Where a portion of the building undergoes a change of occupancy and that portion is not separated from the remainder of the building with fire barriers or horizontal assemblies having a fire-resistance rating as required by Table 508.4 of the VCC or Section R317 of the International Residential Code for the separate occupancies, or with approved compliance alternatives, the provisions of this chapter which apply to each occupancy shall apply to the entire building. Where there are conflicting provisions, those requirements that are the most restrictive shall apply to the entire building or structure.

**D. Change Section 1401.2 and delete Sections 1401.2.1 through 1401.2.5 of the IEBC:**

[ ~~1401.2-1401.4~~ ] Accessibility requirements. All portions of the [ ~~buildings building~~ ] proposed for [ ~~a~~ ] change of occupancy [ ~~to existing buildings or structures~~ ] shall conform to the applicable accessibility provisions of Chapter 4.

**E. Change Section 1401.3 of the IEBC to read:**

[ ~~1401.3 Acceptance. For changes of occupancy to existing buildings that are evaluated in accordance with this chapter, compliance with this chapter shall be accepted by the code official. ]~~

**F. Change Section 1401.3.1 and delete Sections 1401.3.2 and 1401.3.3 of the IEBC:**

[ ~~1401.3.1-1401.5~~ ] Compliance with flood hazard provisions. In flood hazard areas, buildings or structures that are evaluated in accordance with this chapter shall comply with Section 1612 of the VCC or Section R322 of the [ ~~International Residential Code VRC~~ ], as applicable if the

work covered by this chapter constitutes substantial improvement.

**G. Change Section 1401.4 of the IEBC to read:**

[ Section 1402 Evaluation Process

~~1401.4 Investigation and evaluation. For proposed work covered by this chapter, the building owner shall cause the existing building to be investigated and evaluated in accordance with the provisions of Sections 1401.4 through 1401.9.~~ 1402.1 Evaluation process. The evaluation process specified herein shall be followed in its entirety to evaluate existing buildings for work covered by this chapter. The existing building shall be evaluated in accordance with the provisions of this section and Sections 1403 and 1401.4. The evaluation shall be comprised of three categories as described in Sections 1402.1.1 through 1402.1.3.

1402.1.1 Fire safety. Included within the fire safety category are the structural fire resistance, automatic fire detection, fire alarm, automatic sprinkler system, and fire suppression system features of the facility.

1402.1.2 Means of egress. Included within the means of egress category are the configuration, characteristics, and support features for means of egress in the facility.

1402.1.3 General safety. Included within the general safety category are the fire safety parameters and the means-of-egress parameters. ]

**H. Change Section 1401.4.1 of the IEBC to read:**

[ ~~1401.4.1-1402.2~~ ] Structural [ ~~analysis. The owner shall have a structural analysis of the existing building made to determine adequacy of structural systems for the proposed alteration, addition, or change of occupancy. The analysis shall demonstrate that the building with the work completed is capable of resisting the loads specified in Chapter 16 of the VCC.~~ evaluation. The existing building shall be evaluated to determine adequacy of the existing structural systems for the proposed change of occupancy. The evaluation shall demonstrate that the existing building with the work completed is capable of resisting the loads specified in Chapter 16 of the VCC. ]

**I. Change Section 1401.4.2 of the IEBC to read:**

[ ~~1401.4.2 1402.3~~ ] Submittal. The results of [ ~~the investigation and evaluation as required in Section 1401.4 along with proposed compliance alternatives shall be submitted to the code official.~~ the evaluation as required in Section 1402.1 shall be submitted to the code official. Table 1404.1 shall be utilized for tabulating the results of the evaluation. References to other sections of this code indicate that compliance with those sections is required in order to gain credit in the evaluation herein outlined. ]

**J. Change Section 1401.4.3 of the IEBC to read:**

[ ~~1401.4.3 Determination of compliance. The code official shall determine whether the existing building with the proposed change of occupancy complies with the provisions of this section in accordance with the evaluation process in Sections 1401.5 through 1401.9. ]~~

K. Change Section 1401.5 of the IEBC to read:

[ ~~1401.5 Evaluation. The evaluation shall be comprised of three categories: fire safety, means of egress, and general safety, as defined in Sections 1401.5.1 through 1401.5.3. ]~~

L. Change Section 1401.5.1 of the IEBC to read:

[ ~~1401.5.1 Fire safety. Included within the fire safety category are the structural fire resistance, automatic fire detection, fire alarm, automatic sprinkler system, and fire suppression system features of the facility.~~

M. Change Section 1401.5.2 of the IEBC to read:

~~1401.5.2 Means of egress. Included within the means of egress category are the configuration, characteristics, and support features for means of egress in the facility. ]~~

N. Change Section 1401.5.3 of the IEBC to read:

[ ~~1401.5.3 General safety. Included within the general safety category are the fire safety parameters and the means of egress parameters. ]~~

O. Change Section 1401.6 of the IEBC to read:

[ Section 1403 Evaluation data

~~1401.6 Evaluation process. The evaluation process specified in this code shall be followed in its entirety to evaluate existing buildings. Table 1401.7 shall be utilized for tabulating the results of the evaluation. References to other sections of this code indicate that compliance with those sections is required in order to gain credit in the evaluation outlined in this code. In applying this section to a building with mixed occupancies, where the separation between the mixed occupancies does not qualify for any category indicated in Section 1401.6.16, the score for each occupancy shall be determined, and the lower score determined for each section of the evaluation process shall apply to the entire building.~~

~~Where the separation between the mixed occupancies qualifies for any category indicated in Section 1401.6.16, the score for each occupancy shall apply to each portion, or smoke compartment of the building based on the occupancy of the space. ]~~

P. Change Section 1401.6.1 of the IEBC to read:

[ ~~1401.6.1~~ 1403.1 ] Building height and number of stories. The value for building height and number of stories shall be the lesser value determined by the formula in Section [ ~~1401.6.1.1~~ 1403.1.1 ] . Section 504 of the ~~International Building Code~~ VCC shall be used to determine the allowable

height and number of stories of the building. Subtract the actual building height from the allowable height and divide by 12-1/2 feet (3810 mm). Enter the height value and its sign (positive or negative) in Table [ ~~1401.7 under 1404.1 under~~ ] Safety Parameter [ ~~1401.6.1~~ 1403.1 ] , Building Height, for fire safety, means of egress, and general safety. The maximum score for a building shall be 10.

[ 1403.1.1 Height formula. The following formulas shall be used in computing the building height value.

Equation 14-1:

$$\text{Height value, feet} = \frac{(AH) - (EBH)}{125} \times CF$$

Note: Where mixed occupancies are separated and individually evaluated as indicated in Section 1404.3.1, the values AH, AS, EBH, and EBS shall be based on the height of the occupancy being evaluated.

Equation 14-2:

$$\text{Height value, stories} = (AS - EBS) \times CF$$

AH = Allowable height in feet (mm) from Section 504 of the VCC.

EBH = Existing building height in feet (mm).

AS = Allowable height in stories from Section 504 of the VCC.

EBS = Existing building height in stories. CF = 1 if (AH) - (EBH) is positive.

CF = Construction-type factor shown in Table 1403.6(2) if (AH) - (EBH) is negative. ]

Q. Change Section 1401.6.2 of the IEBC to read:

[ ~~1401.6.2-1403.2~~ ] Building area. The value for building area shall be determined by the formula in Section [ ~~1401.6.2.2~~ 1403.2.2 ] . Section 506 of the VCC and the formula in Section [ ~~1401.6.2.1~~ 1403.2.1 ] shall be used to determine the allowable area of the building. Subtract the actual building area from the allowable area and divide by 1,200 square feet (112 m<sup>2</sup>). Enter the area value and its sign (positive or negative) in Table [ ~~1401.7~~ 1404.1 ] under Safety Parameter [ ~~1401.6.2~~ 1403.2 ] , Building Area, for fire safety, means of egress and general safety. In determining the area value, the maximum permitted positive value for area is 50% of the fire safety score as listed in Table [ ~~1401.8~~ 1404.2 ] , Mandatory Safety Scores.

[ 1403.2.1 Allowable area formula. The following formula shall be used in computing allowable area:

Equation 14-3:

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$$A_a = A_t(NS \times I_f)$$

where:

$A_a$  = Allowable building area per story (square feet).

$A_t$  = Tabular allowable area factor (NS, S1, S13R, or SM value, as applicable) in accordance with Table 506.2 of the VCC.

$N_s$  = Tabular allowable area factor in accordance with Table 506.2 of the VCC for a nonsprinklered building (regardless of whether the building is sprinklered).

$I_f$  = Area factor increase due to frontage as calculated in accordance with Section 506.3 of the VCC.

1403.2.2 Area formula. The following formula shall be used in computing the area value. Determine the area value for each occupancy floor area on a floor-by-floor basis. For each occupancy, choose the minimum area value of the set of values obtained for the particular occupancy.

Equation 14-4:

[ TABLE 1403.3 COMPARTMENTATION VALUES

| OCCUPANCY      | CATEGORIES   |  |   |   |   |
|----------------|--|--|---|---|---|
|                | a Compartment size equal to or greater than 15,000 square feet | b Compartment size of 10,000 square feet | c Compartment size of 7,500 square feet | d Compartment size of 5,000 square feet | e Compartment size of 2,500 square feet or less |
| A-1, A-3       | 0  | 6  | 10                                      | 14                                      | 18  |
| A-2            | 0  | 4  | 10                                      | 14                                      | 18  |
| A-4, B, E, S-2 | 0  | 5  | 10                                      | 15                                      | 20  |
| F, M, R, S-1   | 0  | 4  | 10                                      | 16                                      | 22  |

For SI: 1 square foot = 0.0929m<sup>2</sup>.

1403.3.1 Wall construction. A wall used to create separate compartments shall be a fire barrier conforming to Section 707 of the VCC with a fire-resistance rating of not less than two hours. Where the building is not divided into more than one compartment, the compartment size shall be taken as the total floor area on all floors. Where there is more than one compartment within a story, each compartmented area on such story shall be provided with a horizontal exit conforming to Section 1026 of the VCC. The fire door serving as the horizontal exit between compartments shall be so installed, fitted, and gasketed that such fire door will provide a substantial barrier to the passage of smoke.

1403.3.2 Floor/ceiling construction. A floor/ceiling assembly used to create compartments shall conform to

$$Actual\ value_i = \frac{Allowable\ area_i}{1200\ square\ feet} \left[ 1 - \left( \frac{Actual\ area_i}{Allowable\ area_i} + \dots + \frac{Actual\ area_n}{Allowable\ area_n} \right) \right]$$

where:

$i$  = Value for an individual separated occupancy on a floor.

$n$  = Number of separated occupancies on a floor. ]

R. Change Section 1401.6.4 of the IEBC to read:

[ ~~1401.6.3~~ 1403.3 ] Compartmentation. Evaluate the compartments created by fire barriers or horizontal assemblies that comply with Sections [ ~~1401.6.3.1 and 1401.6.3.2~~ 1403.3.1 and 1403.3.2 ] and [ which ] are exclusive of the wall elements considered under Sections [ ~~1401.6.4 and 1401.6.5~~ 1403.4 and 1403.5 ]. Conforming compartments shall be figured as the net area and do not include shafts, chases, stairways, walls, or columns. Using Table [ ~~1401.6.3~~ 1403.3 ], determine the appropriate compartmentation value (CV) and enter that value into Table [ ~~1401.7~~ 1404.1 ] under Safety Parameter [ ~~1401.6.3~~ 1403.3 ], Compartmentation, for fire safety, means of egress, and general safety. For compartment sizes that fall between categories, the determination of the CV shall be permitted to be obtained by linear interpolation.

Section 711 of the VCC and shall have a fire-resistance rating of not less than two hours. ]

[ ~~1401.6.4~~ 1403.4 ] Tenant and dwelling unit separations. Evaluate the fire-resistance rating of floors and walls separating tenants, including dwelling units, and not evaluated under Sections [ ~~1401.6.3 and 1401.6.5~~ 1403.3 and 1403.5 ].

[ Table 1403.4 SEPARATION VALUES

| OCCUPANCY | CATEGORIES |    |   |   |   |
|-----------|------------|----|---|---|---|
|           | a          | b  | c | d | e |
| A-1       | 0          | 0  | 0 | 0 | 1 |
| A-2       | -5         | -3 | 0 | 1 | 3 |
| R         | -4         | -2 | 0 | 2 | 4 |

|                           |    |    |   |   |   |
|---------------------------|----|----|---|---|---|
| A-3, A-4, B, E, F, M, S-1 | -4 | -3 | 0 | 2 | 4 |
| S-2                       | -5 | -2 | 0 | 2 | 4 |

1403.4.1 Categories. The categories for tenant and dwelling unit separations are:

1. Category a—No fire partitions; incomplete fire partitions; no doors; doors not self-closing or automatic-closing.

2. Category b—Fire partitions or floor assemblies with less than one-hour fire-resistance ratings or not constructed in accordance with Section 708 or 711 of the VCC, respectively.

3. Category c—Fire partitions with 1-hour or greater fire-resistance ratings constructed in accordance with Section 708 of the VCC and floor assemblies with one-hour but less than two-hour fire-resistance ratings constructed in accordance with Section 711 of the VCC or with only one tenant within the floor area.

4. Category d—Fire barriers with one-hour but less than two-hour fire-resistance ratings constructed in accordance with Section 707 of the VCC and floor assemblies with two-hour or greater fire-resistance ratings constructed in accordance with Section 711 of the VCC.

5. Category e—Fire barriers and floor assemblies with two-hour or greater fire-resistance ratings and constructed in accordance with Sections 707 and 711 of the VCC, respectively.

1403.5 Corridor walls. Evaluate the fire-resistance rating and degree of completeness of walls which create corridors serving the floor and that are constructed in accordance with Section 1020 of the VCC. This evaluation shall not include the wall elements considered under Sections 1403.3 and 1403.4. Under the categories and groups in Table 1403.5, determine the appropriate value and enter that value into Table 1404.1 under Safety Parameter 1403.5, Corridor Walls, for fire safety, means of egress, and general safety.

Table 1403.5 CORRIDOR WALL VALUES

| OCCUPANCY         | CATEGORIES |     |                |                |
|-------------------|------------|-----|----------------|----------------|
|                   | a          | b   | c <sup>a</sup> | d <sup>a</sup> |
| A-1               | -10        | -4  | 0              | 2              |
| A-2               | -30        | -12 | 0              | 2              |
| A-3, F, M, R, S-1 | -7         | -3  | 0              | 2              |
| A-4, B, E, S-2    | -5         | -2  | 0              | 5              |

a. Corridors not providing at least one-half the exit access travel distance for all occupants on a floor shall use Category b.

1403.5.1 Categories. The categories for corridor walls are:

1. Category a—No fire partitions; incomplete fire partitions; no doors; or doors not self-closing.

2. Category b—Less than one-hour fire-resistance rating or not constructed in accordance with Section 708.4 of the VCC.

3. Category c—one-hour to less than 2-hour fire-resistance rating, with doors conforming to Section 716 of the VCC or without corridors as permitted by Section 1020 of the VCC.

4. Category d—two-hour or greater fire-resistance rating, with doors conforming to Section 716 of the VCC. 1403.6 Vertical openings. Evaluate the fire-resistance rating of interior exit stairways or ramps, hoistways, escalator openings, and other shaft enclosures within the building, and openings between two or more floors. Table 1403.6(1) contains the appropriate protection values. Multiply that value by the construction-type factor found in 1403.6(2). Enter the vertical opening value and its sign (positive or negative) in Table 1404.1 under Safety Parameter 1403.6, Vertical Openings, for fire safety, means of egress, and general safety. If the structure is a one-story building or if all the unenclosed vertical openings within the building conform to the requirements of Section 713 of the VCC, enter a value of two. The maximum positive value for this requirement shall be two.

Table 1403.6(1) VERTICAL OPENING PROTECTION VALUE

| PROTECTION                 | VALUE                               |
|----------------------------|-------------------------------------|
| None (unprotected opening) | -2 times number of floors connected |
| Less than 1 hour           | -1 times number of floors connected |
| 1 to less than 2 hours     | 1                                   |
| 2 hours or more            | 2                                   |

TABLE 1403.6(2) CONSTRUCTION-TYPE FACTOR

| FACTOR | TYPE OF CONSTRUCTION |     |     |     |      |      |     |     |    |
|--------|----------------------|-----|-----|-----|------|------|-----|-----|----|
|        | IA                   | IB  | IIA | IIB | IIIA | IIIB | IV  | VA  | VB |
|        | 1.2                  | 1.5 | 2.2 | 3.5 | 2.5  | 3.5  | 2.3 | 3.3 | 7  |

1403.6.1 Vertical opening formula. The following formula shall be used in computing vertical opening value.

$$VO = PV \times CF$$

VO = Vertical opening value.

PV = Protection value from Table 1403.6(1).

CF = Construction-type factor from Table 1403.6(2). ]

S. Change Section 1401.6.7 of the IEBC to read:

[ 1401.6.7-1403.7 ] HVAC systems. Evaluate the ability of the HVAC system to resist the movement of smoke and fire beyond the point of origin. Under the categories in Section [ 1401.6.7.1-1403.7.1 ], determine the appropriate value and enter that value into Table [ 1401.7-1404.1 ] under Safety

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Parameter [ ~~1401.6.7~~-~~1403.7~~ ], HVAC Systems, for fire safety, means of egress, and general safety.

[ 1403.7.1 Categories. The categories for HVAC systems are:

1. Category a—Plenums not in accordance with Section 602 of the International Mechanical Code. - 10 points.
2. Category b—Air movement in egress elements not in accordance with Section 1018.5 of the VCC. - 5 points.
3. Category c—Both Categories a and b are applicable. - 15 points.
4. Category d—Compliance of the HVAC system with Section 1020.5 of the VCC and Section 602 of the International Mechanical Code. - 0 points.
5. Category e—Systems serving one story; or a central boiler/chiller system without ductwork connecting two or more stories. - 5 points. ]

**T. Change Section 1401.6.8 of the IEBC to read:**

[ ~~1401.6.8~~-1403.8 ] Automatic fire detection. Evaluate the smoke detection capability based on the location and operation of automatic fire detectors in accordance with Section 907 of the VCC and [ Section 606 of ] the International Mechanical Code. Under the categories and occupancies in Table [ ~~1401.6.8~~ 1403.8 ], determine the appropriate value and enter that value into Table [ ~~1401.7~~-1404.1 ] under Safety Parameter [ ~~1401.6.8~~ 1403.8 ], Automatic Fire Detection, for fire safety, means of egress, and general safety.

[ Table 1403.8 AUTOMATIC FIRE DETECTION VALUES

| OCCUPANCY                     | CATEGORIES |           |          |          |          |           |
|-------------------------------|------------|-----------|----------|----------|----------|-----------|
|                               | a          | b         | c        | d        | e        | f         |
| <u>A-1, A-3, F, M, R, S-1</u> | <u>-10</u> | <u>-5</u> | <u>0</u> | <u>2</u> | <u>6</u> | <u>-</u>  |
| <u>A-2</u>                    | <u>-25</u> | <u>-5</u> | <u>0</u> | <u>5</u> | <u>9</u> | <u>-</u>  |
| <u>A-4, B, E, S-2</u>         | <u>-4</u>  | <u>-2</u> | <u>0</u> | <u>4</u> | <u>8</u> | <u>-1</u> |

**U. Change Section 1401.6.8.1 of the IEBC to read:**

[ ~~1401.6.8.1~~-1403.8.1 ] Categories. The categories for automatic fire detection are:

1. Category a - None.
2. Category b - Existing smoke detectors in HVAC systems.
3. Category c - Smoke detectors in HVAC systems. The detectors are installed in accordance with the requirements for new buildings in the International Mechanical Code.
4. Category d - Smoke detectors throughout all floor areas other than individual sleeping units, tenant spaces, and dwelling units.
5. Category e - Smoke detectors installed throughout the floor area.

6. Category f - Smoke detectors in corridors only.

[ 1403.9 Fire alarm systems. Evaluate the capability of the fire alarm system in accordance with Section 907 of the VCC. Under the categories and occupancies in Table 1403.9, determine the appropriate value and enter that value into Table 1404.1 under Safety Parameter 1403.9, Fire Alarm System, for fire safety, means of egress, and general safety.

Table 1403.9 FIRE ALARM SYSTEM VALUES

| OCCUPANCY                          | CATEGORIES |                |           |           |
|------------------------------------|------------|----------------|-----------|-----------|
|                                    | a          | b <sup>a</sup> | c         | d         |
| <u>A-1, A-2, A-3, A-4, B, E, R</u> | <u>-10</u> | <u>-5</u>      | <u>0</u>  | <u>5</u>  |
| <u>F, M, S</u>                     | <u>0</u>   | <u>5</u>       | <u>10</u> | <u>15</u> |

a. For buildings equipped throughout with an automatic sprinkler system, add two points for activation by a sprinkler water-flow device.

1403.9.1 Categories. The categories for fire alarm systems are:

1. Category a—None.
2. Category b—Fire alarm system with manual fire alarm boxes in accordance with Section 907.4 of the VCC and alarm notification appliances in accordance with Section 907.5.2 of the VCC.
3. Category c—Fire alarm system in accordance with Section 907 of the VCC.
4. Category d—Category c plus a required emergency voice/alarm communications system and a fire command station that conforms to Section 911 of the VCC and contains the emergency voice/alarm communications system controls, fire department communication system controls, and any other controls specified in Section 911 of the VCC where those systems are provided.

1403.10 Smoke control. Evaluate the ability of a natural or mechanical venting, exhaust, or pressurization system to control the movement of smoke from a fire. Under the categories and occupancies in Table 1403.10, determine the appropriate value and enter that value into Table 1404.1 under Safety Parameter 1403.10, Smoke Control, for means of egress and general safety.

Table 1403.10 SMOKE CONTROL VALUES

| OCCUPANCY            | CATEGORIES |                |           |           |           |           |
|----------------------|------------|----------------|-----------|-----------|-----------|-----------|
|                      | a          | b <sup>a</sup> | c         | d         | e         | f         |
| <u>A-1, A-2, A-3</u> | <u>0</u>   | <u>1</u>       | <u>2</u>  | <u>3</u>  | <u>6</u>  | <u>6</u>  |
| <u>A-4, E</u>        | <u>0</u>   | <u>0</u>       | <u>0</u>  | <u>1</u>  | <u>3</u>  | <u>5</u>  |
| <u>B, M, R</u>       | <u>0</u>   | <u>2a</u>      | <u>3a</u> | <u>3a</u> | <u>3a</u> | <u>4a</u> |
| <u>F, S</u>          | <u>0</u>   | <u>2a</u>      | <u>2s</u> | <u>3a</u> | <u>3a</u> | <u>3a</u> |



a. This value shall be zero if compliance with Category d or e in Section 1403.8.1 has not been obtained.

1403.10.1 Categories. The categories for smoke control are:

1. Category a—None.

2. Category b—The building is equipped throughout with an automatic sprinkler system. Openings are provided in exterior walls at the rate of 20 square feet (1.86 m<sup>2</sup>) per 50 linear feet (15 240 mm) of exterior wall in each story and distributed around the building perimeter at intervals not exceeding 50 feet (15 240 mm). Such openings shall be readily openable from the inside without a key or separate tool and shall be provided with ready access thereto. In lieu of operable openings, clearly and permanently marked tempered glass panels shall be used.

3. Category c—One enclosed exit stairway, with ready access thereto, from each occupied floor of the building. The stairway has operable exterior windows, and the building has openings in accordance with Category b.

4. Category d—One smokeproof enclosure and the building has openings in accordance with Category b.

5. Category e—The building is equipped throughout with an automatic sprinkler system. Each floor area is provided with a mechanical airhandling system designed to accomplish smoke containment. Return and exhaust air shall be moved directly to the outside without recirculation to other floor areas of the building under fire conditions. The system shall exhaust not less than six air changes per hour from the floor area. Supply air by mechanical means to the floor area is not required. Containment of smoke shall be considered as confining smoke to the floor area involved without migration to other floor areas. Any other tested and approved design that will adequately accomplish smoke containment is permitted.

6. Category f—Each stairway shall be one of the following: a smokeproof enclosure in accordance with Section 1023.11 of the VCC, pressurized in accordance with Section 909.20.5 of the VCC, or shall have operable exterior windows.

1403.11 Means of egress capacity and number. Evaluate the means of egress capacity and the number of exits available to the building occupants. In applying this section, the means of egress are required to conform to the following sections of the VCC: 1003.7, 1004, 1005, 1006, 1007, 1016.2, 1026.1, 1028.2, 1028.5, 1029.2, 1029.3, 1029.4, and 1030. The number of exits credited is the number that is available to each occupant of the area being evaluated. Existing fire escapes shall be accepted as a component in the means of egress when conforming to Section 405.

Under the categories and occupancies in Table 1403.11, determine the appropriate value and enter that value into Table 1404.1 under Safety Parameter 1403.11, Means of Egress Capacity, for means of egress and general safety.

Table 1403.11 MEANS OF EGRESS VALUES<sup>a</sup>

| OCCUPANCY             | CATEGORIES |   |   |   |    |
|-----------------------|------------|---|---|---|----|
|                       | a          | b | c | d | e  |
| A-1, A-2, A-3, A-4, E | -10        | 0 | 2 | 8 | 10 |
| M                     | -3         | 0 | 1 | 2 | 4  |
| B, F, S               | -1         | 0 | 0 | 0 | 0  |
| R                     | -3         | 0 | 0 | 0 | 0  |

a. The values indicated are for buildings six stories or less in height. For buildings over six stories above grade plane, add an additional -10 points.

1403.11.1 Categories. The categories for means-of-egress capacity and number of exits are:

1. Category a—Compliance with the minimum required means-of-egress capacity or number of exits is achieved through the use of a fire escape in accordance with Section 405.

2. Category b—Capacity of the means of egress complies with Section 1005 of the VCC, and the number of exits complies with the minimum number required by Section 1006 of the VCC.

3. Category c—Capacity of the means of egress is equal to or exceeds 125% of the required means-of-egress capacity, the means of egress complies with the minimum required width dimensions specified in the VCC, and the number of exits complies with the minimum number required by Section 1006 of the VCC.

4. Category d—The number of exits provided exceeds the number of exits required by Section 1006 of the VCC. Exits shall be located a distance apart from each other equal to not less than that specified in Section 1007 of the VCC.

5. Category e—The area being evaluated meets both Categories c and d.

1403.12 Dead ends. In spaces required to be served by more than one means of egress, evaluate the length of the exit access travel path in which the building occupants are confined to a single path of travel. Under the categories and occupancies in Table 1403.12, determine the appropriate value and enter that value into 1404.1 under Safety Parameter 1403.12, Dead Ends, for means of egress and general safety.

Table 1403.12 DEAD-END VALUES

| OCCUPANCY                    | CATEGORIES <sup>a</sup> |   |   |    |
|------------------------------|-------------------------|---|---|----|
|                              | a                       | b | c | d  |
| A-1, A-3, A-4, B, F, M, R, S | -2                      | 0 | 2 | -4 |
| A-2, E                       | -2                      | 0 | 2 | -4 |

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a. For dead-end distances between categories, the dead-end value shall be obtained by linear interpolation.

1403.12.1 Categories. The categories for dead ends are:

1. Category a—Dead end of 35 feet (10 670 mm) in nonsprinklered buildings or 70 feet (21 340 mm) in sprinklered buildings.

2. Category b—Dead end of 20 feet (6096 mm); or 50 feet (15 240 mm) in Group B in accordance with Section 1020.4, Exception 2, of the VCC.

3. Category c—No dead ends; or ratio of length to width (l/w) is less than 2.5:1.4. Category d—Dead ends exceeding Category a.

1403.13 Maximum exit access travel distance to an exit. Evaluate the length of exit access travel to an approved exit. Determine the appropriate points in accordance with the following equation and enter that value into Table 1404.1 under Safety Parameter 1403.13, Maximum Exit Access Travel Distance for means of egress and general safety. The maximum allowable exit access travel distance shall be determined in accordance with Section 1017.1 of the VCC. ]

V. Change Section 1401.6.14 of the IEBC to read:

[ 1401.6.14—1403.14 ] Elevator control. Evaluate the passenger elevator equipment and controls that are available to the fire department to reach all occupied floors. Emergency recall and in-car operation of elevators shall be provided in accordance with the building code under which the building or the affected portion thereof was constructed or previously approved. Under the categories and occupancies in Table [ 1401.5.14—1403.14 ], determine the appropriate value and enter that value into Table [ 1401.7 1404.1 ] under Safety Parameter [ 1401.5.14—1403.14 ], Elevator Control, for fire safety, means of egress and general safety. The values shall be zero for a single-story building.

[ Table 1403.14 Elevator Control Values

| ELEVATOR TRAVEL   | CATEGORIES |    |   |   |
|---|------------|----|---|---|
|   | a          | b  | c | d |
| Less than 25 feet of travel above or below the primary level of elevator access for emergency fire-fighting or rescue personnel | -2         | 0  | 0 | 2 |
| Travel of 25 feet or more above or below the primary level of elevator access for emergency fire-fighting or rescue personnel   | -4         | NP | 0 | 4 |

W. Change Section 1401.6.14.1 of the IEBC to read:

1401.6.14.1 1403.14.1 ] Categories. The categories for elevator controls are:

1. Category a - No elevator.

2. Category b - Any elevator without Phase I emergency recall operation and Phase II emergency in-car operation.

3. Category c - All elevators with Phase I emergency recall operation and Phase II emergency in-car operation as required by the building code under which the building or the affected portion thereof was constructed or previously approved.

4. Category d - All meet Category c or Category b where permitted to be without Phase I emergency recall operation and Phase II emergency in-car operation, and there is at least one elevator that complies with new construction requirements serves all occupied floors.

[ 1403.15 Means-of-egress emergency lighting. Evaluate the presence of and reliability of means-of-egress emergency lighting. Under the categories and occupancies in Table 1403.15, determine the appropriate value and enter that value into Table 1404.1 under Safety Parameter 1403.15, Means-of-Egress Emergency Lighting, for means of egress and general safety.

Table 1403.15 MEANS-OF-EGRESS EMERGENCY LIGHTING VALUES

| NUMBER OF EXITS REQUIRED BY SECTION 1015 OF THE INTERNATIONAL BUILDING CODE | CATEGORIES |   |   |
|---|------------|---|---|
|   | a          | b | c |
| Two or more exits   | NP         | 0 | 4 |
| Minimum of one exit   | 0          | 1 | 1 |

NP= Not permitted

1403.15.1 Categories. The categories for means-of-egress emergency lighting are:

1. Category a—Means-of-egress lighting and exit signs not provided with emergency power in accordance with Section 2702 of the VCC.

2. Category b—Means-of-egress lighting and exit signs provided with emergency power in accordance with Section 2702 of the VCC.

3. Category c—Emergency power provided to means-of-egress lighting and exit signs, which provides protection in the event of power failure to the site or building. ]

X. Change Section 1401.6.16 of the IEBC to read:

[ 1401.6.16 1403.16 ] Mixed occupancies. Where a building has two or more occupancies that are not in the same occupancy classification, the separation between the mixed occupancies shall be evaluated in accordance with this section. Where there is no separation between the mixed occupancies or the separation between mixed occupancies does not qualify for any of the categories indicated in Section [ 1401.6.16.1—1403.16.1 ], the building shall be evaluated as indicated in Section [ 1401.6 1404.3.1 ], and the value for mixed occupancies shall be zero. Under the categories and occupancies in Table [ 1401.6.16 1403.16 ], determine the appropriate value and enter that value into Table [ 1401.7 1404.1 ] under Safety Parameter [ 1401.6.16

1403.16 ], Mixed Occupancies, for fire safety and general safety. For buildings without mixed occupancies, the value shall be zero.

[ Table 1403.16 MIXED OCCUPANCY VALUES<sup>a</sup>

| OCCUPANCY               | CATEGORIES |   |    |
|-------------------------|------------|---|----|
|                         | a          | b | c  |
| A-1, A-2, R             | -10        | 0 | 10 |
| A-3, A-4, B, E, F, M, S | -5         | 0 | 5  |

a. For fire-resistance ratings between categories, the value shall be obtained by linear interpolation.

1403.16.1 Categories. The categories for mixed occupancies are:

1. Category a—Occupancies separated by minimum one-hour fire barriers or minimum one-hour horizontal assemblies, or both.
2. Category b—Separations between occupancies in accordance with Section 508.4 of the VCC.
3. Category c—Separations between occupancies having a fire-resistance rating of not less than twice that required by Section 508.4 of the VCC. ]

~~Y. Change Section 1401.6.17 of the IEBC to read:~~

[ ~~1401.6.17–1403.17~~ ] Automatic sprinklers. Evaluate the ability to suppress a fire based on the installation of an automatic sprinkler system in accordance with Section 903.3.1.1 of the VCC. "Required sprinklers" shall be based on the requirements of this code. Under the categories and occupancies in Table [ ~~1401.6.17–1403.17~~ ], determine the appropriate value and enter that value into Table [ ~~1401.7–1404.1~~ ] under Safety Parameter [ ~~1401.6.17–1403.17~~ ], Automatic Sprinklers, for fire safety, means of egress divided by two, and general safety. High-rise buildings defined in Chapter 2 of the VCC that undergo a change of occupancy to Group R shall be equipped throughout with an automatic sprinkler system in accordance with Section 403 of the VCC and Chapter 9 of the VCC.

[ Table 1403.17 SPRINKLER SYSTEM VALUES

| OCCUPANCY              | CATEGORIES     |                |   |   |   |    |
|------------------------|----------------|----------------|---|---|---|----|
|                        | a <sup>a</sup> | b <sup>a</sup> | c | d | e | f  |
| A-1, A-3, F, M, R, S-1 | -6             | -3             | 0 | 2 | 4 | 6  |
| A-2                    | -4             | -2             | 0 | 1 | 2 | 4  |
| A-4, B, E, S-2         | -12            | -6             | 0 | 3 | 6 | 12 |

a. These options cannot be taken if Category a in Section 1403.18 is used.

1403.17.1 Categories. The categories for automatic sprinkler system protection are:

1. Category a—Sprinklers are required throughout; sprinkler protection is not provided or the sprinkler system design is not adequate for the hazard protected in accordance with Section 903 of the VCC.

2. Category b—Sprinklers are required in a portion of the building; sprinkler protection is not provided or the sprinkler system design is not adequate for the hazard protected in accordance with Section 903 of the VCC.

3. Category c—Sprinklers are not required; none are provided.

4. Category d—Sprinklers are required in a portion of the building; sprinklers are provided in such portion; the system is one that complied with the code at the time of installation and is maintained and supervised in accordance with Section 903 of the VCC.

5. Category e—Sprinklers are required throughout; sprinklers are provided throughout in accordance with Chapter 9 of the VCC.

6. Category f—Sprinklers are not required throughout; sprinklers are provided throughout in accordance with Chapter 9 of the VCC.

1403.18 Standpipes. Evaluate the ability to initiate attack on a fire by a making supply of water available readily through the installation of standpipes in accordance with Section 905 of the VCC. "Required Standpipes" shall be based on the requirements of the VCC. Under the categories and occupancies in Table 1403.18, determine the appropriate value and enter that value into Table 1404.1 under Safety Parameter 1403.18, Standpipes, for fire safety, means of egress, and general safety.

Table 1403.18 STANDPIPE SYSTEM VALUES

| OCCUPANCY              | CATEGORIES     |   |   |    |
|------------------------|----------------|---|---|----|
|                        | a <sup>a</sup> | b | c | d  |
| A-1, A-3, F, M, R, S-1 | -6             | 0 | 4 | 6  |
| A-2                    | -4             | 0 | 2 | 4  |
| A-4, B, E, S-2         | -12            | 0 | 6 | 12 |

1403.18.1 Standpipe categories. The categories for standpipe systems are:

1. Category a—Standpipes are required; standpipe is not provided or the standpipe system design is not in compliance with Section 905.3 of the VCC.

2. Category b—Standpipes are not required; none are provided.

3. Category c—Standpipes are required; standpipes are provided in accordance with Section 905 of the VCC.

4. Category d—Standpipes are not required; standpipes are provided in accordance with Section 905 of the VCC.

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1403.19 Incidental uses. Evaluate the protection of incidental uses in accordance with Section 509.4.2 of the VCC. Do not include those where this code requires automatic sprinkler systems throughout the building, including covered and open mall buildings, high-rise buildings, public garages, and unlimited area buildings. Assign the lowest score from Table 1403.19 for the building or floor area being evaluated and enter that value into Table 1404.1 under Safety Parameter 1403.19, Incidental Uses, for fire safety, means of egress and general safety. If there are no specific occupancy areas in the building or floor area being evaluated, the value shall be zero.

Table 1403.19 INCIDENTAL USE AREA VALUES

| PROTECTION REQUIRED BY TABLE 509 OF THE VCC | PROTECTION PROVIDED |        |    |             |               |         |                |
|---|---------------------|--------|----|-------------|---------------|---------|----------------|
|   | None                | 1 hour | AS | AS with CRS | 1 hour and AS | 2 hours | 2 hours and AS |
| 2 hours and AS                              | -4                  | -3     | -2 | -2          | -1            | -2      | 0              |
| 2 hours, or 1 hour and AS                   | -3                  | -2     | -1 | -1          | 0             | 0       | 0              |
| 1 hour and AS                               | -3                  | -2     | -1 | -1          | 0             | -1      | 0              |
| 1 hour                                      | -1                  | 0      | -1 | -1          | 0             | 0       | 0              |
| 1 hour, or AS with CRS                      | -1                  | 0      | -1 | -1          | 0             | 0       | 0              |
| AS with CRS                                 | -1                  | -1     | -1 | -1          | 0             | -1      | 0              |
| 1 hour or AS                                | -1                  | 0      | 0  | 0           | 0             | 0       | 0              |

AS = Automatic sprinkler system;

CRS - Construction capable of resisting the passage of smoke (see Section 509.4.2 of the VCC). ]

Z. Change Section 1401.6.20 of the IEBC to read:

[ 1401.6.20 1403.20 ] Smoke compartmentation. Evaluate the smoke compartments for compliance with Section 407.5 of the VCC. Under the categories and occupancies in Table [ 1401.6.20 1403.20, ] determine the appropriate smoke compartmentation value (SCV) and enter that value into Table [ 1401.7 1404.1 ] under Safety Parameter [ 1401.6.20 1403.20 ], Smoke Compartmentation, for fire safety, means of egress and general safety.

[ TABLE 1401.6.20 1403.20 SMOKE COMPARTMENT VALUES

| OCCUPANCY              | CATEGORIES <sup>a</sup> |   |   |
|------------------------|-------------------------|---|---|
|                        | a                       | b | c |
| A, B, E, F, M, R and S | 0                       | 0 | 0 |

For SI: 1 square foot = 0.093 m<sup>2</sup>

NP = Not permitted

a. For areas between categories, the smoke compartmentation value shall be obtained by linear interpolation.

1403.20.1 Categories. Categories for smoke compartment size are:

Category a - Smoke compartment size equal to or less than 22,500 square feet (2092 m<sup>2</sup>).

Category b - Smoke compartment size is greater than 22,500 square feet (2092 m<sup>2</sup>).

Category c - Smoke compartments are not provided.

## Section 1404 Evaluation Scores

1404.1 Building Score. After determining the appropriate data from Section 1403, enter those data in Table 1404.2 and total the building score.

TABLE 1404.1 SUMMARY SHEET-BUILDING CODE

|   |     |                    |                      |
|---|-----|--------------------|----------------------|
| Existing occupancy                                    |     | Proposed Occupancy |                      |
| Year building was constructed                         |     | Number of stories  | Height in feet       |
| Type of construction                                  |     | Area per floor     |                      |
| Percentage of open perimeter increase %               |     |                    |                      |
| Completely suppressed:                                | Yes | No                 | Corridor wall rating |
|   | -   | -                  |                      |
|   |     |                    | Type:                |
| Fire-resistance rating of vertical opening enclosures |     |                    |                      |
| Type of HVAC system, serving number of floors         |     |                    |                      |
| Automatic fire detection:                             | Yes | No                 | Type and Location:   |
|   | -   | -                  |                      |
| Fire alarm system:                                    | Yes | No                 | Type:                |
|   | -   | -                  |                      |
| Smoke control:  | Yes | No                 | Type:                |
|   | -   | -                  |                      |
| Adequate exit route:                                  | Yes | No                 | Dead ends: Yes No    |
|   | -   | -                  |                      |
| Maximum exist access travel distance                  |     | Elevator controls: | Yes No               |
|   |     |                    |                      |

|   |          |         |                                       |          |         |
|---|----------|---------|---------------------------------------|----------|---------|
| Means of egress lighting:   | Yes<br>- | No<br>- | Mixed occupancies:                    | Yes<br>- | No<br>- |
| Standpipes  | Yes<br>- | No<br>- | Patient ability for self-preservation |          |         |
| Incidental use  | Yes<br>- | No<br>- | Patient concentration                 |          |         |
| Smoke compartmentation less than 22,500 sq. feet (2092 m <sup>2</sup> ) | Yes<br>- | No<br>- | Attendant-to-patient ratio            |          |         |

|                                |  |       |  |
|--------------------------------|--|-------|--|
| 1403.16 Mixed Occupancies      |  | ****  |  |
| 1403.17 Automatic Sprinklers   |  | ÷ 2 = |  |
| 1403.18 Standpipes             |  |       |  |
| 1403.19 Incidental Use         |  |       |  |
| 1403.20 Smoke Compartmentation |  |       |  |
| Building score - total value   |  |       |  |

| SAFETY PARAMETERS                           | FIRE SAFETY (FS) | MEANS OF EGRESS (ME) | GENERAL SAFETY (GS) |
|---|------------------|----------------------|---------------------|
| 1403.1 Building Height                      |                  |                      |                     |
| 1403.2 Building Area                        |                  |                      |                     |
| 1403.3 Compartmentation                     |                  |                      |                     |
| 1403.4 Tenant and Dwelling Unit Separations |                  |                      |                     |
| 1403.5 Corridor Walls                       |                  |                      |                     |
| 1403.6 Vertical Openings                    |                  |                      |                     |
| 1403.7 HVAC Systems                         |                  |                      |                     |
| 1403.8 Automatic Fire Detection             |                  |                      |                     |
| 1403.9 Fire Alarm System                    |                  |                      |                     |
| 1403.10 Smoke Control                       | ****             |                      |                     |
| 1403.11 Means of Egress                     | ****             |                      |                     |
| 1403.12 Dead Ends                           | ****             |                      |                     |
| 1403.13 Maximum Exit Access Travel Distance | ****             |                      |                     |
| 1403.14 Elevator Control                    |                  |                      |                     |
| 1403.15 Means of Egress Emergency Lighting  | ****             |                      |                     |

\*\*\*\*No applicable value to be inserted.

1404.2 Safety scores. The values in Table 1404.2 are the required mandatory safety scores for the evaluation process listed in Section 1403.

TABLE 1404.2 MANDATORY SAFETY SCORES<sup>a</sup>

| OCCUPANCY | FIRE SAFETY (MFS) | MEANS OF EGRESS (MME) | GENERAL SAFETY (MGS) |
|-----------|-------------------|-----------------------|----------------------|
| A-1       | 20                | 31                    | 31                   |
| A-2       | 21                | 32                    | 32                   |
| A-3       | 22                | 33                    | 33                   |
| A-4, E    | 29                | 40                    | 40                   |
| B         | 30                | 40                    | 40                   |
| F         | 24                | 34                    | 34                   |
| M         | 23                | 40                    | 40                   |
| R         | 21                | 38                    | 38                   |
| S-1       | 19                | 29                    | 29                   |
| S-2       | 29                | 39                    | 39                   |

a. MFS = Mandatory Fire Safety, MME = Mandatory Means of Egress, MGS = Mandatory General Safety

1404.3 Final scores. The mandatory safety score in Table 1404.2 shall be subtracted from the building score in Table 1404.2 for each category. Where the final score for any category equals zero or more, the building is in compliance with the requirements of this section for that category. Where the final score for any category is less than zero, the building is not in compliance with the requirements of this section.

1404.3.1 Mixed occupancies. For mixed occupancies, the following provisions shall apply:

1. Where the separation between mixed occupancies does not qualify for any category indicated in Section 1403.16,

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the mandatory safety scores for the occupancy with the lowest general safety score in Table 1404.2 shall be utilized. (See Section 1404.3.1).

2. Where the separation between mixed occupancies qualifies for any category indicated in Section 1403.16, the mandatory safety scores for each occupancy shall be placed against the evaluation scores for the appropriate occupancy.

TABLE 1404.3 FINAL SCORES<sup>a</sup>

| FORMULA      | T1401.7 | T1401.8 | SCORE | PASS | FAIL |
|--------------|---------|---------|-------|------|------|
| FS - MFS ≥ 0 | (FS) -  | (MFS)   | =     |      |      |
| ME - MME ≥ 0 | (ME) -  | (MME)   | =     |      |      |
| GS - MGS ≥ 0 | (GS) -  | (MGS)   | =     |      |      |

- a. FE = MFS = Mandatory Fire Safety,
- ME = MME = Mandatory Means of Egress,
- GS = MGS = Mandatory General Safety ]

**[ 13VAC5-63-444. Appendix B Supplementary accessibility requirements for existing buildings and facilities.**

A. Change Sections B101.3 and B101.4 of the IEBC to read:

B101.3 Qualified historic buildings and facilities subject to Section 106 of the National Historic Preservation Act. Where an alteration or change of occupancy is undertaken to a qualified historic building or facility that is subject to Section 106 of the National Historic Preservation Act, the federal agency with jurisdiction over the undertaking shall follow the Section 106 process. Where the state historic preservation officer or Advisory Council on Historic Preservation determines that compliance with the requirements for accessible routes, ramps, entrances, or toilet facilities would threaten or destroy the historic significance of the building or facility, the alternative requirements of Section 405 for that element are permitted.

B101.4. Qualified historic buildings and facilities not subject to Section 106 of the National Historic Preservation Act. Where an alteration or change of occupancy is undertaken to a qualified historic building or facility that is not subject to Section 106 of the National Historic Preservation Act, and the entity undertaking the alterations believes that compliance with the requirements for accessible routes, ramps, entrances, or toilet facilities would threaten or destroy the historic significance of the building or facility, the entity shall consult with the state historic preservation officer. Where the state historic preservation officer determines that compliance with the accessibility requirements for accessible routes, ramps, entrances, or toilet facilities would threaten or destroy the historical

significance of the building or facility, the alternative requirements of Section 405 for the element are permitted.

B. Change the first sentence in Section B101.5 of the IEBC to read:

B101.5 Displays. In qualified historic buildings and facilities where alternative requirements of Section 405 are permitted, displays and written information shall be located where they can be seen by a seated person.

C. Change the first sentence in Section 102.2.3 of the IEBC to read:

B102.2.3 Direct connections. New direct connections to commercial, retail, or residential facilities shall, to the maximum extent feasible, have an accessible route complying with Section 404.3 from the point of connection to boarding platforms and transportation system elements used by the public. ]

**13VAC5-63-445. Chapter 17 Retrofit requirements. (Repealed.)**

A. Add IEBC Section 1701 General.

B. Add Section 1701.1 to the IEBC to read:

1701.1 Scope. In accordance with Section 103.7 of the VCC and as set out herein, the following buildings are required to be provided with certain fire protection equipment or systems or other retrofitted components:

C. Add Section 1701.2 to the IEBC to read:

1701.2 Smoke detectors in colleges and universities. In accordance with § 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 that is patrolled 24 hours a day by military guards.

D. Add Section 1701.3 to the IEBC to read:

1701.3 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 that are operated by or under the auspices of the Virginia

Department of Juvenile Justice, regardless of when the building was constructed, by July 1, 1986, in accordance with the provisions of this code that were in effect on July 1, 1984. Administrators of such homes and facilities shall be responsible for the installation of the smoke detector devices.

E. Add Section 1701.4 to the IEBC to read:

1701.4 Smoke detectors for the deaf and hearing impaired. In accordance with § 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 and boarding and lodging houses arranged for shelter and sleeping accommodations of more than 5 individuals; or
3. All buildings arranged for use as 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.

F. Add Sections 1701.5, 1701.5.1, and 1701.5.2 to the IEBC to read:

1701.5 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.

1701.5.1 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.

1701.5.2 Single station and multiple station smoke detectors. Battery or AC-powered single station 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 station and multiple station smoke detectors.

G. Add Section 1701.6 to the IEBC to read:

1701.6 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.

H. Add Section 1701.7 to the IEBC to read:

1701.7 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.

I. Add Section 1701.8 to the IEBC to read:

1701.8 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.

J. Add Section 1701.9 to the IEBC to read:

1701.9 Identification of disabled parking spaces by above grade signage. All parking spaces reserved for the use of persons with disabilities 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 persons with disabilities. 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

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shall not be a parking space reserved for the disabled within the meaning of this section. All above grade disabled parking space signs shall have the bottom edge of the sign no lower than 4 feet (1219 mm) nor higher than 7 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 4 feet above the parking surface.

**K. Add Section 1701.10 to the IEBC to read:**

~~1701.10 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.~~

**L. Add Section 1701.11 to the IEBC to read:**

~~1701.11 Sprinkler systems in hotels and motels. By September 1, 1997, an automatic sprinkler system shall be installed in hotels and motels as required by the edition of VR 394-01-22, USBC, Volume II, in effect on March 1, 1990, regardless of when constructed.~~

**M. Add Section 1701.12 to the IEBC to read:**

~~1701.12 Fire suppression systems in dormitories. An automatic fire suppression system shall be provided throughout all buildings having a Group R-2 fire area that are more than 75 feet (22,860 mm) or 6 stories above the lowest level of exit discharge and 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 officer 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 of the 1983 or later editions of NFPA 13.~~
- ~~2. Any dormitory at a state-supported military college or university that 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 hoistways 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 m<sup>2</sup>) 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 m<sup>2</sup>) and 120 square feet (11.16 m<sup>2</sup>), provided the sprinkler is located to protect the lavatory area and the plumbing fixtures are of a noncombustible material.~~

~~3.5. Existing standpipe residual pressure shall be permitted to be reduced when the standpipe serves as the water supply for the fire suppression system, provided the water supply requirements of NFPA 13-94 are met.~~

~~3.6. Limited service controllers shall be permitted for fire pumps when used in accordance with their listing.~~

~~3.7. Where a standby power system is required, a source of power in accordance with Section 701-11 (d) or 701-11 (e) of NFPA 70-96 shall be permitted.~~

**N. Add Section 1701.13 to the IEBC to read:**

~~1701.13 Fire extinguishers and smoke detectors in SRCFs. SRCFs 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, SRCFs 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.~~

~~O. Add Section 1701.14 to the IEBC to read:~~

~~1701.14 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.~~

~~P. Add Section 1701.15 to the IEBC to read:~~

~~1701.15 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 owner's authorized agent.~~

~~Q. Add Section 1701.16 to the IEBC to read:~~

~~1701.16 ALFSTs. Existing ALFSTs, regardless of when constructed, shall by October 1, 2011, meet the applicable requirements of API 653 and TFI RMIP for suitability for service and inspections and shall provide a secondary containment system complying with Section 425.3 of the VCC.~~

~~R. Add Section 1701.17 to the IEBC to read:~~

~~1701.17 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.~~

## **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," or as the "VMC."

B. Section 101.2 Incorporation by reference. Chapters 2 - 8 of the ~~2015~~ 2018 International Property Maintenance Code, published by the International Code Council, Inc., are adopted and incorporated by reference to be an enforceable part of the VMC. The term "IPMC" means the ~~2015~~ 2018 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 VMC 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 catchlines 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 VMC, 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 VMC 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.

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 VMC, 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 the VCC 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 this code shall be used as follows:

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1. The provisions of Chapter 1 of this code supersede any provisions of Chapters 2 - 8 of the IPMC that address the same subject matter and impose differing requirements.

2. The provisions of Chapter 1 of this code supersede any provisions of the codes and standards referenced in the IPMC that address the same subject matter and impose differing requirements.

3. The state amendments to the IPMC supersede any provisions of Chapters 2 - 8 of the IPMC that address the same subject matter and impose differing requirements.

4. The state amendments to the IPMC supersede any provisions of the codes and standards referenced in the IPMC that address the same subject matter and impose differing requirements.

5. The provisions of Chapters 2 - 8 of the IPMC supersede any provisions of the codes and standards referenced in the IPMC that address the same subject matter and impose differing requirements.

G. Section 101.7 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.

## **13VAC5-63-470. Section 103 Application of code.**

A. Section 103.1 General. This code prescribes regulations for the maintenance of all existing buildings and structures and associated equipment, including regulations for unsafe buildings and structures.

B. Section 103.2 Maintenance requirements. Buildings, structures and systems shall be maintained and kept in good repair in accordance with the requirements of this code and when applicable in accordance with the USBC under which such building or structure was constructed. No provision of this code shall require alterations to be made to an existing building or structure or to equipment unless conditions are present which meet the definition of an unsafe structure or a structure unfit for human occupancy.

C. 103.2.1 Maintenance of nonrequired components and systems. Nonrequired components and systems may be discontinued in use provided that no hazard results from such discontinuance of use.

D. 103.2.2 Maintenance of nonrequired fire protection systems. Nonrequired fire protection systems shall be maintained to function as originally installed. If any such systems are to be reduced in function or discontinued, approval shall be obtained from the building official in accordance with Section ~~103.8.1~~ 103.3.1 of the VCC.

E. 103.2.3 Responsibility. The owner of a structure shall provide and maintain all buildings, structures, systems, facilities and associated equipment in compliance with this

code unless it is specifically expressed or implied that it is the responsibility of the tenant or occupant.

Note: Where an owner states that a tenant is responsible for performing any of the owner's duties under this code, the code official may request information needed to verify the owner's statement, as allowed by § 55-1-1209 A 5 of the Code of Virginia.

F. Section 103.3 Continued approval. Notwithstanding any provision of this code to the contrary, alterations shall not be required to be made to existing buildings or structures which are occupied in accordance with a certificate of occupancy issued under any edition of the USBC.

G. Section 103.4 Rental Inspections. In accordance with § 36-105.1:1 of the Code of Virginia, these provisions are applicable to rental inspection programs. For purposes of this section:

"Dwelling unit" means a building or structure or part thereof that is used for a home or residence by one or more persons who maintain a household.

"Owner" means the person shown on the current real estate assessment books or current real estate assessment records.

"Residential rental dwelling unit" means a dwelling unit that is leased or rented to one or more tenants. However, a dwelling unit occupied in part by the owner thereof shall not be construed to be a residential rental dwelling unit unless a tenant occupies a part of the dwelling unit that has its own cooking and sleeping areas, and a bathroom, unless otherwise provided in the zoning ordinance by the local governing body.

The local governing body may adopt an ordinance to inspect residential rental dwelling units for compliance with this code and to promote safe, decent and sanitary housing for its citizens, in accordance with the following:

1. Except as provided for in subdivision 3 of this subsection, the dwelling units shall be located in a rental inspection district established by the local governing body in accordance with this section; and

2. The rental inspection district is based upon a finding by the local governing body that (i) there is a need to protect the public health, safety and welfare of the occupants of dwelling units inside the designated rental inspection district; (ii) the residential rental dwelling units within the designated rental inspection district are either (a) blighted or in the process of deteriorating or (b) the residential rental dwelling units are in the need of inspection by the building department to prevent deterioration, taking into account the number, age and condition of residential dwelling rental units inside the proposed rental inspection district; and (iii) the inspection of residential rental dwelling units inside the proposed rental inspection district is necessary to maintain safe, decent and sanitary living conditions for tenants and other residents living in the proposed rental inspection district. Nothing in this section shall be construed to

authorize one or more locality-wide rental inspection districts and a local governing body shall limit the boundaries of the proposed rental inspection districts to such areas of the locality that meet the criteria set out in this subsection; or

3. An individual residential rental dwelling unit outside of a designated rental inspection district is made subject to the rental inspection ordinance based upon a separate finding for each individual dwelling unit by the local governing body that (i) there is a need to protect the public health, welfare and safety of the occupants of that individual dwelling unit; (ii) the individual dwelling unit is either (a) blighted or (b) in the process of deteriorating; or (iii) there is evidence of violations of this code that affect the safe, decent and sanitary living conditions for tenants living in such individual dwelling unit.

For purposes of this section, the local governing body may designate a local government agency other than the building department to perform all or part of the duties contained in the enforcement authority granted to the building department by this section.

Before adopting a rental inspection ordinance and establishing a rental inspection district or an amendment to either, the governing body of the locality shall hold a public hearing on the proposed ordinance. Notice of the hearing shall be published once a week for two successive weeks in a newspaper published or having general circulation in the locality.

Upon adoption by the local governing body of a rental inspection ordinance, the building department shall make reasonable efforts to notify owners of residential rental dwelling units in the designated rental inspection district, or their designated managing agents, and to any individual dwelling units subject to the rental inspection ordinance, not located in a rental inspection district, of the adoption of such ordinance, and provide information and an explanation of the rental inspection ordinance and the responsibilities of the owner thereunder.

The rental inspection ordinance may include a provision that requires the owners of dwelling units in a rental inspection district to notify the building department in writing if the dwelling unit of the owner is used for residential rental purposes. The building department may develop a form for such purposes. The rental inspection ordinance shall not include a registration requirement or a fee of any kind associated with the written notification pursuant to this subdivision. A rental inspection ordinance may not require that the written notification from the owner of a dwelling unit subject to a rental inspection ordinance be provided to the building department in less than 60 days after the adoption of a rental inspection ordinance. However, there shall be no penalty for the failure of an owner of a residential rental dwelling unit to comply with the provisions of this subsection,

unless and until the building department provides personal or written notice to the property owner, as provided in this section. In any event, the sole penalty for the willful failure of an owner of a dwelling unit who is using the dwelling unit for residential rental purposes to comply with the written notification requirement shall be a civil penalty of up to \$50. For purposes of this subsection, notice sent by regular first-class mail to the last known address of the owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed compliance with this requirement.

Upon establishment of a rental inspection district in accordance with this section, the building department may, in conjunction with the written notifications as provided for above, proceed to inspect dwelling units in the designated rental inspection district to determine if the dwelling units are being used as a residential rental property and for compliance with the provisions of this code that affect the safe, decent and sanitary living conditions for the tenants of such property.

If a multifamily development has more than 10 dwelling units, in the initial and periodic inspections, the building department shall inspect only a sampling of dwelling units, of not less than two and not more than 10% of the dwelling units, of a multifamily development, that includes all of the multifamily buildings that are part of that multifamily development. In no event, however, shall the building department charge a fee authorized by this section for inspection of more than 10 dwelling units. If the building department determines upon inspection of the sampling of dwelling units that there are violations of this code that affect the safe, decent and sanitary living conditions for the tenants of such multifamily development, the building department may inspect as many dwelling units as necessary to enforce these provisions, in which case, the fee shall be based upon a charge per dwelling unit inspected, as otherwise provided in the fee schedule established pursuant to this section.

Upon the initial or periodic inspection of a residential rental dwelling unit subject to a rental inspection ordinance, the building department has the authority under these provisions to require the owner of the dwelling unit to submit to such follow-up inspections of the dwelling unit as the building department deems necessary, until such time as the dwelling unit is brought into compliance with the provisions of this code that affect the safe, decent and sanitary living conditions for the tenants.

Except as provided for above, following the initial inspection of a residential rental dwelling unit subject to a rental inspection ordinance, the building department may inspect any residential rental dwelling unit in a rental inspection district, that is not otherwise exempted in accordance with this section, no more than once each calendar year.

Upon the initial or periodic inspection of a residential rental dwelling unit subject to a rental inspection ordinance for compliance with these provisions, provided that there are no

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violations of this code that affect the safe, decent and sanitary living conditions for the tenants of such residential rental dwelling unit, the building department shall provide, to the owner of such residential rental dwelling unit, an exemption from the rental inspection ordinance for a minimum of four years. Upon the sale of a residential rental dwelling unit, the building department may perform a periodic inspection as provided above, subsequent to such sale. If a residential rental dwelling unit has been issued a certificate of occupancy within the last four years, an exemption shall be granted for a minimum period of four years from the date of the issuance of the certificate of occupancy by the building department. If the residential rental dwelling unit becomes in violation of this code during the exemption period, the building department may revoke the exemption previously granted under this section.

A local governing body may establish a fee schedule for enforcement of these provisions, which includes a per dwelling unit fee for the initial inspections, follow-up inspections and periodic inspections under this section.

The provisions of this section shall not in any way alter the rights and obligations of landlords and tenants pursuant to the applicable provisions of Chapter 13 (§ 55-217 et seq.) or Chapter 13.2 (§ 55-248.2 et seq.) of Title 55 of the Code of Virginia.

The provisions of this section shall not alter the duties or responsibilities of the local building department under § 36-105 of the Code of Virginia to enforce the USBC.

Unless otherwise provided for in § 36-105.1:1 of the Code of Virginia, penalties for violation of this section shall be the same as the penalties provided for violations of other sections of the USBC.

## **13VAC5-63-480. Section 104 Enforcement, generally.**

A. Section 104.1 Scope of enforcement. This section establishes the requirements for enforcement of this code in accordance with subdivision C 1 of § 36-105 of the Code of Virginia. The local governing body may also inspect and enforce the provisions of the USBC for existing buildings and structures, whether occupied or not. Such inspection and enforcement shall be carried out by an agency or department designated by the local governing body.

In accordance with subdivision C 3 of § 36-105 of the Code of Virginia, 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, tenant, or occupants of any building or structure, or the owner, occupant, or tenant of any nearby building or structure, and the owner, occupant, or tenant of the building or structure that is the subject of the complaint has refused to allow the code official or his agent to have access to the subject building or structure, the code official or his agent may make an affidavit under oath before a magistrate or a court of competent

jurisdiction and request that the magistrate or court grant the code official or his agent an inspection warrant to enable the code official or his agent to enter the subject building or structure for the purpose of determining whether violations of this code exist. After issuing a warrant under this section, the magistrate or judge shall file the affidavit in a manner prescribed by § 19.2-54 of the Code of Virginia. After executing the warrant, the code official or his agents shall return the warrant to the clerk of the circuit court of the city or county wherein the inspection was made. The code official or his agent shall make a reasonable effort to obtain consent from the owner, occupant, or tenant of the subject building or structure 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 VMC. Consultation with the legal counsel of the jurisdiction when initiating or changing such action is advised.

B. Section 104.1.1 Transfer of ownership. In accordance with subdivision C 4 of § 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 subdivision C 7 of § 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. For the purposes of this section, "defray the cost" may include the fair and reasonable costs incurred for such enforcement during normal business hours, but shall not include overtime costs unless conducted outside of the normal working hours established by the locality. A schedule of such costs shall be adopted by the local governing body in a local ordinance. A locality shall not charge overtime rate for inspections conducted during the normal business hours established by the locality. Nothing in this provision shall be construed to prohibit a private entity from conducting such inspections, provided the private entity has been approved to perform such inspections in accordance with the written policy of the code official for the locality.

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 and 104.4.3 for certification.

Note: Continuing education and periodic training requirements for DHCD certifications are set out in the VCS.

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.

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.

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.

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.

Note: Continuing education and periodic training requirements for DHCD certifications are set out in the VCS.

J. Section 104.4.4 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. Section 104.4.5 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. 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. Section 104.5.1 Delegation of authority. The code official may delegate powers and duties except where such authority is limited by the local government. When such delegations are made, the code official shall be responsible for assuring that they are carried out in accordance with the provisions of this code.

N. Section 104.5.2 Issuance of modifications. Upon written application by an owner or an owner's agent, the code official may approve a modification of any provision of this code provided the spirit and intent of the code are observed and public health, welfare and safety are assured. The decision of the code official concerning a modification shall be made in writing and the application for a modification and the decision of the code official concerning such modification shall be retained in the permanent records of the local enforcing agency.

O. Section 104.5.2.1 Substantiation of modification. The code official may require or may consider a statement from a professional engineer, architect or other person competent in

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the subject area of the application as to the equivalency of the proposed modification.

P. Section 104.5.3 Inspections. The code official may inspect buildings or structures to determine compliance with this code and shall carry proper credentials when performing such inspections. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual, detailed, or complex technical issues in accordance with local policies.

Q. Section 104.5.3.1 Observations. When, during an inspection, the code official or authorized representative observes an apparent or actual violation of another law, ordinance, or code not within the official's authority to enforce, such official shall report the findings to the official having jurisdiction in order that such official may institute the necessary measures.

R. Section 104.5.3.2 Approved inspection agencies and individuals. The code official may accept reports of inspections or tests from individuals or inspection agencies approved in accordance with the code official's written policy required by Section 104.5.3.3. The individual or inspection agency shall meet the qualifications and reliability requirements established by the written policy. Reports of inspections by approved individuals or agencies shall be in writing, shall indicate if compliance with the applicable provisions of this code have been met, and shall be certified by the individual inspector or by the responsible officer when the report is from an agency. Reports of inspections conducted for the purpose of verifying compliance with the requirements of the USBC for elevators, escalators, and related conveyances shall include the name and certification number of the elevator mechanic performing the tests witnessed by the third-party inspector or agency. The code official shall review and approve the report unless there is cause to reject it. Failure to approve a report shall be in writing within five working days of receiving it, stating the reasons for rejection.

S. Section 104.5.3.3 Third-party inspectors. Each code official charged with the enforcement of this code and who accepts third-party reports shall have a written policy establishing the minimum acceptable qualifications for third-party inspectors. The policy shall include the format and time frame required for submission of reports, any prequalification or preapproval requirements before conducting a third-party inspection, and any other requirements and procedures established by the code official.

T. Section 104.5.3.4 Qualifications. In determining third-party qualifications, the code official may consider such items as DHCD inspector certification, other state or national certifications, state professional registrations, related experience, education, and any other factors that would demonstrate competency and reliability to conduct inspections.

U. 104.5.4 Manufactured home park tenant notification. If a notice of violation is issued to a manufactured home park owner for violations of this code that jeopardize the health or safety of tenants of the park, a copy of the notice shall be provided to each affected tenant of the manufactured home park. The terms, "manufactured home park" and "owner," as used in this section, shall be as defined in the Manufactured Home Lot Rental Act (Chapter 13.3 (§ 55-248.41 et seq.) of Title 55 of the Code of Virginia).

## [ 13VAC5-63-485. Section 105 Violations.

105.1 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.

105.2 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, tenant 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 VCC shall not be construed as authorization to extend the time limits established for compliance with this code. When the owner is not the responsible party to whom the notice of violation or correction notice is issued, a copy of the notice shall also be delivered to the owner.

105.3 Correction notice. The correction notice shall be a written notice of the defective conditions. The correction notice shall require correction of the violation within a reasonable time unless an emergency condition exists as provided under the unsafe building provisions of Section 106. 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.

105.4 Notice of violation. If the code official determines there are violations of this code a written notice of violation may be issued to the owner, tenant, 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 105.3. In addition, the code official shall issue a notice of violation for any uncorrected violation remaining from a correction notice established in Section 105.3. The code official shall provide the section numbers ~~to the owner~~ for any code provisions cited in the notice of violation to the owner, tenant, or the person

responsible for the maintenance or use of the building or structure. The notice shall require correction of the violation within a reasonable time. The owner, tenant, or person to whom the notice of violation has been issued shall be responsible for contacting the code official within the timeframe 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.

Exceptions:

1. Notices issued and legal proceedings or emergency actions taken under Section 106 for unsafe structures, unsafe equipment, or structures unfit for human occupancy.
2. Notices issued for failing to maintain buildings and structures as required by Section 103.2, as evidenced by multiple or repeated violations on the same property are not required to include a compliance deadline for correcting defects.

105.5 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.

105.6 Further action when violation not corrected. If the responsible party has not complied with the notice of violation, the code official may request 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 or legal counsel so authorizes, the code official may issue or obtain a summons or warrant.

105.6.1 Further action for corrected violations: Compliance with a notice of violation notwithstanding, the code official may request legal proceedings be instituted for prosecution when a responsible party is served with three or more separate notices of violation for the same property within any five consecutive years. Legal proceedings shall not be instituted under this section for violation notices issued pursuant to the initial inspection of the property. Legal proceedings for violations that have been abated in residential rental dwelling units within a multifamily apartment development may only be instituted for such violations that affect safe, decent, or sanitary living conditions.

Exception: Legal proceedings shall not be instituted for violations that have been abated on owner-occupied single family dwellings.

105.7 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. ]

## **13VAC5-63-490. Section 106 Unsafe structures or structures unfit for human occupancy.**

A. Section 106.1 General. This section shall apply to existing structures which are classified as unsafe or unfit for human occupancy. All conditions causing such structures to be classified as unsafe or unfit for human occupancy shall be remedied or as an alternative to correcting such conditions, the structure may be vacated and secured against public entry or razed and removed. Vacant and secured structures shall still be subject to other applicable requirements of this code. Notwithstanding the above, when the code official determines that an unsafe structure or a structure unfit for human occupancy constitutes such a hazard that it should be razed or removed, then the code official shall be permitted to order the demolition of such structures in accordance with applicable requirements of this code.

Note: Structures which become unsafe during construction are regulated under the VCC.

B. Section 106.2 Inspection of unsafe or unfit structures. The code official shall inspect any structure reported or discovered as unsafe or unfit for human habitation and shall prepare a report to be filed in the records of the local enforcing agency and a copy issued to the owner. The report shall include the use of the structure and a description of the nature and extent of any conditions found.

~~C. Section 106.3 Unsafe conditions not related to maintenance. When the code official finds a condition that constitutes a serious and dangerous hazard to life or health in a structure constructed prior to the initial edition of the USBC and when that condition is of a cause other than improper maintenance or failure to comply with state or local building codes that were in effect when the structure was constructed, then the code official shall be permitted to order those minimum changes to the design or construction of the structure to remedy the condition.~~

~~D. Section 106.3.1 Limitation to requirements for retrofitting. In accordance with Section 103.2, this code does not generally provide for requiring the retrofitting of any structure. However, conditions may exist in structures constructed prior to the initial edition of the USBC because of faulty design or equipment that constitute a danger to life or health or a serious hazard. Any changes to the design or construction required by the code official under this section shall be only to remedy the serious hazard or danger to life or health and such changes shall~~

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~~not be required to fully comply with the requirements of the VCC applicable to newly constructed buildings or structures.~~

~~E. C.~~ Section ~~106.4~~ 106.3 Notice of unsafe structure or structure unfit for human occupancy. When a structure is determined to be unsafe or unfit for human occupancy by the code official, a written notice of unsafe structure or structure unfit for human occupancy shall be issued by personal service to the owner, the owner's agent or the person in control of such structure. The notice shall specify the corrections necessary to comply with this code, or if the structure is required to be demolished, the notice shall specify the time period within which the demolition must occur. Requirements in Section 105.2 for notices of violation are also applicable to notices issued under this section to the extent that any such requirements are not in conflict with the requirements of this section.

Note: Whenever possible, the notice should also be given to any tenants of the affected structure.

~~F. D.~~ Section ~~106.4.1~~ 106.3.1 Vacating unsafe structure. If the code official determines there is actual and immediate danger to the occupants or public, or when life is endangered by the occupancy of an unsafe structure, the code official shall be authorized to order the occupants to immediately vacate the unsafe structure. When an unsafe structure is ordered to be vacated, the code official shall post a notice with the following wording at each entrance: "THIS STRUCTURE IS UNSAFE AND ITS OCCUPANCY (OR USE) IS PROHIBITED BY THE CODE OFFICIAL." After posting, occupancy or use of the unsafe structure shall be prohibited except when authorized to enter to conduct inspections, make required repairs or as necessary to demolish the structure.

~~G. E.~~ Section ~~106.5~~ 106.4 Posting of notice. If the notice is unable to be issued by personal service as required by Section ~~106.4~~ 106.3, then the notice shall be sent by registered or certified mail to the last known address of the responsible party and a copy of the notice shall be posted in a conspicuous place on the premises.

~~H. F.~~ Section ~~106.6~~ 106.5 Posting of placard. In the case of a structure unfit for human habitation, at the time the notice is issued, a placard with the following wording shall be posted at the entrance to the structure: "THIS STRUCTURE IS UNFIT FOR HABITATION AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE OFFICIAL." In the case of an unsafe structure, if the notice is not complied with, a placard with the above wording shall be posted at the entrance to the structure. After a structure is placarded, entering the structure shall be prohibited except as authorized by the code official to make inspections, to perform required repairs or to demolish the structure. In addition, the placard shall not be removed until the structure is determined by the code official to be safe to occupy, nor shall the placard be defaced.

~~I. G.~~ Section ~~106.7~~ 106.6 Revocation of certificate of occupancy. If a notice of unsafe structure or structure unfit for human habitation is not complied with within the time period stipulated on the notice, the code official shall be permitted to request the local building department to revoke the certificate of occupancy issued under the VCC.

~~J. H.~~ Section ~~106.8~~ 106.7 Vacant and open structures. When an unsafe structure or a structure unfit for human habitation is open for public entry at the time a placard is issued under Section ~~106.6~~ 106.5, the code official shall be permitted to authorize the necessary work to make such structure secure against public entry whether or not legal action to compel compliance has been instituted.

~~K. I.~~ Section ~~106.9~~ 106.8 Emergency repairs and demolition. To the extent permitted by the locality, the code official may authorize emergency repairs to unsafe structures or structures unfit for human habitation when it is determined that there is an imminent danger of any portion of the unsafe structure or structure unfit for human habitation collapsing or falling and when life is endangered. Emergency repairs may also be authorized where there is a code violation resulting in the immediate serious and imminent threat to the life and safety of the occupants. The code official shall be permitted to authorize the necessary work to make the structure temporarily safe whether or not legal action to compel compliance has been instituted. In addition, whenever an owner of an unsafe structure or structure unfit for human habitation fails to comply with a notice to demolish issued under Section ~~106.4~~ 106.3 in the time period stipulated, the code official shall be permitted to cause the structure to be demolished. In accordance with §§ 15.2-906 and 15.2-1115 of the Code of Virginia, the legal counsel of the locality may be requested to institute appropriate action against the property owner to recover the costs associated with any such emergency repairs or demolition and every such charge that remains unpaid shall constitute a lien against the property on which the emergency repairs or demolition were made and shall be enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1 of the Code of Virginia.

Note: Code officials and local governing bodies should be aware that other statutes and court decisions may impact on matters relating to demolition, in particular whether newspaper publication is required if the owner cannot be located and whether the demolition order must be delayed until the owner has been given the opportunity for a hearing. In addition, historic building demolition may be prevented by authority granted to local historic review boards in accordance with § 15.2-2306 of the Code of Virginia unless determined necessary by the code official.

~~L. J.~~ Section ~~106.10~~ 106.9 Closing of streets. When necessary for public safety, the code official shall be permitted to order the temporary closing of sidewalks, streets, public ways or



premises adjacent to unsafe or unfit structures and prohibit the use of such spaces.

**13VAC5-63-510. Chapter 2 Definitions.**

A. Change Section 201.3 of the IPMC to read:

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the IBC, IFC, IFGC, IPC, IMC, International Existing Building Code, IRC, International Zoning Code or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes, except that terms defined in the VCC shall be used for this code and shall take precedence over other definitions.

B. Change Section 201.5 of the IPMC to read:

201.5 Parts. Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming unit," "housekeeping unit," or "story" are stated in this code, they shall be construed as though they were followed by the words "or part thereof."

C. Add the following definitions to Section 202 of the IPMC to read:

Applicable building code. The local or statewide building code and referenced standards in effect at the time the building or portion thereof was constructed, altered, renovated or underwent a change of occupancy. See Section 103 for the application of the code.

Maintained. To keep unimpaired in an appropriate condition, operation, and continuance as installed in accordance with the applicable building code, or as previously approved, and in accordance with the applicable operational and maintenance provisions of this code.

Structure unfit for human occupancy. An existing structure determined by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public because (i) of the degree to which the structure is in disrepair or lacks maintenance, ventilation, illumination, sanitary or heating facilities or other essential equipment, or (ii) the required plumbing and sanitary facilities are inoperable.

Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment that is in such disrepair or condition that such equipment is determined by the code official to be dangerous to the health, safety and welfare of the occupants of a structure or the public.

Unsafe structure. An existing structure (i) determined by the code official to be dangerous to the health, safety and welfare of the occupants of the structure or the public, (ii) that contains unsafe equipment, or (iii) that is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete

collapse is likely. A vacant existing structure unsecured or open shall be deemed to be an unsafe structure.

D. Change the following definition in Section 202 of the IPMC to read:

Infestation. The presence of insects, rodents, vermin, or other pests in sufficient number to adversely affect the structure or health, safety, and welfare of the occupants.

E. Delete the following definitions from Section 202 of the IPMC:

- Condemn
- Cost of such demolition of emergency repairs
- Equipment support
- Inoperable motor vehicle
- Labeled
- Neglect
- Openable area
- Pest elimination
- Strict liability offense
- Ultimate deformation
- Workmanlike

**13VAC5-63-520. Chapter 3 General requirements.**

A. Delete the following sections from Chapter 3 of the IPMC:

1. Section 301.2 Responsibility.
2. Section 302.1 Sanitation.
3. Section 302.4 Weeds.
4. Section 302.6 Exhaust vents.
5. Section 302.8 Motor vehicles.
6. Section 302.9 Defacement of property.
7. Section 303.2 Enclosures.
8. Section 304.1.1 Unsafe conditions.
9. Section 304.18.1 Doors.
10. Section 304.18.2 Windows.
11. Section 304.18.3 Basement hatchways.
12. Section 305.1.1 Unsafe conditions.
13. Section 306 Component serviceability (all provisions).
14. Section 308.2 Disposal of rubbish.
15. Section 308.2.1 Rubbish storage facilities.
16. Section 308.2.2 Refrigerators.

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17. Section 308.3 Disposal of garbage.
18. Section 308.3.1 Garbage facilities.
19. Section 308.3.2 Containers.
20. Section 309.2 Owner.
21. Section 309.3 Single occupant.
22. Section 309.4 Multiple occupancy.
23. Section 309.5 Occupant.

B. Change the following sections in Chapter 3 of the IPMC to read:

1. Section 301.1 Scope. The provisions of this chapter shall govern the minimum conditions for the maintenance of structures and equipment and for the maintenance of exterior property to the extent that this code is applicable.
2. Section 301.3 Vacant structures. Vacant structures shall be maintained in a clean, safe, secure, and sanitary condition as provided for in this code.
3. Section 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 applicable building code.
4. Section 302.3 Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces, and similar spaces regulated under the VCC shall be kept in a proper state of repair and maintained free from hazardous conditions.
5. Section 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.~~ Structures in which 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.
6. Section 303.2 Enclosures. Swimming pool, hot tub, and spa barriers shall be maintained in accordance with the applicable building code or ordinance under which such barriers were constructed.
7. Section 304.1 General. The exterior of a structure shall be maintained in good repair, ~~structurally sound, and sanitary so as not to pose a threat to the health, safety, or welfare and structurally sound.~~
8. Section 304.3 Premises identification. Address numbers of buildings shall be maintained in accordance with the applicable building code or when required by ordinance.
9. Section 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 water shall be discharged in a manner to protect the foundation or slab of buildings and structures from the accumulation of roof drainage.

10. Section 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 an 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.

11. Section 304.18 Building security. Devices designed to provide security for the occupants and property within, when required by the applicable building code or when provided, shall be maintained unless their removal is approved by the building official ~~under the VCC.~~

12. Section 304.19 Gates. To the extent required by the applicable building code or to the extent provided when constructed, exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

13. Section 305.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound, and in a sanitary condition.

14. Section 307.1 General. Handrails and guards required or provided when a building was constructed shall be maintained in accordance with the applicable building code.

15. Section 308.1 Accumulation of rubbish or garbage. The interior of every structure shall be free from excessive accumulation of rubbish or garbage.

16. Section 309 Pest Infestation and extermination.

17. Section 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. 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.

C. Add the following sections to Chapter 3 of the IPMC:

1. Section 305.7 Carbon monoxide alarms. Carbon monoxide alarms shall be maintained as approved.

- 2. Section 310 Lead-based paint.
- 3. Section 310.1 General. 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 an approved warning as to the lead content of such surface.
- 4. Section 311 Aboveground liquid fertilizer storage tanks (ALFST).
- 5. Section 311.1 General. ALFSTs shall be maintained in accordance with the requirements of Section 1101.16 of the VEBC and the requirements of the VCC applicable to such ALFSTs when newly constructed and the requirements of the VEBC when undergoing a change of occupancy to an ALFST and when repaired, altered, or reconstructed, including the requirements for inspections and for a secondary containment system.

**13VAC5-63-530. Chapter 5 Plumbing [ ~~facilities and fixture~~ ] requirements.**

A. Change the title of Chapter 5 of the IPMC to "Plumbing Requirements."

B. Delete the following sections from Chapter 5 of the IPMC:

- 1. Section 501.2 Responsibility.
- 2. Section 502 Required facilities (all provisions).
- 3. Section 503 Toilet rooms (all provisions).
- 4. Section 505.3 Supply.
- 5. Section 505.5.1 Abandonment of systems.

C. Change the following sections in Chapter 5 of the IPMC to read:

- 1. Section 501.1 General. The provisions of this chapter shall govern the maintenance of structures for plumbing systems, facilities, and fixtures.
- 2. Section 504.1 General. Required or provided plumbing systems and facilities shall be maintained in accordance with the applicable building code.
- 3. Section 504.2 Plumbing fixtures. All plumbing fixtures shall be maintained in a safe, sanitary, and working condition. A kitchen sink shall not be used as a substitute for a required lavatory.
- 4. Section 504.3 Plumbing system hazards. Where it is found that a plumbing system in a structure constitutes a hazard to the public, the occupants, or the structure, the code official shall require the defects to be corrected to eliminate the hazard.

5. Section 505.1 Supply. Required or provided water supply systems shall be maintained in accordance with the applicable building code. All water supply systems shall be free from obstructions, defects, and leaks.

6. Section 505.2 Protection of water supply systems. Protection of water supply systems shall be provided and maintained in accordance with the applicable building code.

7. Section 505.3 Inspection and testing of backflow prevention systems. Inspection and testing shall comply with Sections 505.3.1 and 505.3.2.

8. Section 505.4 Water heating facilities. Water heating facilities shall be maintained. Combination temperature and pressure-relief valves and relief valve discharge pipes shall be maintained on water heaters.

9. Section 505.5 Nonpotable water reuse systems. Where installed, nonpotable water reuse and rainwater collection and conveyance systems shall be maintained in a safe and sanitary condition. Where such systems are not properly maintained, the systems shall be repaired to provide for safe and sanitary conditions, or the system shall be abandoned in accordance with the following:

- 1. All system piping connecting to a utility provided or private water system shall be removed or disabled. Proper cross-connection control and backwater prevention measures shall comply with the applicable building code.
- 2. Where required, the distribution piping system shall be replaced with an approved potable water supply piping system.
- 3. The storage tank shall be secured from accidental access by sealing or locking tank inlets and access points or filling with sand or equivalent.

10. Section 506.1 Drainage and venting. Required or provided sanitary drainage and venting systems shall be maintained in accordance with the applicable building code.

~~11.~~ 11. Section 506.2 Maintenance. Every building drainage and sewer system shall function properly and be kept free from obstructions, leaks, and defects.

~~12.~~ 12. Section 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.

D. Add the following sections to Chapter 5 of the IPMC:

1. Section 504.1.1 Public and employee facilities. Except for periodic maintenance or cleaning, access and use shall be provided to facilities at all times during occupancy of the premises in accordance with the applicable building code.

2. Section 504.2.1 Fixture clearances. Adequate clearances for usage and cleaning of plumbing fixtures shall be maintained as approved when installed.

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3. Section 505.1.1 Tempered water. Tempered water shall be supplied to fixtures and facilities when required by the applicable building code.

4. Section 505.2.1 Attached hoses. Shampoo basin faucets, janitor sink faucets, and other hose bibs or faucets to which hoses are attached and left in place shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

5. Section 505.3.1 Inspections. Inspections shall be made of all backflow assemblies and air gaps to determine whether they are operable.

6. Section 505.3.2 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.

~~7. 505.5 Nonpotable water reuse systems. Where installed, nonpotable water reuse and rainwater collection and conveyance systems shall be maintained in a safe and sanitary condition. Where such systems are not properly maintained, the systems shall be repaired to provide for safe and sanitary conditions, or the system shall be abandoned in accordance with the following:~~

~~1. All system piping connecting to a utility provided or private water system shall be removed or disabled. Proper cross connection control and backflow prevention measures shall comply with the applicable building code.~~

~~2. Where required, the distribution piping system shall be replaced with an approved potable water supply piping system.~~

~~3. The storage tank shall be secured from accidental access by sealing or locking tank inlets and access points or filling with sand or equivalent.~~

## **13VAC5-63-540. Chapter 6 Mechanical and electrical requirements.**

A. Delete the following sections from Chapter 6 of the IPMC:

1. Section 601.2 Responsibility.
2. Section 603.6 Energy conservation devices.
3. Section 604.2 Service.

4. Section 604.3.2 Abatement of electrical hazards associated with fire exposure.

B. Change the following sections in Chapter 6 of the IPMC to read:

1. Section 601.1 General. The provisions of this chapter shall govern the maintenance of mechanical and electrical facilities and equipment.

2. Section 602 Heating and cooling facilities.

3. Section 602.1 Facilities required. Heating and cooling facilities shall be maintained and operated in structures as required by this section.

4. Section 602.2 Heat supply. Every owner and operator of a Group R-2 apartment building or other residential 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 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms. The code official may also consider modifications as provided in Section 104.5.2 when requested for unusual circumstances or may issue notice approving building owners to convert shared heating and cooling piping HVAC systems 14 calendar days before or after the established dates when extended periods of unusual temperatures merit modifying these dates.

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 IPC.

~~4. 5. Section 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 minimum temperature of 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.

~~5. 6. Section 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) 77°F (25°F) ] in all habitable rooms. The code official may also consider~~

modifications as provided in Section 104.5.2 when requested for unusual circumstances or may issue notice approving building owners to convert shared heating and cooling piping HVAC systems 14 calendar days before or after the established dates when extended periods of unusual temperatures merit modifying these dates.

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 IECC.

~~6- 7.~~ Section 603.1 Mechanical equipment and appliances. Required or provided mechanical equipment, appliances, fireplaces, solid fuel-burning appliances, cooking appliances, chimneys, vents, and water heating appliances shall be maintained in compliance with the code under which the appliances, system, or equipment was installed, kept in safe working condition, and capable of performing the intended function.

~~7- 8.~~ Section 603.2 Removal of combustion products. Where required by the code under which installed, fuel-burning equipment and appliances shall be connected to an approved chimney or vent.

~~8- 9.~~ Section 603.5 Combustion air. Where required by the code under which installed, a supply of air for complete combustion of the fuel shall be provided for the fuel-burning equipment.

~~9- 10.~~ Section 604.1 Electrical system. Required or provided electrical systems and facilities shall be maintained in accordance with the applicable building code.

~~10- 11.~~ Section 604.3 Electrical system hazards. Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of deterioration or damage or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

~~11- 12.~~ Section 604.3.1.1 Electrical equipment. Electrical distribution equipment, motor circuits, power equipment, transformers, wire, cable, flexible cords, wiring devices, ground fault circuit interrupters, surge protectors, molded case circuit breakers, low-voltage fuses, luminaires, ballasts, motors, and electronic control, signaling, and communication equipment that have been exposed to water shall be replaced in accordance with the provisions of the ~~VCC~~ VEBC.

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~~ third-party inspector per Section 113.7 of the

VCC ], or an electrical engineer indicates that the 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-voltage 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; or
18. Electronic control, signaling, and communication equipment.

~~12- 13.~~ 604.3.2.1 Electrical equipment. Electrical switches, receptacles and fixtures, including furnace, water heating, security system and power distribution circuits, that have been exposed to fire shall be replaced in accordance with the provisions of the ~~Virginia Construction Code~~ VEBC.

Exception: Electrical switches, receptacles and fixtures that shall be allowed to be repaired or reused where an inspection report from the equipment manufacturer or an approved representative of the equipment manufacturer, a third party licensed or certified electrician, or an electrical engineer indicates that the equipment has not sustained damage that requires replacement.

~~13- 14.~~ Section 605.1 Electrical components. Electrical equipment, wiring, and appliances shall be maintained in accordance with the applicable building code.

~~14- 15.~~ Section 605.2 Power distribution and receptacles. Required or provided power circuits and receptacles shall be maintained in accordance with the applicable building code, and ground fault and arc-fault circuit interrupter protection shall be provided where required by the applicable building code. All receptacle outlets shall have the appropriate faceplate cover for the location when required by the applicable building code.

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~~15.~~ 16. Section 605.3 Lighting distribution and luminaires. Required or provided lighting circuits and luminaires shall be maintained in accordance with the applicable building code.

~~16.~~ 17. Section 605.4 Flexible cords. Flexible cords shall not be run through doors, windows, or cabinets or concealed within walls, floors, or ceilings.

~~17.~~ 18. Section 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. Where not displayed in the elevator or attached on the escalator or dumbwaiter, there shall be a notice of where the certificate of inspection is available for inspection. 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.

C. Add the following sections to Chapter 6 of the IPMC:

1. Section 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.

2. Section 603.7 Fuel tanks and systems. Fuel gas or combustible or flammable liquid containers, tanks, and piping systems shall be maintained in compliance with the code under which they were installed, kept in safe working condition, and capable of performing the intended function, or removed or abandoned in accordance with the Virginia Statewide Fire Prevention Code.

3. Section 607.2 Clothes dryer exhaust duct. Required or provided clothes dryer exhaust systems shall be maintained in accordance with the applicable building code.

## 13VAC5-63-545. Chapter 7 Fire safety requirements.

A. Delete the following sections from Chapter 7 of the IPMC:

1. Section 701.2 Responsibility.
2. Section ~~704.1.2~~ 704.5 Fire department connection.
3. Section ~~704.2.1~~ 704.6.1 Where required.
4. Section ~~704.2.1.1~~ 704.6.1.1 Group R-1.

5. Section ~~704.2.1.2~~ 704.6.1.2 Groups R-2, R-3, R-4, and I-1.

6. Section ~~704.2.1.3~~ 704.6.1.3 Installation near cooking appliances.

7. Section ~~704.2.1.4~~ 704.6.1.4 Installation near bathrooms.

8. Section ~~704.2.2~~ 704.6.2 Interconnection.

9. Section ~~704.2.3~~ 704.6.3 Power source.

10. Section ~~704.2.4~~ 704.6.4 Smoke detection system.

11. Section 704.7 Single-station and multiple-station smoke alarms.

B. Change the following sections in Chapter 7 of the IPMC:

1. Section 701.1 General. The provisions of this chapter shall govern the maintenance of fire safety facilities and equipment.

2. Section 702.1 General. The means of egress system shall be maintained in accordance with the applicable building code and Chapter 10 of the SFPC to provide a safe, continuous, and unobstructed path of travel from any point in a building or structure to the public way.

3. Section 702.2 Aisles. The required width of aisles shall be maintained in accordance with the applicable building code.

~~3.~~ 4. Section 702.3 Doors. Means of egress doors shall be maintained and, to the extent required by the code in effect at the time of construction, shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge, or effort.

~~4.~~ 5. Section 702.4 Emergency escape openings. Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction and to the extent required by the code in effect at the time of construction shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates, or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool, or force greater than that which is required for normal operation of the escape and rescue opening.

~~5.~~ 6. Section 704.1 General. Systems, devices, and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times.

~~6.~~ 7. Section 704.1.1 ~~Automatic sprinkler systems. Inspection, testing, and maintenance of automatic sprinkler systems shall be in accordance with NFPA 25 for the purpose of operation and maintenance~~ Maintenance and alterations. Fire protection systems shall be maintained in

accordance with the original installation standards for that system. Alterations and repairs to fire protection systems shall be done in accordance with the applicable building code and the applicable standards.

8. Section 704.1.2 Required fire protection systems. Fire protection systems shall be repaired, operated, tested, and maintained in accordance with this code. A fire protection system for which a design option, exception, or reduction to the provisions of this code or the applicable building code has been granted shall be considered to be a required system.

9. Section 704.1.3 Fire protection systems. Fire protection systems shall be maintained in accordance with the Statewide Fire Prevention Code.

10. Section 704.3.1 Preplanned impairment programs. Preplanned impairments shall be authorized by the impairment coordinator. Before authorization is given, a designated individual shall be responsible for verifying that all of the following procedures have been implemented:

1. The extent and expected duration of the impairment have been determined.
2. The areas or buildings involved have been inspected, and the increased risks determined.
3. Recommendations have been submitted to management or the building owner or manager.
4. The fire department has been notified.
5. The insurance carrier, the alarm company, the building owner or manager, and other authorities having jurisdiction have been notified.
6. The supervisors in the areas to be affected have been notified.
7. A tag impairment system has been implemented.
8. Necessary tools and materials have been assembled on the impairment site.

11. Section 704.4 Removal of or tampering with equipment. It shall be unlawful for any person to remove, tamper with, or otherwise disturb any fire hydrant, fire detection and alarm system, fire suppression system, or other fire appliance required by this code or the applicable building code except for the purpose of extinguishing fire, for training purposes, for recharging or making necessary repairs, or where approved by the fire code official.

12. Section 704.4.2 Removal of existing occupant-use hose lines. The fire code official is authorized to permit the removal of existing occupant-use hose lines where all of the following conditions exist:

1. Installation is not required by this code or the applicable building code.
2. The hose line would not be utilized by trained personnel or the fire department.

3. The remaining outlets are compatible with local fire department fittings.

7. 13. Section 704.2 704.6 Single-station and multiple-station smoke alarms. Required or provided single-station and multiple-station smoke alarms shall be maintained in accordance with the applicable building code.

DOCUMENTS INCORPORATED BY REFERENCE  
(13VAC5-63)

International Code Council, Inc., 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001-2070  
(<http://www.iccsafe.org/>):

International Building Code - ~~2015~~ 2018 Edition

International Energy Conservation Code - ~~2015~~ 2018 Edition

International Existing Building Code - ~~2015~~ 2018 Edition

International Fire Code - ~~2015~~ 2018 Edition

International Fuel Gas Code - ~~2015~~ 2018 Edition

International Mechanical Code - ~~2015~~ 2018 Edition

International Property Maintenance Code - ~~2015~~ 2018 Edition

International Plumbing Code - ~~2015~~ 2018 Edition

International Residential Code - ~~2015~~ 2018 Edition

International Swimming Pool and Spa Code - ~~2015~~ 2018 Edition

International Zoning Code - ~~2015~~ 2018 Edition

[ ICC 600 - 14, Standard for Residential Construction in High-wind Regions ]

ICC/ANSI A117.1-09, Accessible and Usable Buildings and Facilities, Approved November 26, 2003

[ ANSI/DASMA 108 - 2017, Standard Method for Testing Sectional Garage Doors, Rolling Doors and Flexible Doors: Determination of Structural Performance Under Uniform Static Air Pressure Difference ]

ANSI/RESNET/ICC 380 - 2016, Standard for Testing Airtightness of Building Enclosures, Airtightness of Heating and Cooling Air Distribution and Airflow of Mechanical Ventilation Systems

CSA B805 - 2018/ICC 805 - 2018, Rainwater Harvesting Systems

Air Conditioning Contractors of America, 2800 Shirlington Road, Suite 300, Arlington, VA 22206  
(<https://www.acca.org/>):

Manual J-44 J-16, Residential Load Calculation, Eighth Edition

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# Regulations

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- Manual ~~S-13~~ S-14, Residential Equipment Selection
- ACI 318-14, Building Code Requirements for Structural Concrete, American Concrete Institute, 38800 Country Club Drive, Farmington Hills, MI 48331 (<http://www.concrete.org/>)
- [ American Iron and Steel Institute, 25 Massachusetts Avenue, NW Suite 800, Washington, DC 20001
- AISI S230-15, Standard for Cold-formed Steel Framing - Prescriptive Method for One- and Two-family Dwellings ]
- American Petroleum Institute, 1220 L Street, NW, Washington, DC 20005-4070 (<http://www.api.org/>):
- API 650-09, Welded Tanks for Oil Storage, Eleventh Edition, June 2007 (Addendum 1, November 2008, Addendum 2, November 2009, effective May 1, 2010)
- API 653-09, Tank Inspection, Repair, Alteration, and Reconstruction
- ANSI LC1/CSA [ ~~6.26-14~~ 6.26-18 ], Fuel Gas Piping Systems Using Corrugated Stainless Steel Tubing (CSST), American National Standards Institute, 25 West 43rd Street, Fourth Floor, New York, NY 10036
- American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., 1791 Tullie Circle, NE, Atlanta, GA 30329-2305 (<https://www.ashrae.org/>)
- ASHRAE 62.1-13, Ventilation for Acceptable Indoor Air Quality
- American Society of Testing Materials International, 100 Barr Harbor Drive, P.O. Box C700, West ~~Conshohocken~~ Conshohocken, PA 19428-2959 (<http://www.astm.org/>):
- ASTM ~~C199-84~~(2011), Standard Test Method for Pier Test for Refractory Mortar
- ASTM C315-07(2011), Standard Specification for Clay Flue Liners and Chimney Pots
- ASTM ~~C1261-10~~ C1261-13, Standard Specification for Firebox Brick for Residential Fireplaces
- [ ASTM D1003-13, Standard Test Method for Haze and Luminous Transmittance of Transparent Plastics ]
- ASTM ~~D1557-12~~ D1557-12e1, Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Modified Effort (56,000 ft-lbf/ft<sup>3</sup>(2700 kN-m/m<sup>3</sup>))
- ASTM ~~E84-2013A~~ E84-2016, Standard Test Methods for Surface Burning Characteristics of Building Materials
- ASTM E90-90, Standard Test Method for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions
- ASTM E108-11, Standard Test Methods for Fire Tests of Roof Coverings
- ASTM ~~E119-2012A~~ E119-2016, Standard Test Methods for Fire Tests of Building Construction and Materials
- ASTM E329-02, Standard Specification for Agencies Engaged in the Testing and/or Inspection of Materials Used in Construction
- [ ASTM E330/E330M-14, Standard Test Method for Structural Performance of Exterior Windows, Doors, Skylights and Curtain Walls by Uniform Static Air Pressure Difference ]
- ASTM E779-10, Standard Test Method for Determining Air Leakage Rate by Fan Pressurization
- ASTM E1827-11, Standard Test Methods for Determining Airtightness of Buildings Using an Orifice Blower Door
- ASTM F1504-14, Standard Specification for Folded Poly (Vinyl Chloride (PVC) Pipe for Existing Sewer and Conduit Rehabilitation
- ASTM F1871-11, Standard Specification for Folded/Formed Poly (Vinyl Chloride) Pipe Type A for Existing Sewer and Conduit Rehabilitation
- ASTM ~~F2006-10~~ F2006-17, Standard Safety Specification for Window Fall Prevention Devices for Nonemergency Escape (Egress) and Rescue (Ingress) Windows
- ASTM ~~F2090-10~~ F2090-17, Standard Specification for Window Fall Prevention Devices with Emergency Escape (Egress) Release Mechanisms
- 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, 5060 Spectrum Way, Suite 100, Mississauga, Ontario, Canada L4W5N6 (<http://www.csa.ca>)
- American Society of Mechanical Engineers, Three Park Avenue, New York, NY 10016-5990 (<https://www.asme.org/>):
- ASME A17.1/CSA ~~B44-13~~ B44-16, Safety Code for Elevators and Escalators
- ASME A17.3 2008, Safety Code for Existing Elevators and Escalators
- ASME A18.1 2008, Safety Standard for Platform Lifts and Stairway Chairlifts
- American Society of Sanitary Engineering, 901 Canterbury Road, Suite A, Westlake, OH 44145 (<http://www.asse-plumbing.org/>):
- ASSE 1010-2004, Performance Requirements for Water Hammer Arrestors
- ASSE 1022-03, Performance Requirements for Backflow Preventer for Beverage Dispensing Equipment



- ASSE 1024-04, Performance Requirements for Dual Check Valve Type Backflow Preventers (for Residential Supply Service or Individual Outlets)
- ASSE 5010-1013-1, Field Test Procedure for a Reduced Pressure Principle Assembly Using a Differential Pressure Gauge, 1991
- ASSE 5010-1015-1, Field Test Procedure for a Double Check Valve Assembly Using a Duplex Gauge, 1991
- 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
- ASSE 5010-1015-3, Field Test Procedure for a Double Check Valve Assembly Using a Differential Pressure Gauge - High Pressure Hose Method, 1991
- ASSE 5010-1015-4, Field Test Procedure for a Double Check Valve Assembly Using a Site Tube, 1991
- ASSE 5010-1020-1, Field Test Procedures for a Pressure Vacuum Breaker Assembly, 1991
- ASSE 5010-1047-1, Field Test Procedure for a Reduced Pressure Detector Assembly Using a Differential Pressure Gauge, 1991
- ASSE 5010-1048-1, Field Test Procedure for a Double Check Detector Assembly Using a Duplex Gauge, 1991
- ASSE 5010-1048-2, Field Test Procedure for a Double Check Detector Assembly Using a Differential Pressure Gauge - High- and Low-Pressure Hose Method, 1991
- ASSE 5010-1048-3, Field Test Procedure for a Double Check Detector Assembly Using a Differential Pressure Gauge - High-Pressure Hose Method, 1991
- ASSE 5010-1048-4, Field Test Procedure for a Double Check Detector Assembly Using a Site Tube, 1991
- American Society of Civil Engineers/Structural Engineering Institute, 1801 Alexander Bell Drive, Reston, VA 20191-4400 (<http://www.asce.org/sei/>)
- ASCE/SEI ~~7-10~~ 7-16, Minimum Design Loads for Buildings and Other Structures
- [ ASCE/SEI 24-14, Flood Resistant Design and Construction ]
- ASCE/SEI 41-13, Seismic Evaluation and Retrofit of Existing Buildings
- American Wood Council, 222 Catocin Circle, Suite 201, Leesburg, VA 20175 (<http://www.awc.org/>):
- AWC NDS-15, National Design Specification for Wood Construction-with 2005 Supplement
- AWC STJR-15, Span Table for Joists and Rafters
- [ AWC WFCM-18, Wood Frame Construction Manual for One- and Two-Family Dwellings ]
- National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471 (<http://www.nfpa.org/>):
- NFPA ~~13-13~~ 13-16, Installation of Sprinkler Systems
- NFPA ~~13R-10~~ ~~13R-13~~ 13R-16, Installation of Sprinkler Systems in Residential Occupancies Up to and Including Four Stories in Height
- ~~NFPA 25-14, Standard for the Inspection, Testing and Maintenance of Water Based Fire Protection Systems~~
- NFPA [ ~~70-14~~ 70-17 ], National Electrical Code
- NFPA [ ~~72-13~~ 72-16 ], National Fire Alarm Code
- NFPA 91-15, Standard for Exhaust Systems for Air Conveying of Vapors, Mists and Particulate Solids
- NFPA 99-15, Health Care Facilities Code
- NFPA 101-15, Life Safety Code
- NFPA ~~105-13~~ 105-16, Standard for the Installation of Smoke Door Assemblies
- NFPA ~~285-12~~ 285-17, Standard Method of Test for the Evaluation of Flammability Characteristics of Exterior Nonload-bearing Wall Assemblies Containing Combustible Components
- NFPA ~~495-13~~ 495-18, Explosive Materials Code
- NFPA ~~701-10~~ 701-15, Standard Methods of Fire Tests for Flame-propagation of Textiles and Films
- NFPA 720-15, Standard for the Installation of Carbon Monoxide (CO) Detection and Warning Equipment
- [ National Fenestration Rating Council, Inc., 6305 Ivy Lane, Suite 140, Greenbelt, MD 20770
- NFRC 100 - 2017, Procedure for Determining Fenestration Products U-factors ]
- NSF ~~50-2009a~~ 50-2015, Equipment for Swimming Pools, Spas, Hot Tubs and Other Recreational Water Facilities, NSF International, 789 Dixboro Road, P.O. Box 130140, Ann Arbor, MI 48113 (<http://nsf.org>)
- TFI RMIP-09, Aboveground Storage Tanks Containing Liquid Fertilizer, Recommended Mechanical Integrity Practices, December 2009, The Fertilizer Institute, 820 First Street, NE, Suite 430, Washington, DC 20002
- Underwriters Laboratories, Inc., 333 Pfingsten Road, Northbrook, IL 60062 (<http://www.ul.com/>):
- UL 217-06, Single- and Multiple-station Smoke Alarms-with revisions through April 2012
- [ UL 263-11, Fire Tests of Building Construction and Materials ]

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UL 723-2008, Standard for Test of Surface Burning Characteristics of Building Materials-with Revisions through September 2010

~~UL 762-2010, Outline of Investigation for Power Ventilators for Restaurant Exhaust Appliances~~

UL 790-04, Standard Test Methods for Fire Tests of Roof Coverings-with Revisions through October 2008

UL 1784-01, Air Leakage Tests of Door Assemblies, revised July 2009

UL 1978-2010, Grease Ducts

UL 2034-2008, Standard for Single and Multiple Station Carbon Monoxide Alarms, revised February 2009

UL 2075-2013, Gas and Vapor Detectors and Sensors (Second Edition, March 5, 2013)

UL 8782-2017, Pollution Control Units for Commercial Cooking

[Interim Remediation Guidance for Homes with Corrosion from Problem Drywall, April 2, 2010, Joint Report, Consumer Products Safety Commission and Department of Housing and Urban Development](#)

VA.R. Doc. No. R19-5887; Filed February 2, 2021, 5:29 p.m.

## Final Regulation

**REGISTRAR'S NOTICE:** The Board of Housing and Community Development is claiming an exemption from Article 2 of the Administrative Process Act pursuant to § 2.2-4006 A 12 of the Code of Virginia, which excludes regulations adopted by the Board of Housing and Community Development pursuant to the 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. The Board of Housing and Community Development will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** **13VAC5-91. Virginia Industrialized Building Safety Regulations (amending 13VAC5-91-10, 13VAC5-91-20, 13VAC5-91-150, 13VAC5-91-160, 13VAC5-91-260).**

**Statutory Authority:** § 36-73 of the Code of Virginia.

**Effective Date:** July 1, 2021.

**Agency Contact:** Kyle Flanders, Senior Policy Analyst, Department of Housing and Community Development, Main

Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 786-6761, FAX (804) 371-7090, TDD (804) 371-7089, or email [kyle.flanders@dhcd.virginia.gov](mailto:kyle.flanders@dhcd.virginia.gov).

**Background:** The Virginia Industrialized Building Safety Regulations (13VAC5-91) govern the in-factory construction of industrialized buildings, which are also known as modular buildings. The regulations provide the same standards for construction as those buildings constructed on-site and regulated by the Virginia Uniform Statewide Building Code (13VAC5-63). Both regulations incorporate nationally recognized model building codes and standards to provide the technical requirements for the actual construction of the regulated buildings. 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 as well as accepting proposals for changes to the regulation from affected stakeholder groups and the public.

### Summary:

*The amendments include the following:*

*In 13VAC5-91-10, a definition for "closed panel construction" is added; and*

*In 13VAC5-91-20, a compliance path for intermodal freight containers, moving containers, and storage containers as building modules or components is added.*

### **13VAC5-91-10. Definitions.**

The following words and terms when used in this chapter shall have the following 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.

"Closed panel construction" means a method of construction utilizing individual wall, roof, or floor components (panels) manufactured off site for installation or assembly at the construction site, where a portion of the component cannot be inspected at the building site without disassembly or damage to the component.

"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.

"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 closed panels, 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.

"Label," "certification label," or "compliance assurance agency certification label" means the label required by 13VAC5-91-210.

"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.

"Seal," "registration seal," or "Virginia registration seal" means the seal required by 13VAC5-91-260.

"SBCO" means the State Building Codes 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. In accordance with § 36-81 of the Code of Virginia, 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 the Industrialized Building Safety Law (Chapter 4 (§ 36-70 et seq.) of Title 36 of the Code of Virginia) and this chapter.

B. 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 unless it conforms with the applicable provisions of this chapter.

Further, any industrialized building constructed before January 1, 1972, shall remain subject to the ordinances, laws or regulations in effect at the time such industrialized building was constructed. Additionally, 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 of occupancy for such work.

D. The use of off-site manufactured intermodal freight containers, moving containers, or storage containers as building modules or components of an industrialized building must be approved by the administrator in accordance with 13VAC5-91-150.

In reviewing the use of intermodal freight containers as structural building components, the administrator will accept evaluation reports from accredited third-party evaluation services.

E. Off-site manufactured intermodal freight containers, moving containers, and storage containers placed on site temporarily or permanently for use as a storage container are not subject to this chapter.

### **13VAC5-91-150. When modification may be granted.**

The administrator shall have the power upon request in specific cases to authorize modification of this chapter so as to permit certain specified alternatives where the objectives of this law can still be fulfilled. Such request shall be in writing and shall be accompanied by the plans, specifications, and other information necessary for an adequate evaluation of the modification requested. In reviewing the use of alternative methods or materials, the administrator may consider

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evaluation reports from accredited third-party evaluation services.

## **13VAC5-91-160. Use of model codes and standards.**

A. Industrialized buildings entering the production assembly line after the effective date of the ~~2015~~ 2018 edition of this chapter shall comply with all applicable requirements of the codes and standards listed in subsection B of this section except that the following codes and standards may be used for industrialized buildings entering the assembly line during a one-year period after the effective date of the ~~2015~~ 2018 edition of this chapter:

1. ICC International Building Code - ~~2012~~ 2015 Edition
2. ICC International Plumbing Code - ~~2012~~ 2015 Edition
3. ICC International Mechanical Code - ~~2012~~ 2015 Edition
4. National Fire Protection Association Standard Number 70 (National Electrical Code) - ~~2014~~ 2014 Edition
5. ICC International Fuel Gas Code - ~~2012~~ 2015 Edition
6. ICC International Energy Conservation Code - ~~2012~~ 2015 Edition
7. ICC International Residential Code - ~~2012~~ 2015 Edition

B. The following documents are adopted and incorporated by reference to be an enforceable part of this chapter:

1. ICC International Building Code - ~~2015~~ 2018 Edition
2. ICC International Plumbing Code - ~~2015~~ 2018 Edition
3. ICC International Mechanical Code - ~~2015~~ 2018 Edition
4. National Electrical Code - ~~2014~~ 2017 Edition
5. ICC International Fuel Gas Code - ~~2015~~ 2018 Edition
6. ICC International Energy Conservation Code - ~~2015~~ 2018 Edition
7. ICC International Residential Code - ~~2015~~ 2018 Edition

Note: As the ~~2015~~ 2018 editions of the International Codes are incorporated by reference as the construction standards for use with these regulations, this chapter is also referred to as the ~~2015~~ 2018 edition of the Virginia Industrialized Building Safety Regulations or the ~~2015~~ 2018 edition of this chapter.

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

## **13VAC5-91-260. Registration seal for industrialized buildings.**

A. Registered industrialized buildings shall be marked with approved registration seals issued by the SBCO. The seals shall

be applied to a registered industrialized building intended for sale or use in Virginia prior to the shipment of the building from the place of manufacture. The seals shall be applied by the compliance assurance agency or by the manufacturer when authorized to do so by the compliance assurance agency.

B. Registered industrialized buildings shall bear one registration seal on each manufactured section or module, or, as an alternative, the registration seal for each manufactured section or module may be placed in one location in the completed building.

C. Closed panel construction shall require one registration seal for every 600 square feet, or part thereof, of floor area.

D. Approved registration seals shall be purchased by the compliance assurance agency from the SBCO in advance of use. The fee for each registration seal shall be \$75. 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 SBCO before the seals can be sent to the user. The compliance assurance agency shall maintain permanent records of seals purchased, including a record of any manufacturers receiving such seals.

~~D.~~ E. To the extent practicable, the registration seal shall be installed so that it cannot be removed without destroying it. The seal shall be applied in the vicinity of the electrical distribution panel or in another location that is readily accessible for inspection and shall be installed near the certification label.

~~E.~~ F. In accordance with § 36-85.1 of the Code of Virginia, any person or corporation having paid the fee for an approved registration seal that it will not use may, unless and except as otherwise specifically provided, within one year from the date of the payment of any such fee, apply to the administrator for a refund, in whole or in part, of the fee paid; provided that no payment shall be recovered unless the approved registration seal is returned unused and in good condition to the administrator. Additionally, as a requirement of this chapter, an administrative and processing fee of 25% of the amount of the refund due shall be deducted from the refund; however, such deduction shall not exceed \$250.

## DOCUMENTS INCORPORATED BY REFERENCE

International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001-2070 (<http://shop.iccsafe.org/codes.html>):

ICC International Plumbing Code - ~~2012~~ 2015 and ~~2015~~ 2018 Editions

ICC International Mechanical Code - ~~2012~~ 2015 and ~~2015~~ 2018 Editions

ICC International Building Code - ~~2012~~ 2015 and ~~2015~~ 2018 Editions

ICC International Residential Code - ~~2012~~ 2015 and ~~2015~~ 2018 Editions

ICC International Fuel Gas Code - ~~2012~~ 2015 and ~~2015~~ 2018 Editions

ICC International Energy Conservation Code - ~~2012~~ 2015 and ~~2015~~ 2018 Editions

NFPA 70, National Electrical Code - ~~2011~~ 2014 and ~~2014~~ 2017 Editions, National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471 (<http://www.nfpa.org/>)

ASTM Standard Number E541-10 - Standard Specification for Agencies Engaged in System Analysis and Compliance Assurance for Manufactured Building, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 (<http://www.astm.org/>)

VA.R. Doc. No. R19-5885; Filed February 2, 2021, 5:13 p.m.

**TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING**

**VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS**

**Final Regulation**

**REGISTRAR'S NOTICE:** The Board for Asbestos, Lead and Home Inspectors is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 6 of the Code of Virginia, which excludes regulations of the regulatory boards served by the Department of Professional and Occupational Regulation pursuant to Title 54.1 of the Code of Virginia that are limited to reducing fees charged to regulants and applicants. The Board for Asbestos, Lead and Home Inspectors will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** **18VAC15-20. Virginia Asbestos Licensing Regulations (amending 18VAC15-20-53).**

**Statutory Authority:** §§ 54.1-201 and 54.1-501 of the Code of Virginia.

**Effective Date:** April 1, 2021.

**Agency Contact:** Trisha Henshaw, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8595, FAX (866)350-5354, or email [alhi@dpor.virginia.gov](mailto:alhi@dpor.virginia.gov).

**Summary:**

*The amendments reduce renewal and late renewal fees through February 2023 in compliance with § 54.1-113 of*

*the Code of Virginia for professional licenses, asbestos analytical laboratory branch office registrations, and accredited asbestos training programs approvals.*

**18VAC15-20-53. Renewal and late renewal fees.**

A. Renewal and late renewal fees are set out in this section.

| Fee Type   | Fee Amount | When Due                 |
|--|------------|--------------------------|
| Renewal for worker, supervisor, inspector, management planner, project designer or project monitor license   | \$45       | With renewal application |
| Renewal for asbestos analytical laboratory license   | \$75       | With renewal application |
| Renewal for asbestos analytical laboratory branch office   | \$55       | With renewal application |
| Renewal for asbestos contractor's license  | \$70       | With renewal application |
| Renewal for accredited asbestos training program approval  | \$125      | With renewal application |
| Late renewal for worker, supervisor, inspector, management planner, project designer or project monitor license (includes a \$35 late renewal fee in addition to the regular \$45 renewal fee) | \$80       | With renewal application |
| Late renewal for asbestos analytical laboratory license (includes a \$35 late renewal fee in addition to the regular \$75 renewal fee)   | \$110      | With renewal application |
| Late renewal for asbestos analytical laboratory branch office (includes \$35 late renewal fee in addition to the regular \$55 renewal fee)   | \$90       | With renewal application |
| Late renewal for asbestos contractor's license (includes a \$35 late renewal fee in addition to the regular \$70 renewal fee)  | \$105      | With renewal application |
| Late renewal for accredited asbestos training program approval (includes a \$35 late renewal fee in addition to the regular \$125 renewal fee)   | \$160      | With renewal application |



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~~B. For licenses expiring after February 1, 2018, and before February 1, 2020, the renewal fees shall be as follows:~~

|  |                 |
|--|-----------------|
| <del>Renewal for worker, supervisor, inspector, management planner, project designer, or project monitor license</del> | <del>\$25</del> |
| <del>Renewal for asbestos analytical laboratory license</del>  | <del>\$40</del> |
| <del>Renewal for asbestos contractor's license</del>   | <del>\$30</del> |
| <del>Renewal for accredited asbestos training program approval</del>   | <del>\$40</del> |

~~For late renewals received after March 1, 2018, and on or before February 29, 2020, the late renewal fees shall be as follows:~~

|   |                 |
|---|-----------------|
| <del>Late renewal for worker, supervisor, inspector, management planner, project designer, or project monitor license</del> | <del>\$60</del> |
| <del>Late renewal for asbestos analytical laboratory license</del>  | <del>\$75</del> |
| <del>Late renewal for asbestos contractor's license</del>   | <del>\$65</del> |
| <del>Late renewal for accredited asbestos training program approval</del>   | <del>\$75</del> |

~~C. B. For licenses expiring after February 1, 2020, and before February 1, 2021, the renewal fees shall be as follows:~~

|  |                 |
|--|-----------------|
| <del>Renewal for worker, supervisor, inspector, management planner, project designer, or project monitor license</del> | <del>\$40</del> |
| <del>Renewal for asbestos analytical laboratory license</del>  | <del>\$65</del> |
| <del>Renewal for asbestos contractor's license</del>   | <del>\$60</del> |
| <del>Renewal for accredited asbestos training program approval</del>   | <del>\$75</del> |

~~For late renewals received after March 1, 2020, and on or before February 28, 2021, the late renewal fees shall be as follows:~~

|   |                  |
|---|------------------|
| <del>Late renewal for worker, supervisor, inspector, management planner, project designer, or project monitor license</del> | <del>\$75</del>  |
| <del>Late renewal for asbestos analytical laboratory license</del>  | <del>\$100</del> |
| <del>Late renewal for asbestos contractor's license</del>   | <del>\$95</del>  |
| <del>Late renewal for accredited asbestos training program approval</del>   | <del>\$110</del> |

C. For licenses expiring after February 1, 2021, and before February 1, 2023, the renewal fees shall be as follows:

|  |             |
|--|-------------|
| <u>Renewal for worker, supervisor, inspector, management planner, project designer, or project monitor license</u> | <u>\$25</u> |
| <u>Renewal for asbestos analytical laboratory license</u>  | <u>\$40</u> |
| <u>Renewal for asbestos analytical laboratory branch office</u>  | <u>\$40</u> |
| <u>Renewal for asbestos contractor's license</u>   | <u>\$30</u> |
| <u>Renewal for accredited asbestos training program approval</u>   | <u>\$40</u> |

For late renewals received after March 1, 2021, and on or before February 28, 2023, the late renewal fees shall be as follows:

|   |             |
|---|-------------|
| <u>Late renewal for worker, supervisor, inspector, management planner, project designer, or project monitor license</u> | <u>\$60</u> |
| <u>Late renewal for asbestos analytical laboratory license</u>  | <u>\$75</u> |
| <u>Late renewal for asbestos analytical laboratory branch office</u>  | <u>\$75</u> |
| <u>Late renewal for asbestos contractor's license</u>   | <u>\$65</u> |
| <u>Late renewal for accredited asbestos training program approval</u>   | <u>\$75</u> |

NOTICE: The following forms used in administering the regulation have been filed by the agency. Amended or added forms are reflected in the listing and are published following the listing. Online users of this issue of the Virginia Register of Regulations may also click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

## FORMS (18VAC15-20)

[Asbestos Worker License Application, A506-3301LIC-v4 \(rev. 8/2015\)](#)

[Asbestos Supervisor License Application, A506-3302LIC-v4 \(rev. 8/2015\)](#)

[Asbestos Inspector License Application, A506-3303LIC-v5 \(rev. 8/2015\)](#)

[Asbestos Management Planner License Application, A506-3304LIC-v4 \(rev. 8/2015\)](#)

[Asbestos Project Designer License Application, A506-3305LIC-v4 \(rev. 8/2015\)](#)

[Asbestos Project Monitor License Application, A506-3309LIC-v5 \(rev. 8/2015\)](#)

~~Individual Asbestos License Renewal Form, A506-33AREN v5 (rev. 2/2020)~~

~~Asbestos Analytical Laboratory License Renewal/Branch Office Renewal Form, A506-3333\_34REN v5 (rev. 2/2020)~~

~~Contractor Asbestos & Lead License Renewal Form, A506-33CONREN v6 (rev. 2/2020)~~

[Individual - Asbestos License Renewal Form, A506-33AREN-vs7 \(rev. 4/2021\)](#)

[Asbestos Analytical Laboratory License Renewal/Branch Office Renewal Form, A506-3333\\_34REN-vs8 \(rev. 4/2021\)](#)

[Contractor - Asbestos & Lead License Renewal Form, A506-33CONREN-vs9 \(rev. 4/2021\)](#)

[Asbestos - Experience Verification Application, A506-33AEXP-v5 \(rev. 3/2019\)](#)

[Asbestos - Education Verification Application, A506-33AED-v3 \(rev. 8/2015\)](#)

[Virginia Asbestos Licensing Consumer Information Sheet, A506-33ACIS-v2 \(rev. 8/2013\)](#)

[Inspector/Project Designer/Contractor Disclosure Form, A506-33DIS-v2 \(rev. 8/2013\)](#)

[Asbestos Contractor License Application, A506-3306LIC-v6 \(rev. 3/2020\)](#)

[Asbestos Analytical Laboratory License Application, A506-3333LIC-v8 \(rev. 3/2020\)](#)

[Asbestos Analytical Laboratory - Branch Office Application, A506-3333BR-v1 \(rev. 9/2019\)](#)

[Change of Laboratory Analysis Type Form, A506-3333COA-v1 \(rev. 9/2019\)](#)

[Asbestos Training Program Review and Audit Application, A506-3331ACRS-v5 \(rev. 3/2020\)](#)

[Asbestos Project Monitor - Work Experience Log, A506-3309EXP-v3 \(rev. 8/2015\)](#)

VA.R. Doc. No. R21-6673; Filed February 8, 2021, 3:53 p.m.

**Final Regulation**

**REGISTRAR'S NOTICE:** The Virginia Board for Asbestos, Lead, and Home Inspectors is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 6 of the Code of Virginia, which excludes regulations of the regulatory boards served by the Department of Professional and Occupational Regulation pursuant to Title 54.1 of the Code of Virginia that are limited to reducing fees charged to regulants and applicants. The Virginia Board for Asbestos, Lead, and Home Inspectors will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation: 18VAC15-30. Virginia Lead-Based Paint Activities Regulations (amending 18VAC15-30-163).**

**Statutory Authority:** §§ 54.1-201 and 54.1-501 of the Code of Virginia.

**Effective Date:** April 1, 2021.

**Agency Contact:** Trisha Henshaw, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 9960 Mayland Drive Suite 400, Richmond, VA 23233, telephone (804) 367-8595, FAX (866) 350-5354, or email [alhi@dpor.virginia.gov](mailto:alhi@dpor.virginia.gov).

**Summary:**

*The amendments reduce renewal and late renewal fees through February 2023 in compliance with § 54.1-113 of the Code of Virginia for professional licenses and accredited lead training programs approvals.*

**18VAC15-30-163. Renewal and late renewal fees.**

A. Renewal and late renewal fees are as follows:

| Fee Type  | Fee Amount | When Due                 |
|---|------------|--------------------------|
| Renewal for worker, supervisor, inspector, risk assessor, or project designer license   | \$45       | With renewal application |
| Renewal for lead contractor license   | \$70       | With renewal application |
| Renewal for accredited lead training program approval   | \$125      | With renewal application |
| Late renewal for worker, supervisor, inspector, risk assessor, or project designer license (includes a \$35 late renewal fee in addition to the regular \$45 renewal fee) | \$80       | With renewal application |
| Late renewal for lead contractor license (includes a \$35 late renewal fee in addition to the regular \$70 renewal fee)   | \$105      | With renewal application |
| Late renewal for accredited lead training program approval (includes a \$35 late renewal fee in addition to the regular \$125 renewal fee)                                | \$160      | With renewal application |

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~~B. For licenses expiring after February 1, 2018, and before February 1, 2020, the renewal fees shall be as follows:~~

|  |                 |
|--|-----------------|
| <del>Renewal for worker, supervisor, inspector, risk assessor, or project designer license</del> | <del>\$25</del> |
| <del>Renewal for lead contractor license</del>   | <del>\$30</del> |
| <del>Renewal for accredited lead training program approval</del>                                 | <del>\$40</del> |

~~For late renewals received after March 1, 2018, and on or before February 29, 2020, the late renewal fees shall be as follows:~~

|   |                 |
|---|-----------------|
| <del>Late renewal for worker, supervisor, inspector, risk assessor, or project designer license</del> | <del>\$60</del> |
| <del>Late renewal for lead contractor license</del>   | <del>\$65</del> |
| <del>Late renewal for accredited lead training program approval</del>                                 | <del>\$75</del> |

~~C. B. For licenses expiring after February 1, 2020, and before February 1, 2021, the renewal fees shall be as follows:~~

|  |                 |
|--|-----------------|
| <del>Renewal for worker, supervisor, inspector, risk assessor, or project designer license</del> | <del>\$40</del> |
| <del>Renewal for lead contractor license</del>   | <del>\$60</del> |
| <del>Renewal for accredited lead training program approval</del>                                 | <del>\$75</del> |

~~For late renewals received after March 1, 2020, and on or before February 28, 2021, the late renewal fees shall be as follows:~~

|   |                  |
|---|------------------|
| <del>Late renewal for worker, supervisor, inspector, risk assessor, or project designer license</del> | <del>\$75</del>  |
| <del>Late renewal for lead contractor license</del>   | <del>\$95</del>  |
| <del>Late renewal for accredited lead training program approval</del>                                 | <del>\$110</del> |

C. For licenses expiring after February 1, 2021, and before February 1, 2023, the renewal fees shall be as follows:

|  |             |
|--|-------------|
| <u>Renewal for worker, supervisor, inspector, risk assessor, or project designer license</u> | <u>\$25</u> |
| <u>Renewal for lead contractor license</u>   | <u>\$30</u> |
| <u>Renewal for accredited lead training program approval</u>                                 | <u>\$40</u> |

For late renewals received after March 1, 2021, and on or before February 28, 2023, the late renewal fees shall be as follows:

|   |             |
|---|-------------|
| <u>Late renewal for worker, supervisor, inspector, risk assessor, or project designer license</u> | <u>\$60</u> |
|---|-------------|

Late renewal for lead contractor license \$65

Late renewal for accredited lead training program approval \$75

**NOTICE:** The following forms used in administering the regulation have been filed by the agency. Amended or added forms are reflected in the listing and are published following the listing. Online users of this issue of the Virginia Register of Regulations may also click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

FORMS (18VAC15-30)

[Lead Abatement Worker License Application, A506-3351LIC-v3 \(eff. 8/2015\)](#)

[Lead Abatement Supervisor License Application, A506-3353LIC-v4 \(eff. 8/2015\)](#)

[Lead Abatement Inspector License Application, A506-3355LIC-v3 \(eff. 8/2015\)](#)

[Lead Abatement Risk Assessor License Application, A506-3356LIC-v5 \(eff. 8/2015\)](#)

[Lead Abatement Project Designer License Application, A506-3357LIC-v3 \(eff. 8/2015\)](#)

[Lead Abatement Contractor License Application, A506-3358LIC-v4 \(eff. 3/2020\)](#)

~~[Contractor - Asbestos & Lead License Renewal Form, A506-33CONREN-v6 \(rev. 2/2020\)](#)~~

~~[Individual - Lead License Renewal Form, A506-33LREN-v4 \(rev. 2/2020\)](#)~~

[Contractor - Asbestos & Lead License Renewal Form, A506-33CONREN-vs9 \(rev. 4/2021\)](#)

[Individual - Lead License Renewal Form, A506-33LREN-vs6 \(rev. 4/2021\)](#)

[Lead - Education Verification Application, A506-33LED-v3 \(rev. 8/2015\)](#)

[Lead - Experience Verification Application, A506-33LEXP-v3 \(rev. 8/2015\)](#)

[Lead Training Course Application, 3331LCRS-v5 \(eff. 3/2020\)](#)

[Inspector/Risk Assessor/Project Designer/Contractor Disclosure Form, A506-33LDIS-v2 \(eff. 8/2013\)](#)

[Virginia Lead Licensing Consumer Information Sheet, A506-33LCIS-v2 \(eff. 8/2013\)](#)

VA.R. Doc. No. R21-6674; Filed February 8, 2021, 3:53 p.m.



## BOARD OF DENTISTRY

## Final Regulation

**Title of Regulation:** 18VAC60-30. Regulations Governing the Practice of Dental Assistants (amending 18VAC60-30-60, 18VAC60-30-120; adding 18VAC60-30-116).

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

**Effective Date:** March 31, 2021.

**Agency Contact:** Sandra Reen, Executive Director, Board of Dentistry, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4437, FAX (804) 527-4428, email [sandra.reen@dhp.virginia.gov](mailto:sandra.reen@dhp.virginia.gov).

**Summary:**

*The action changes the qualifications for registration as a dental assistant II from a program of completion of required hours to a competency-based program of didactic coursework and clinical experience. A change to the proposed regulation allows for an additional route to entry into a dental assistant II program.*

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

**18VAC60-30-60. Delegation to dental assistants II.**

~~The following duties~~ Duties may only be delegated under the direction and direct supervision of a dentist to a dental assistant II who has completed the coursework, corresponding module of laboratory training, corresponding module of clinical experience, and examinations specified in 18VAC60-30-120:

- ~~1. Performing pulp capping procedures;~~
- ~~2. Packing and carving of amalgam restorations;~~
- ~~3. Placing and shaping composite resin restorations with a slow speed handpiece;~~
- ~~4. Taking final impressions;~~
- ~~5. Use of a non-epinephrine retraction cord; and~~
- ~~6. Final cementation of crowns and bridges after adjustment and fitting by the dentist.~~

**18VAC60-30-116. Requirements for educational programs.**

In order to train persons for registration as a dental assistant II, an educational program shall meet the following requirements:

1. The program shall be provided by an educational institution that maintains a program accredited by the Commission on Dental Accreditation of the American Dental Association.

2. The program shall have a program coordinator who is registered in Virginia as a dental assistant II or is licensed in Virginia as a dental hygienist or dentist. The program coordinator shall have administrative responsibility and accountability for operation of the program.

3. The program shall have a clinical practice advisor who is a licensed dentist in Virginia and who may also serve as the program coordinator. The clinical practice advisor shall assist in the laboratory training component of the program and conduct the program's calibration exercise for dentists who supervise the student's clinical experience.

4. A dental assistant II, registered in Virginia, who assists in teaching the laboratory training component of the program shall have a minimum of two years of clinical experience in performing duties delegable to a dental assistant II.

5. The program shall enter into a participation agreement with any dentist who agrees to supervise clinical experience. The dentist shall successfully complete the program's calibration exercise on evaluating the clinical skills of a student. The dentist supervisor may be the employer of the student.

6. Each program shall enroll practice sites for clinical experience, which may be a dental office, a nonprofit dental clinic, or an educational institution clinic.

7. All treatment of patients shall be under the immediate supervision of a licensed dentist who is responsible for the performance of duties by the student. The dentist shall attest to the successful completion of the clinical competencies and restorative experiences.

**18VAC60-30-120. Educational requirements for dental assistants II.**

A. A prerequisite for entry into an educational program preparing a person for registration as a dental assistant II shall be current certification as a Certified Dental Assistant (CDA) conferred by the Dental Assisting National Board [ or active licensure as a dental hygienist ].

B. To be registered as a dental assistant II, a person shall complete the following requirements a competency-based program from an educational institution that maintains a program in dental assisting, dental hygiene or dentistry accredited by CODA meets the requirements of 18VAC60-30-116 and includes all of the following:

1. At least 50 hours of didactic course work Didactic coursework in dental anatomy and operative dentistry that may be completed online that includes basic histology, understanding of the periodontium and temporal mandibular joint, pulp tissue and nerve innervation, occlusion and function, muscles of mastication, and any other item related to the restorative dental process.

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2. Didactic coursework in operative dentistry to include materials used in direct and indirect restorative techniques, economy of motion, fulcrum techniques, tooth preparations, etch and bonding techniques and systems, and luting agents.
3. Laboratory training that may to be completed in the following modules with no more than 20% of the specified instruction to be completed as homework in a dental office:
  - a. At least 40 No less than 15 hours of placing, packing, carving, and polishing of amalgam restorations, placement of a non-epinephrine retraction cord, and pulp capping procedures and no less than six class I and six class II restorations completed on a manikin simulator to competency;
  - b. At least 60 No less than 40 hours of placing and shaping composite resin restorations, placement of a non-epinephrine retraction cord, and pulp capping procedures, and no less than 12 class I, 12 class II, five class III, five class IV, and five class V restorations completed on a manikin simulator to competency; and
  - c. At least 20 10 hours of taking making final impressions and use, placement of a non-epinephrine retraction cord; and, final cementation of crowns and bridges after preparation, and adjustment and fitting by the dentist, and no less than four crown impressions, two placements of retraction cord, five crown cementations, and two bridge cementations on a manikin simulator to competency.
  - d. At least 30 hours of final cementation of crowns and bridges after adjustment and fitting by the dentist.
4. 4. Clinical experience applying the techniques learned in the preclinical coursework and laboratory training that may be completed in a dental office, in the following modules:
  - a. At least 80 30 hours of placing, packing, carving, and polishing of amalgam restorations, placement of a non-epinephrine retraction cord, and no less than six class I and six class II restorations completed on a live patient to competency;
  - b. At least 120 60 hours of placing and shaping composite resin restorations, placement of a non-epinephrine retraction cord, and no less than six class I, six class II, five class III, three class IV, and five class V restorations completed on a live patient to competency; and
  - c. At least 40 30 hours of taking making final impressions and use; placement of a non-epinephrine retraction cord; and final cementation of crowns and bridges after preparation, adjustment, and fitting by the dentist; and no less than four crown impressions, two placements of retraction cord, five crown cementations, and two bridge cementations on a live patient to competency.
  - d. At least 60 hours of final cementation of crowns and bridges after adjustment and fitting by the dentist.
5. Successful completion of the following competency examinations given by the accredited educational programs:

- a. A written examination at the conclusion of the 50 hours of didactic coursework; and
- b. A practical examination at the conclusion of each module of laboratory training; and
- c. A comprehensive written examination at the conclusion of all required coursework, training, and experience for each of the corresponding modules clinical competency exam.
- C. All treatment of patients shall be under the direct and immediate supervision of a licensed dentist who is responsible for the performance of duties by the student. The dentist shall attest to successful completion of the clinical competencies and restorative experiences. An applicant may be registered as a dental assistant II with specified competencies set forth in subdivision a, b, or c of subdivisions B 3 and B 4 of this section.

VA.R. Doc. No. R18-5287; Filed January 30, 2021, 2:30 p.m.

## BOARD OF NURSING

### Proposed Regulation

Title of Regulation: 18VAC90-27. Regulations for Nursing Education Programs (amending 18VAC90-27-10, 18VAC90-27-60, 18VAC90-27-100).

Statutory Authority: §§ 54.1-2400 and 54.1-3005 of the Code of Virginia.

Public Hearing Information:

March 23, 2021 - 10:35 a.m. - Electronic only. Link: <https://covaconf.webex.com/covaconf/j.php?MTID=mfea5f15bde609e2cc5e2905d1231433c>.

Public Comment Deadline: April 30, 2021.

Agency Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4520, FAX (804) 527-4455, or email jay.douglas@dhp.virginia.gov.

Basis: Regulations are promulgated under the general authority of § 54.1-2400, which provides the Board of Nursing the authority to promulgate regulations to administer the regulatory system. The powers and duties of the board include oversight of nursing education and approval of programs, specifically in §§ 54.1-3005 and 54.1-3013 of the Code of Virginia.

Purpose: As nursing education programs are allowed to use simulation for up to 50% of the required clinical hours, it is essential that those hours are led by faculty with expertise in both the subject matter covered and the use of simulation as a teaching tool. Likewise, simulation should not be the only methodology for clinical experience is a particular specialty or with a particular patient population. Therefore, the amendments are necessary to ensure nursing students are adequately trained to be minimally competent for the health,

safety, and welfare of patients during clinical experiences and after licensure.

Substance: The proposed amendments (i) define direct client care and simulation terms used in the amended regulations; (ii) require faculty who supervise clinical practice by simulation demonstrate knowledge and skills in the methodology; (iii) require simulation to account for no more than 50% of the total clinical hours in different clinical specialties and population groups across the life span; and (iv) require knowledgeable faculty to be present during the simulation experience.

Issues: The primary advantage to the public is greater assurance that nursing students are adequately trained to be minimally competent in providing clinical care; there are no disadvantages to the public. There are no advantages and disadvantages to the agency or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Board of Nursing (Board) proposes to amend the regulation to incorporate specific definitions and detailed requirements regarding the use of simulation in nursing education programs. These details had been contained in a guidance document but are closely tied to the requirements of nursing education programs. Thus, the Board has deemed the text more suitable for inclusion in the regulation itself.

Background. Simulations are used in nursing education to immerse students in realistic clinical environments and provide them with the opportunity to be involved in patient care experiences they may otherwise not experience in actual clinical settings. Although the regulation currently addresses the use of simulation as part of the direct client care curriculum, these terms have not been defined. Hence, the Board proposes to add definitions of these two terms: direct client care would mean nursing care provided to patients/clients in a clinical setting supervised by qualified faculty or a designated preceptor, and simulation would mean an evidence-based teaching methodology utilizing an activity in which students are immersed into a realistic clinical environment or situation and in which students are required to learn and use critical thinking and decision-making skills.

18VAC90-27-60 Faculty lays out the requirements for all faculty members in a nursing education program. The Board seeks to specify that all requirements pertaining to nursing faculty members who supervise the clinical practice of students would also apply to faculty members utilizing simulation in lieu of direct client care. These requirements include providing evidence of education or experience in the specialty area in which they supervise student clinical experience for quality and safety. The regulation currently requires all faculty members providing supervision for direct client contact to have completed a clinical orientation to the site in which supervision is being provided. The Board proposes to add that Faculty members who supervise clinical practice by simulation shall

also demonstrate simulation knowledge and skills in that methodology and shall engage in ongoing professional development in the use of simulation.

18VAC90-27-100 Curriculum for Direct Client Care currently states that simulation cannot account for more than 25 percent of the total direct client contact hours in a program or more than 50 percent of the contact hours in any particular course. The Board proposes to modify this through three amendments to subsection D:

1. The Board seeks to add, If courses are integrated, simulation shall not be used for more than 50% of the total clinical hours in different clinical specialties and population groups across the life span. This stipulation would ensure that in courses pertaining to different clinical specialties and age groups, at least 50% of all clinical hours devoted to each patient subgroup would involve direct care conducted without simulation.
2. Where the language currently states, Clinical simulation must be led by faculty who meet the qualifications specified in 18VAC90-27-60, "the Board seeks to add, Faculty with education and expertise in simulation and in the applicable subject area must be present during the simulation experience.
3. To the list of five types of documentation that shall be available for all simulated experiences, the Board seeks to add methods of pre-briefing, evaluation of simulated experience, and method to communicate student performance to clinical faculty.

Estimated Benefits and Costs. The proposed amendments would benefit nursing education programs, and the Board, by increasing clarity regarding the legal requirements that must be met if a program uses simulation to meet the direct client care requirements. Since the proposed changes to the requirements had been contained in a guidance document, the specific requirements now being added to the regulation would not have been enforceable because a guidance document does not have the force and effect of law. However, some nursing education programs may have already adopted these requirements voluntarily and would not now face any additional burden. Conversely, to the extent that some nursing education programs had not previously adopted the practices in the guidance document, the proposed amendments could increase the burden on faculty who use simulation methods by (a) requiring that they engage in ongoing professional development in the use of simulation in addition to the professional development requirements they may already face as nursing faculty members, (b) restricting how simulation contact hours can be allocated across patient groups in an integrated course, and (c) increasing the documentation required for simulated experiences. Even if a particular program had not formally adopted these requirements

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previously, individual faculty members may have incorporated these practices in their pedagogy and would be unaffected by the Board's decision to add them to the regulation. However, inclusion in regulation gives the requirements the force of law.

**Businesses and Other Entities Affected.** The proposed amendments would affect practical (LPN) and professional (RN) nursing education programs. The Board has approved 57 LPN programs and 77 RN programs in Virginia. Nursing education programs are either part of community colleges, universities, large hospital systems, or proprietary businesses.

**Small Businesses<sup>1</sup> Affected.**

**Types and Estimated Number of Small Businesses Affected.** Some nursing education programs may be operated by for-profit education companies, which may be small businesses. However, the Board does not have an estimate of the number of nursing education programs that would qualify as a small business.

**Costs and Other Effects.** To the extent that nursing education programs operated by small businesses had not previously adopted the policies and practices that the Board seeks to add to the regulation, they may now face higher costs. However, the magnitude of the costs are unknown.

**Alternative Method that Minimizes Adverse Impact.** Any increased costs would only apply to programs that have been using simulation methods but had not previously adopted these requirements. Programs could avoid these costs by limiting their use of simulation methods to meet the direct client care requirement. Thus, the proposed amendments do not create an adverse impact for any nursing education programs, including any that are small businesses.

**Localities<sup>2</sup> Affected.<sup>3</sup>** The proposed amendments do not disproportionately affect any specific localities, nor do they introduce new costs for local governments. **Projected Impact on Employment**

The proposed amendments would not increase cost of hiring faculty or the overall cost of pursuing nursing education. Thus, they would not affect employment by nursing education programs or affect the number of qualified nurses who graduate from such programs.

**Effects on the Use and Value of Private Property.** To proposed amendments would not affect the value of nursing education facilities. Hence, they would not affect the value of private property. Real estate development costs would not be affected.

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<sup>1</sup>Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.

<sup>2</sup>Locality can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>3</sup>§ 2.2-4007.04 defines particularly affected" as bearing disproportionate material impact.

**Agency's Response to Economic Impact Analysis.** The Board of Nursing is commenting on the economic impact analysis of the Department of Planning and Budget on proposed amended regulations for 18VAC90-27, relating to the use of simulation in nursing education programs in lieu of clinical experience with patients. The use of simulation is totally voluntary, so these regulations would only apply if an educational program chose to use simulation. Therefore the economic impact is within the programs control.

**Summary:**

*The proposed amendments (i) define direct client care and simulation terms used in the amended regulations; (ii) require faculty who supervise clinical practice by simulation demonstrate knowledge and skills in the methodology; (iii) require simulation to account from no more than 50% of the total clinical hours in different clinical specialties and population groups across the life span; and (iv) require knowledgeable faculty to be present during the simulation experience.*

**18VAC90-27-10. Definitions.**

In addition to words and terms defined in § 54.1-3000 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Accreditation" means having been accredited by an agency recognized by the U.S. Department of Education to include the Accreditation Commission for Education in Nursing, the Commission on Collegiate Nursing Education, the Commission for Nursing Education Accreditation, or a national nursing accrediting organization recognized by the board.

"Advisory committee" means a group of persons from a nursing education program and the health care community who meets regularly to advise the nursing education program on the quality of its graduates and the needs of the community.

"Approval" means the process by which the board or a governmental agency in another state or foreign country evaluates and grants official recognition to nursing education programs that meet established standards not inconsistent with Virginia law.

"Associate degree nursing program" means a nursing education program preparing for registered nurse licensure, offered by a Virginia college or other institution and designed to lead to an associate degree in nursing, provided that the institution is authorized to confer such degree by SCHEV.

"Baccalaureate degree nursing program" or "prelicensure graduate degree program" means a nursing education program preparing for registered nurse licensure, offered by a Virginia college or university and designed to lead to a baccalaureate or a graduate degree with a major in nursing, provided that the institution is authorized to confer such degree by SCHEV.

"Board" means the Board of Nursing.

"Clinical setting" means any location in which the clinical practice of nursing occurs as specified in an agreement between the cooperating agency and the school of nursing.

"Conditional approval" means a time-limited status that results when an approved nursing education program has failed to maintain requirements as set forth in this chapter.

"Cooperating agency" means an agency or institution that enters into a written agreement to provide clinical or observational experiences for a nursing education program.

"Diploma nursing program" means a nursing education program preparing for registered nurse licensure, offered by a hospital and designed to lead to a diploma in nursing, provided the hospital is licensed in this state.

"Direct client care" means nursing care provided to patients or clients in a clinical setting supervised by qualified faculty or a designated preceptor.

"Initial approval" means the status granted to a nursing education program that allows the admission of students.

"National certifying organization" means an organization that has as one of its purposes the certification of a specialty in nursing based on an examination attesting to the knowledge of the nurse for practice in the specialty area.

"NCLEX" means the National Council Licensure Examination.

"NCSBN" means the National Council of State Boards of Nursing.

"Nursing education program" means an entity offering a basic course of study preparing persons for licensure as registered nurses or as licensed practical nurses. A basic course of study shall include all courses required for the degree, diploma, or certificate.

"Nursing faculty" means registered nurses who teach the practice of nursing in nursing education programs.

"Practical nursing program" means a nursing education program preparing for practical nurse licensure that leads to a diploma or certificate in practical nursing, provided the school is authorized by the Virginia Department of Education or by an accrediting agency recognized by the U.S. Department of Education.

"Preceptor" means a licensed nurse who is employed in the clinical setting, serves as a resource person and role model, and is present with the nursing student in that setting, providing clinical supervision.

"Program director" means a registered nurse who holds a current, unrestricted license in Virginia or a multistate licensure privilege and who has been designated by the

controlling authority to administer the nursing education program.

"Recommendation" means a guide to actions that will assist an institution to improve and develop its nursing education program.

"Requirement" means a mandatory condition that a nursing education program must meet to be approved or maintain approval.

"SCHEV" means the State Council of Higher Education for Virginia.

"Simulation" means an evidence-based teaching methodology utilizing an activity in which students are immersed into a realistic clinical environment or situation and in which students are required to learn and use critical thinking and decision-making skills.

"Site visit" means a focused onsite review of the nursing program by board staff, usually completed within one day for the purpose of evaluating program components such as the physical location (skills lab, classrooms, learning resources) for obtaining initial program approval, in response to a complaint, compliance with NCLEX plan of correction, change of location, or verification of noncompliance with this chapter.

"Survey visit" means a comprehensive onsite review of the nursing program by board staff, usually completed within two days (depending on the number of programs or campuses being reviewed) for the purpose of obtaining and maintaining full program approval. The survey visit includes the program's completion of a self-evaluation report prior to the visit, as well as a board staff review of all program resources, including skills lab, classrooms, learning resources, and clinical facilities, and other components to ensure compliance with this chapter. Meetings with faculty, administration, students, and clinical facility staff will occur.

## **18VAC90-27-60. Faculty.**

### **A. Qualifications for all faculty.**

1. Every member of the nursing faculty, including the program director, shall (i) hold a current license or a multistate licensure privilege to practice nursing in Virginia as a registered nurse without any disciplinary action that currently restricts practice and (ii) have had at least two years of direct client care experience as a registered nurse prior to employment by the program. Persons providing instruction in topics other than nursing shall not be required to hold a license as a registered nurse.

2. Every member of a nursing faculty supervising the clinical practice of students, including simulation in lieu of direct client care, shall meet the licensure requirements of the jurisdiction in which that practice occurs. ~~Faculty~~ and shall provide evidence of education or experience in the specialty

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area in which they supervise student clinical experience for quality and safety. Prior to supervision of students, the faculty providing supervision shall have completed a clinical orientation to the site in which supervision is being provided. Faculty members who supervise clinical practice by simulation shall also demonstrate simulation knowledge and skills in that methodology and shall engage in ongoing professional development in the use of simulation.

3. The program director and each member of the nursing faculty shall maintain documentation of professional competence through such activities as nursing practice, continuing education programs, conferences, workshops, seminars, academic courses, research projects, and professional writing. Documentation of annual professional development shall be maintained in employee files for the director and each faculty member until the next survey visit and shall be available for board review.

4. For baccalaureate degree and prelicensure graduate degree programs:

- a. The program director shall hold a doctoral degree with a graduate degree in nursing.
- b. Every member of the nursing faculty shall hold a graduate degree; the majority of the faculty shall have a graduate degree in nursing. Faculty members with a graduate degree with a major other than in nursing shall have a baccalaureate degree with a major in nursing.

5. For associate degree and diploma programs:

- a. The program director shall hold a graduate degree with a major in nursing.
- b. The majority of the members of the nursing faculty shall hold a graduate degree, preferably with a major in nursing.
- c. All members of the nursing faculty shall hold a baccalaureate or graduate degree with a major in nursing.

6. For practical nursing programs:

- a. The program director shall hold a baccalaureate degree with a major in nursing.
- b. The majority of the members of the nursing faculty shall hold a baccalaureate degree, preferably with a major in nursing.

B. Number of faculty.

1. The number of faculty shall be sufficient to prepare the students to achieve the objectives of the educational program and to ensure safety for clients to whom students provide care.

2. When students are giving direct care to clients, the ratio of students to faculty shall not exceed 10 students to one faculty member, and the faculty shall be on site solely to supervise students.

3. When preceptors are utilized for specified learning experiences in clinical settings, the faculty member may supervise up to 15 students.

C. Functions. The principal functions of the faculty shall be to:

1. Develop, implement, and evaluate the philosophy and objectives of the nursing education program;
2. Design, implement, teach, evaluate, and revise the curriculum. Faculty shall provide evidence of education and experience necessary to indicate that they are competent to teach a given course;
3. Develop and evaluate student admission, progression, retention, and graduation policies within the framework of the controlling institution;
4. Participate in academic advisement and counseling of students in accordance with requirements of the Financial Educational Rights and Privacy Act (20 USC § 1232g);
5. Provide opportunities for and evidence of student and graduate evaluation of curriculum and teaching and program effectiveness; and
6. Document actions taken in faculty and committee meetings using a systematic plan of evaluation for total program review.

## **18VAC90-27-100. Curriculum for direct client care.**

A. A nursing education program preparing a student for licensure as a registered nurse shall provide a minimum of 500 hours of direct client care supervised by qualified faculty. A nursing education program preparing a student for licensure as a practical nurse shall provide a minimum of 400 hours of direct client care supervised by qualified faculty. Direct client care hours shall include experiences and settings as set forth in 18VAC90-27-90 B 1.

B. Licensed practical nurses transitioning into prelicensure registered nursing programs may be awarded no more than 150 clinical hours of the 400 clinical hours received in a practical nursing program. In a practical nursing to registered nursing transitional program, the remainder of the clinical hours shall include registered nursing clinical experience across the life cycle in adult medical/surgical nursing, maternal/infant (obstetrics, gynecology, neonatal) nursing, mental health/psychiatric nursing, and pediatric nursing.

C. Any observational experiences shall be planned in cooperation with the agency involved to meet stated course objectives. Observational experiences shall not be accepted toward the 400 or 500 minimum clinical hours required. Observational objectives shall be available to students, the clinical unit, and the board.

D. Simulation for direct client clinical hours.



1. No more than 25% of direct client contact hours may be simulation. For prelicensure registered nursing programs, the total of simulated client care hours cannot exceed 125 hours (25% of the required 500 hours). For prelicensure practical nursing programs, the total of simulated client care hours cannot exceed 100 hours (25% of the required 400 hours).

2. No more than 50% of the total clinical hours for any course may be used as simulation. If courses are integrated, simulation shall not be used for more than 50% of the total clinical hours in different clinical specialties and population groups across the life span.

3. Skills acquisition and task training alone, as in the traditional use of a skills laboratory, do not qualify as simulated client care and therefore do not meet the requirements for direct client care hours.

4. Clinical simulation must be led by faculty who meet the qualifications specified in 18VAC90-27-60. Faculty with education and expertise in simulation and in the applicable subject area must be present during the simulation experience.

5. Documentation of the following shall be available for all simulated experiences:

- a. Course description and objectives;
- b. Type of simulation and location of simulated experience;
- c. Number of simulated hours;
- d. Faculty qualifications; ~~and~~
- e. Methods of pre-briefing and debriefing;
- f. Evaluation of simulated experience; and
- g. Method to communicate student performance to clinical faculty.

VA.R. Doc. No. R20-5531; Filed January 30, 2021, 2:30 p.m.

**BOARD OF PHARMACY**

**Proposed**

**Title of Regulation: 18VAC110-60. Regulations Governing Pharmaceutical Processors (amending 18VAC110-60-10, 18VAC110-60-20, 18VAC110-60-40 through 18VAC110-60-90, 18VAC110-60-130, 18VAC110-60-160, 18VAC110-60-170, 18VAC110-60-190 through 18VAC110-60-230, 18VAC110-60-300, 18VAC110-60-310, 18VAC110-60-320; adding 18VAC110-60-251).**

**Statutory Authority: §§ 54.1-2400, 54.1-3442.6, and 54.1-3447 of the Code of Virginia.**

**Public Hearing Information:**

March 30, 2021 - 9:05 a.m. - WebEx - The link and instructions to attend the electronic meeting will be in the agenda package posted prior to the meeting at

<http://www.dhp.virginia.gov> and on the Virginia Regulatory Town Hall ([www.townhall.virginia.gov](http://www.townhall.virginia.gov))

**Public Comment Deadline:** April 30, 2021.

**Agency Contact:** Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4456, FAX (804) 527-4472, or email [caroline.juran@dhp.virginia.gov](mailto:caroline.juran@dhp.virginia.gov).

**Basis:** Regulations are promulgated under the general authority § 54.1-2400 of the Code of Virginia, which provides the Board of Pharmacy the authority to promulgate regulations to administer the regulatory system. Specific statutory authority for the board to promulgate these regulations is found in §§ 54.1-3408.3, 54.1-3442.6, and 54.1-3442.7 of the Code of Virginia.

**Purpose:** Amendments are adopted to allow a patient to designate an agent who is registered with the board to act on the patient's behalf in the receipt of cannabis oil. Persons registered as agents must provide qualifying information and abide by rules governing patients, parents, or legal guardians for obtaining and protecting the oil. Additionally, amended regulations allow for wholesale distribution of oil between processors. Rules for such distribution require that all testing has been completed to ensure that the products are safe for dispensing and that security and recordkeeping is adequate to protect public health and safety.

**Substance:** Regulations regarding the registration of agents for patients certified to receive cannabis oil are required by legislation passed in 2019, so all sections that reference registered individuals are amended to include registered agents. The legislation also provides for wholesale distribution of oils between processors, so 18VAC110-60-251 is added to establish the requirements for such distribution.

For consistency with changes in the Code of Virginia, the board is also amending (i) 18VAC110-60-130 G to delete the prohibition on growing cannabis earlier than two weeks prior to an opening date for the processor; the amended regulation allows the processor to begin cultivation once the permit has been issued; and (ii) 18VAC110-60-170 relating to employment of individuals with less than two years of experience for certain duties in the processor.

**Issues:** The advantages to the public include assurance of the safety and integrity of the products dispensed and security for the cannabis oil; there are no disadvantages to the public. The advantage to the agency is clarity in the rules and consistency with the law; there are no disadvantages to the agency. This is a significant new program for the Board of Pharmacy and the Department of Health Professions in an evolving environment of medical marijuana with wide variance in the policies and models adopted across the United States and in a situation in which marijuana remains an illegal substance on the federal level.

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

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Summary of the Proposed Amendments to Regulation. The Board of Pharmacy (Board) proposes to make permanent the changes effected by an emergency action that became effective December 30th, 2019, and implement two other changes that would conform the regulation to the Code of Virginia.<sup>1</sup> The emergency regulation defines the role of registered agents who are authorized to obtain cannabidiol (CBD) or THC-A oil for registered patients. It also adds a section allowing pharmaceutical processors to engage in the wholesale distribution of CBD and THC-A oils amongst themselves. The Board also proposes to allow pharmaceutical processors to employ individuals with less than two years of experience for certain specific tasks, and to allow processors to begin the cultivation of cannabis once their permit is issued without having to wait for two weeks as per current requirement.

Background. Chapter 690 of the 2019 Acts of Assembly (Act) allows registered agents to pick up prescribed quantities of THC-A oil on behalf of registered patients or their legal guardians.<sup>2</sup> The Act also allows pharmaceutical processors to engage in wholesale distribution of processed CBD or THC-A oils with each other. Further, the Act allows pharmaceutical processors to employ workers with less than two years of experience to perform cultivation- or extraction-related duties under the supervision of an individual with either a relevant degree in the field or a certification by the Board or at least two years of experience. Lastly, the Act directed the Board to promulgate emergency regulations to implement these changes within 280 days. Thus, the Board now seeks to make these changes to the regulation permanent. In addition, pharmaceutical processors that receive a permit are currently forbidden to cultivate cannabis until two weeks prior to their opening date. This requirement appears to have been made at the Board's discretion, and the Board now seeks to lift this requirement. This would allow pharmaceutical processors to begin cultivation once the permit is issued regardless of their opening date.

Estimated Benefits and Costs. Registered patients or their guardians would have greater flexibility in picking up prescriptions for THC-A oil by using a registered agent. This would be especially beneficial to adult patients or guardians for minor patients who may have limited mobility or access to transportation to obtain the THC-A oil in person. Registered agents are only allowed to represent up to two registered patients to prevent substance misuse and must pay a \$25 fee to be registered and to renew their registration each year. So far only one agent has been registered.

The addition of wholesale distribution between pharmaceutical processors would likely benefit them by being able to stock a wider variety of products than they individually manufacture. If pharmaceutical processors agree to specialize in specific THC-A-based products, they could potentially each lower their production costs. The combination of possible higher revenue and lower costs would increase the pharmaceutical processors' expected profit. Since there are only three processors who have received permits so far and none are yet operational, it would

not likely be difficult for them to coordinate their production choices and distribution to each other.<sup>3</sup>

In addition, pharmaceutical processors would benefit from not having to wait until two weeks prior to opening in order to begin cultivation as it would also allow them to start processing the cannabis sooner and build up inventory that can be distributed to the other providers. They also benefit from having greater flexibility in hiring workers with less than two years of experience in horticulture or pharmaceutical extraction, as long as they ensure that these workers are supervised by individuals with either a relevant degree in the field or a certification by the Board or at least two years of experience. Patients may benefit to the extent that wholesale distribution provides them access to specific concentrations or products that would not otherwise have been available to them.

Businesses and Other Entities Affected. The proposed amendments would affect the three pharmaceutical processors that have received permits as well as pharmaceutical processors seeking a permit. The proposed amendments also affect registered agents as well as patients or guardians that seek to use a registered agent.

Small Businesses<sup>4</sup> Affected. All three pharmaceutical processors that have received permits and would benefit from the proposal are small businesses.

Localities<sup>5</sup> Affected.<sup>6</sup> The proposal does not disproportionately affect any specific localities, nor introduce new costs for local governments.

Projected Impact on Employment. Pharmaceutical processors would have access to a larger labor pool if they are able to hire individuals with less than two years experience, which would lower the cost of filling vacancies as well as the cost of expanding the scale of their operations. Thus, employment in the cannabis industry could grow to the extent that pharmaceutical processors respond through one or both of these channels.

Effects on the Use and Value of Private Property. As described above, the proposal to allow wholesale distribution may increase the profitability and value of the pharmaceutical processors. The proposal to expand the pool of potential workers by allowing the hiring of individuals with less than two years of experience if they receive specified supervision, may lower labor costs further increasing profitability and firm value. The proposal to allow processors to begin the cultivation of cannabis once their permit is issued without having to wait for two weeks as per current requirement may also increase revenue and value. Real estate development costs are unlikely to be substantively affected.

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<sup>1</sup>See <https://townhall.virginia.gov/ViewStage.cfm?stageid=8778>

<sup>2</sup>See [https://lis.virginia.gov/cgi-bin/legp604.exe?191\\_ful\\_CHAP0690\\_hil](https://lis.virginia.gov/cgi-bin/legp604.exe?191_ful_CHAP0690_hil)

<sup>3</sup>From the Agency Background Document.

<sup>4</sup>Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as a business entity, including its affiliates, that (i) is independently owned and



operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.

<sup>5</sup>Locality can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>6</sup>§ 2.2-4007.04 defines particularly affected" as bearing disproportionate material impact.

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

Summary:

*Pursuant to Chapter 690 of the 2019 Acts of Assembly, the proposed amendments (i) permit registered agents for patients certified to receive cannabis oil, (ii) permit the wholesale distribution of oil between processors, (iii) change whom may be employed to cultivate and extract chemicals from Cannabis plants, and (iv) for consistency with changes in the Code of Virginia, remove the prohibition on growing cannabis earlier than two weeks prior to an opening date for the processor; the proposed regulation allow the processor to begin cultivation once the permit has been issued.*

**18VAC110-60-10. Definitions.**

In addition to words and terms defined in §§ 54.1-3408.3 and 54.1-3442.5 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"90-day supply" means the amount of cannabis oil reasonably necessary to ensure an uninterrupted availability of supply for a 90-day period for registered patients.

"Batch" means a quantity of cannabis oil from a production lot that is identified by a batch number or other unique identifier.

"Board" means the Board of Pharmacy.

"Certification" means a written statement, consistent with requirements of § 54.1-3408.3 of the Code of Virginia, issued by a practitioner for the use of cannabis oil for treatment of or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use.

"Dispensing error" means one or more of the following was discovered after the final verification by the pharmacist, regardless of whether the patient received the oil:

1. Variation from the intended oil to be dispensed, including:
  - a. Incorrect oil;
  - b. Incorrect oil strength;
  - c. Incorrect dosage form;
  - d. Incorrect patient; or
  - e. Inadequate or incorrect packaging, labeling, or directions.

2. Failure to exercise professional judgment in identifying and managing:

- a. Known therapeutic duplication;
- b. Known drug-disease contraindications;
- c. Known drug-drug interactions;
- d. Incorrect drug dosage or duration of drug treatment;
- e. Known drug-allergy interactions;
- f. A clinically significant, avoidable delay in therapy; or
- g. Any other significant, actual, or potential problem with a patient's drug therapy.

3. Delivery of an oil to the incorrect patient.

4. An act or omission relating to the dispensing of cannabis oil that results in, or may reasonably be expected to result in, injury to or death of a registered patient or results in any detrimental change to the medical treatment for the patient.

"Electronic tracking system" means an electronic radio-frequency identification (RFID) seed-to-sale tracking system that tracks the Cannabis from either the seed or immature plant stage until the cannabis oil is sold to a registered patient, parent, ~~or~~ legal guardian, or registered agent or until the Cannabis, including the seeds, parts of plants, and extracts, are destroyed. The electronic tracking system shall include, at a minimum, a central inventory management system and standard and ad hoc reporting functions as required by the board and shall be capable of otherwise satisfying required recordkeeping.

"On duty" means that a pharmacist is on the premises at the address of the permitted pharmaceutical processor and is available as needed.

"PIC" means the pharmacist-in-charge.

"Production" or "produce" means the manufacture, planting, preparation, cultivation, growing, harvesting, propagation, conversion, or processing of marijuana, (i) directly or indirectly by extraction from substances of natural origin, (ii) independently by means of chemical synthesis, or (iii) by a combination of extraction and chemical synthesis. "Production" or "produce" includes any packaging or repackaging of the substance or labeling or relabeling of its container.

"Qualifying patient" means a Virginia resident who has received from a practitioner, as defined in § 54.1-3408.3 of the Code of Virginia, a written certification for the use of cannabis oil for treatment of or to alleviate the symptoms of any diagnosed condition or disease.

"Registered patient" means a qualifying patient who has been issued a registration by the board for the dispensing of cannabis oil to such patient.

"Registration" means an identification card or other document issued by the board that identifies a person as a practitioner or

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a qualifying patient, parent, ~~or~~ legal guardian, or registered agent.

"Resident" means a person whose principal place of residence is within the Commonwealth as evidenced by a federal or state income tax return or a current Virginia driver's license. If a person is a minor, residency may be established by evidence of Virginia residency by a parent or legal guardian.

"Temperature and humidity" means temperature and humidity maintained in the following ranges:

| Room or Phase           | Temperature | Humidity  |
|-------------------------|-------------|-----------|
| Mother room             | 65 - 75°    | 50% - 60% |
| Nursery phase           | 71 - 85° F  | 65% - 75% |
| Vegetation phase        | 71 - 85° F  | 55% - 65% |
| Flower/harvest phase    | 71 - 85° F  | 55% - 60% |
| Drying/extraction rooms | < 75° F     | 55% - 60% |

## 18VAC110-60-20. Fees.

A. Fees are required by the board as specified in this section. Unless otherwise provided, fees listed in this section shall not be refundable.

### B. Registration of practitioner.

|  |      |
|--|------|
| 1. Initial registration.   | \$50 |
| 2. Annual renewal of registration.   | \$50 |
| 3. Replacement of registration for a qualifying practitioner whose information has changed or whose original registration certificate has been lost, stolen, or destroyed. | \$50 |

C. Registration by a qualifying patient, parent, ~~or~~ legal guardian, or registered agent.

|  |      |
|--|------|
| 1. Initial registration of a patient.  | \$50 |
| 2. Annual renewal of registration of a patient.  | \$50 |
| 3. Initial registration of a parent or legal guardian.   | \$25 |
| 4. Annual renewal of registration of a parent or guardian.   | \$25 |
| 5. <u>Initial registration or annual renewal of a registered agent.</u>  | \$25 |
| 6. Replacement of registration for a qualifying patient, parent, <del>or</del> legal guardian, <u>or registered agent</u> whose original registration certificate has been lost, stolen, or destroyed. | \$25 |

### D. Pharmaceutical processor permit.

|  |          |
|--|----------|
| 1. Application.  | \$10,000 |
| 2. Initial permit.   | \$60,000 |
| 3. Annual renewal of permit.   | \$10,000 |
| 4. Change of name of processor.  | \$100    |
| 5. Change of PIC or any other information provided on the permit application.          | \$100    |
| 6. Change of ownership not requiring a criminal background check.                      | \$100    |
| 7. Change of ownership requiring a criminal background check.                          | \$250    |
| 8. Any acquisition, expansion, remodel, or change of location requiring an inspection. | \$1,000  |
| 9. Reinspection fee.   | \$1,000  |
| 10. Registration of each cannabis oil product.   | \$25     |

## 18VAC110-60-40. Prohibited practices for practitioners.

A. A practitioner who issues certifications shall not:

1. Directly or indirectly accept, solicit, or receive anything of value from any person associated with a pharmaceutical processor or provider of paraphernalia, excluding information on products or educational materials on the benefits and risks of cannabis oil;
2. Offer a discount or any other thing of value to a qualifying patient, parent, ~~or~~ guardian, or registered agent based on the patient's agreement or decision to use a particular pharmaceutical processor or cannabis oil product;
3. Examine a qualifying patient for purposes of diagnosing the condition or disease at a location where cannabis oil is dispensed or produced; or
4. Directly or indirectly benefit from a patient obtaining a certification. Such prohibition shall not prohibit a practitioner from charging an appropriate fee for the patient visit.

B. A practitioner who issues certifications, and such practitioner's coworker, employee, spouse, parent, or child, shall not have a direct or indirect financial interest in a pharmaceutical processor or any other entity that may benefit from a qualifying patient's acquisition, purchase, or use of cannabis oil, including any formal or informal agreement whereby a pharmaceutical processor or other person provides compensation if the practitioner issues a certification for a qualifying patient or steers a qualifying patient to a specific pharmaceutical processor or cannabis oil product.

C. A practitioner shall not issue a certification for himself or for family members, employees, or coworkers.

D. A practitioner shall not provide product samples containing cannabis oil other than those approved by the U.S. Food and Drug Administration.

**18VAC110-60-50. Registration of a patient, parent, ~~or~~ legal guardian, or registered agent.**

A. A qualifying patient for whom a practitioner has issued a certification shall register with the board in accordance with this section. If the qualifying patient is a minor or an incapacitated adult, the qualifying patient's parent or legal guardian shall register with the board in accordance with this section. For a registration application to be considered complete, the following items shall be submitted:

1. A copy of the certification issued by a registered practitioner;
2. Proof of residency of the qualifying patient and proof of residency of a parent or legal guardian, if applicable, such as a government-issued identification card or tax receipt;
3. Proof of identity of the qualifying patient and, if the patient is a minor, proof of identity of the parent or legal guardian in the form of a government-issued identification card;
4. Proof of the qualifying patient's age in the form of a birth certificate or other government-issued identification;
5. Payment of the appropriate fees; and
6. Such other information as the board may require to determine the applicant's suitability for registration or to protect public health and safety.

B. A patient, or the patient's parent or legal guardian, may choose a registered agent to receive cannabis oil on behalf of the patient. An individual may serve as a registered agent for no more than two registered patients. For a registration application to be approved, the following shall be submitted:

1. The name, address, birthdate, and registration number of each registered patient for whom the individual intends to act as a registered agent;
2. Proof of identity in the form of a copy of a government-issued identification card;
3. Payment of the applicable fee; and
4. Such other information as the board may require to determine the applicant's suitability for registration or to protect public health and safety.

C. A qualifying patient shall not be issued a written certification by more than one practitioner during a given time period.

~~C.~~ D. Patients, parents, and legal guardians, and registered agents issued a registration shall carry their registrations with them whenever they are in possession of cannabis oil.

**18VAC110-60-60. Denial of a qualifying patient, parent, ~~or~~ legal guardian, or registered agent registration application.**

A. The board may deny an application or renewal of the registration of a qualifying patient, parent, ~~or~~ legal guardian, or registered agent if the applicant:

1. Does not meet the requirements set forth in law or regulation or fails to provide complete information on the application form;
2. Does not provide acceptable proof of identity, residency, or age of the patient to the board;
3. Provides false, misleading, or incorrect information to the board;
4. Has had a qualifying registration of a qualifying patient, parent, ~~or~~ legal guardian, or registered agent denied, suspended, or revoked by the board in the previous six months;
5. Has a certification issued by a practitioner who is not authorized to certify patients for cannabis oil; or
6. Has a prior conviction of a violation of any law pertaining to controlled substances.

B. If the board denies an application or renewal of a qualifying patient, parent, ~~or~~ legal guardian, or registered agent applicant, the board shall provide the applicant with notice of the grounds for the denial and shall inform the applicant of the right to request a hearing pursuant to § 2.2-4019 of the Code of Virginia.

**18VAC110-60-70. Reporting requirements for practitioners, patients, parents, ~~or~~ legal guardians, or registered agents.**

A. A practitioner shall report to the board, on a form prescribed by the board, the death of a registered patient or a change in status involving a registered patient for whom the practitioner has issued a certification if such change affects the patient's continued eligibility to use cannabis oil or the practitioner's inability to continue treating the patient. A practitioner shall report such death, change of status, or inability to continue treatment not more than 15 days after the practitioner becomes aware of such fact.

B. A patient, parent, or legal guardian who has been issued a registration shall notify the board of any change in the information provided to the board not later than 15 days after such change. The patient, parent, or legal guardian shall report changes that include a change in name, address, contact information, medical status of the patient, or change of the certifying practitioner. The patient, parent, or legal guardian shall report such changes on a form prescribed by the board.

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C. A registered agent who has been issued a registration shall notify the board of any change in the information provided to the board not later than 15 days after such change, to include a change in the identifying information of the patient for whom he is serving as a registered agent.

~~D.~~ E. If a patient, parent, ~~or~~ legal guardian, or registered agent notifies the board of any change that results in information on ~~the registration of~~ the patient, parent, ~~or~~ legal guardian's registration guardian, or registered agent being inaccurate, the board shall issue a replacement registration. Upon receipt of a new registration, the qualifying patient, parent, ~~or~~ legal guardian, or registered agent shall destroy in a nonrecoverable manner the registration that was replaced.

~~D.~~ E. If a patient, parent, ~~or~~ legal guardian, or registered agent becomes aware of the loss, theft, or destruction of the registration of such patient, parent, ~~or~~ legal guardian, or registered agent, the patient, parent, or legal guardian registrant shall notify the board not later than five business days after becoming aware of the loss, theft, or destruction, and submit the fee for a replacement registration. The board shall inactivate the initial registration upon receiving such notice and issue a replacement registration upon receiving the applicable fee, provided the applicant continues to satisfy the requirements of law and regulation.

## **18VAC110-60-80. Proper storage and disposal of cannabidiol oil or THC-A oil by patients, parents, ~~or~~ legal guardians, or registered agents.**

A. A registered patient, parent, ~~or~~ legal guardian, or registered agent shall exercise reasonable caution to transport and store cannabis oil in a manner to prevent theft, loss, or access by unauthorized persons.

B. A registered patient, parent, ~~or~~ legal guardian, or registered agent shall dispose of all usable cannabis oil in possession of the registered patient, parent, ~~or~~ legal guardian's possession guardian, or registered agent no later than 10 calendar days after the expiration of the patient's registration if such registration is not renewed, or sooner should the patient no longer wish to possess cannabis oil. A registered patient, parent, ~~or~~ legal guardian, or registered agent shall complete such disposal by one of the following methods:

1. By removing the oil from the original container and mixing it with an undesirable substance such as used coffee grounds, dirt, or kitty litter. The mixture shall be placed in a sealable bag, empty can, or other container to prevent the drug from leaking or breaking out of a garbage bag.
2. By transferring it to law enforcement via a medication drop-box or drug take-back event if permissible under state and federal law.

## **18VAC110-60-90. Revocation or suspension of a qualifying patient, parent, ~~or~~ legal guardian, or registered agent registration.**

The board may revoke or suspend the registration of a registrant (i.e., a patient, parent, ~~or~~ legal guardian, or registered agent) under the following circumstances:

1. The patient's practitioner notifies the board that the practitioner is withdrawing the written certification submitted on behalf of the patient, and 30 days after the practitioner's withdrawal of the written certification, the patient has not obtained a valid written certification from a different practitioner;
2. The ~~patient, parent, or legal guardian~~ registrant provided false, misleading, or incorrect information to the board;
3. The ~~patient, parent, or legal guardian~~ registrant is no longer a resident of Virginia;
4. The ~~patient, parent, or legal guardian~~ registrant obtained more than a 90-day supply of cannabis oil in a 90-day period;
5. The ~~patient, parent, or legal guardian~~ registrant provided or sold cannabis oil to any person, including another ~~registered patient, parent, or legal guardian~~ registrant;
6. The ~~patient, parent, or legal guardian~~ registrant permitted another person to use the registration of the ~~patient, parent, or legal guardian~~ registrant, except as required for a registered agent to act on behalf of a patient;
7. The ~~patient, parent, or legal guardian~~ registrant tampered, falsified, altered, modified, or allowed another person to tamper, falsify, alter, or modify the registration of the ~~patient, parent, or legal guardian~~ registrant;
8. The registration of the ~~patient, parent, or legal guardian~~ registrant was lost, stolen, or destroyed, and the ~~patient, parent, or legal guardian~~ registrant failed to notify the board or notified the board of such incident more than five business days after becoming aware that the registration was lost, stolen, or destroyed;
9. The ~~patient, parent, or legal guardian~~ registrant failed to notify the board of a change in registration information or notified the board of such change more than ~~44~~ 15 days after the change; or
10. The ~~patient, parent, or legal guardian~~ registrant violated any federal or state law or regulation.

## **18VAC110-60-130. Granting of a pharmaceutical processor permit.**

A. The board may issue a pharmaceutical processor permit when all requirements of the board have been met, to include:

1. Designation of a PIC;

2. Evidence of criminal background checks for all employees and delivery agents of the processor to ensure compliance with § 54.1-3442.6 of the Code of Virginia;
3. Evidence of utilization of an electronic tracking system; and
4. A satisfactory inspection of the facility conducted by the board or ~~its~~ the board's agents.

B. The permit shall not be awarded until any deficiency identified by inspectors has been corrected and the facility has been satisfactorily reinspected if warranted.

C. Before any permit is issued, the applicant shall attest to compliance with all state and local laws and ordinances. A pharmaceutical processor permit shall not be issued to any person to operate from a private dwelling or residence.

D. If an applicant has been awarded a pharmaceutical processor permit and has not commenced operation of such facility within 180 days of being notified of the issuance of a pharmaceutical processor permit, the board may rescind such permit, unless such delay was caused by circumstances beyond the control of the permit holder.

E. A pharmaceutical processor shall be deemed to have commenced operation if Cannabis plants are under cultivation by the processor in accordance with the approved application.

F. In the event a permit is rescinded pursuant to this section, the board may award a pharmaceutical processor permit by selecting among the qualified applicants who applied for the pharmaceutical processor permit subject to rescission. If no other qualified applicant who applied for such pharmaceutical processor permit satisfied the criteria for awarding a permit, the board shall publish in accordance with this section a notice of open applications for a pharmaceutical processor permit.

G. Once the permit is issued, ~~Cannabis may not be grown or held in the pharmaceutical processor earlier than two weeks prior to the opening date designated on the application a processor may begin cultivation of Cannabis.~~ Once Cannabis has been placed in the pharmaceutical processor, a pharmacist shall be present during hours of operation to ensure the safety, security, and integrity of the Cannabis. If there is a change in the designated opening date, the pharmaceutical processor shall notify the board office, and a pharmacist shall continue to be on site on a daily basis.

**18VAC110-60-160. Grounds for action against a pharmaceutical processor permit.**

In addition to the bases enumerated in § 54.1-3316 of the Code of Virginia, the board may suspend, revoke, or refuse to grant or renew a permit issued; place such permit on probation; place conditions on such permit; or take other actions permitted by statute or regulation on the following grounds:

1. Any criminal conviction under federal or state statutes or regulations or local ordinances, unless the conviction was

based on a federal statute or regulation related to the possession, purchase, or sale of cannabis oil that is authorized under state law and regulations;

2. Any civil action under any federal or state statute or regulation or local ordinance (i) relating to the applicant's, licensee's, permit holder's, or registrant's profession or (ii) involving drugs, medical devices, or fraudulent practices, including fraudulent billing practices;

3. Failure to maintain effective controls against diversion, theft, or loss of Cannabis, cannabis oil, or other controlled substances;

4. Intentionally or through negligence obscuring, damaging, or defacing a permit or registration card;

5. Permitting another person to use the permit of a permit holder or registration of a qualifying patient, parent, ~~or~~ legal guardian, or registered agent, except as required for a registered agent to act on behalf of a patient;

6. Failure to cooperate or give information to the board on any matter arising out of conduct at a pharmaceutical processor; or

7. Discontinuance of business for more than 60 days, unless the board approves an extension of such period for good cause shown upon a written request from a pharmaceutical processor. Good cause includes exigent circumstances that necessitate the closing of the facility. Good cause shall not include a voluntary closing of the pharmaceutical processor or production facility.

**18VAC110-60-170. Pharmaceutical processor employee licenses and registrations.**

A. A pharmacist with a current, unrestricted license issued by the board practicing at the location of the address on the pharmaceutical processor application shall be in full and actual charge of a pharmaceutical processor and serve as the pharmacist-in-charge.

B. A pharmacist with a current, unrestricted license issued by the board shall provide personal supervision on the premises of the pharmaceutical processor at all times during hours of operation or whenever the processor is being accessed.

C. A person who holds a current, unrestricted registration as a pharmacy technician pursuant to § 54.1-3321 of the Code of Virginia and who has had at least two years of experience practicing as a pharmacy technician may perform the following duties under supervision of a pharmacist:

1. The entry of drug dispensing information and drug history into a data system or other recordkeeping system;
2. The preparation of labels for dispensing the oils or patient information;
3. The removal of the oil to be dispensed from inventory;

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4. The measuring of the oil to be dispensed;
5. The packaging and labeling of the oil to be dispensed and the repackaging thereof;
6. The stocking or loading of devices used in the dispensing process;
7. The selling of the oil to the registered patient, parent, ~~or~~ legal guardian, or registered agent; and
8. The performance of any other task restricted to pharmacy technicians by the board's regulations.

D. A pharmacist with a current, unrestricted license; a registered pharmacy intern who has completed the first professional year of pharmacy school; or a pharmacy technician with a current, unrestricted registration issued by the board may perform duties associated with the cultivation, extraction, and dispensing of the oils as authorized by the PIC or as otherwise authorized in law.

E. A person who does not maintain licensure as a pharmacist or registration as a pharmacy technician but has received a degree in horticulture or has at least two years of experience cultivating plants may perform duties associated with the cultivation of Cannabis as authorized by the PIC.

F. A person who does not maintain licensure as a pharmacist or registration as a pharmacy technician but has received a degree in chemistry or pharmacology or has at least two years of experience extracting chemicals from plants may perform duties associated with the extraction of cannabis oil as authorized by the PIC.

G. A pharmaceutical processor may employ individuals who may have less than two years of experience to perform (i) cultivation-related duties under the supervision of an individual who has received a degree in horticulture or a certification recognized by the board or who has at least two years of experience cultivating plants and (ii) extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants.

~~G.~~ H. A pharmacist on duty shall directly supervise the activities in all areas designated for cultivation, extraction, and dispensing or have a process in place, approved by the board, that provides adequate supervision to protect the security of the Cannabis, seeds, extracts, and cannabis oil and shall ensure quality of the dispensed oils. Pursuant to § 54.1-3442.6 of the Code of Virginia, the PIC may authorize certain employee access to secured areas designated for cultivation and other areas approved by the board. No pharmacist shall be required to be on the premises during such authorized access. The PIC shall ensure security measures are adequate to protect the cannabis from diversion at all times.

~~H.~~ I. Except for certain employee access to secured areas designated for cultivation and other areas approved by the

board and authorized by the PIC pursuant § 54.1-3442.6, at no time shall a pharmaceutical processor operate or be accessed without a pharmacist on duty.

~~I.~~ J. No person shall be employed by or serve as an agent of a pharmaceutical processor without being at least 18 years of age.

~~J.~~ K. No person who has had a license or registration suspended or revoked or been denied issuance of such license or registration shall serve as an employee or agent of the pharmaceutical processor unless such license or registration has been reinstated and is current and unrestricted.

## **18VAC110-60-190. Pharmacy technicians; ratio; supervision and responsibility.**

A. The ratio of pharmacy technicians to pharmacists on duty in the areas of a pharmaceutical processor designated for production or dispensing shall not exceed four pharmacy technicians to one pharmacist.

B. The pharmacist providing direct supervision of pharmacy technicians may be held responsible for the pharmacy technicians' actions. Any violations relating to the dispensing of cannabis oil resulting from the actions of a pharmacy technician shall constitute grounds for action against the license of the pharmacist and the registration of the pharmacy technician. As used in this subsection, "direct supervision" means a supervising pharmacist who:

1. Is on duty where the pharmacy technician is performing routine cannabis oil production or dispensing functions; and
2. Conducts in-process and final checks on the pharmacy technician's performance.

C. Pharmacy technicians shall not:

1. Counsel a registered patient or the patient's parent ~~or~~ legal guardian, or registered agent regarding (i) cannabis oil, or other drugs either before or after cannabis oil has been dispensed or (ii) any medical information contained in a patient medication record;
2. Consult with the practitioner who certified the qualifying patient, or the practitioner's agent, regarding a patient or any medical information pertaining to the patient's cannabis oil or any other drug the patient may be taking;
3. Interpret the patient's clinical data or provide medical advice;
4. Determine whether a different formulation of cannabis oil should be substituted for the cannabis oil product or formulation recommended by the practitioner or requested by the registered patient or parent or legal guardian; or
5. Communicate with a practitioner who certified a registered patient, or the practitioner's agent, to obtain a clarification on a qualifying patient's written certification or instructions.

**18VAC110-60-200. Responsibilities of the PIC.**

A. No person shall be PIC for more than one pharmaceutical processor or for one processor and a pharmacy at any one time. A processor shall employ the PIC at the pharmaceutical processor for at least 35 hours per week, except as otherwise authorized by the board.

B. The PIC or the pharmacist on duty shall control all aspects of the practice of the pharmaceutical processor. Any decision overriding such control of the PIC or other pharmacist on duty may be grounds for disciplinary action against the pharmaceutical processor permit.

C. The pharmaceutical processor PIC shall be responsible for ensuring that:

1. Pharmacy technicians are registered and all employees are properly trained;
2. All record retention requirements are met;
3. All requirements for the physical security of the Cannabis, to include the seeds, any parts or extracts of the Cannabis plants, and the cannabis oil are met;
4. The pharmaceutical processor has appropriate pharmaceutical reference materials to ensure that cannabis oil can be properly dispensed;
5. The following items are conspicuously posted in the pharmaceutical processor in a location and in a manner so as to be clearly and readily identifiable to registered patients, parents, ~~or~~ legal guardians, or registered agents:
  - a. Pharmaceutical processor permit;
  - b. Licenses for all pharmacists practicing at the pharmaceutical processor; and
  - c. The price of all cannabis oil products offered by the pharmaceutical processor; and
6. Any other required filings or notifications are made on behalf of the processor as set forth in regulation.

D. When the PIC ceases practice at a pharmaceutical processor or no longer wishes to be designated as PIC, he shall immediately return the pharmaceutical processor permit to the board indicating the effective date on which he ceased to be the PIC.

E. An outgoing PIC shall have the opportunity to take a complete and accurate inventory of all Cannabis, to include plants, extracts, or cannabis oil on hand on the date he ceases to be the PIC, unless the owner submits written notice to the board showing good cause as to why this opportunity should not be allowed.

F. A PIC who is absent from practice for more than 30 consecutive days shall be deemed to no longer be the PIC. If the PIC knows of an upcoming absence of longer than 30 days, he shall be responsible for notifying the board and returning

the permit. For unanticipated absences by the PIC that exceed 15 days with no known return date within the next 15 days, the permit holder shall immediately notify the board and shall obtain a new PIC.

G. An application for a permit designating the new PIC shall be filed with the required fee within 14 days of the original date of resignation or termination of the PIC on a form provided by the board. It shall be unlawful for a pharmaceutical processor to operate without a new permit past the 14-day deadline unless the board receives a request for an extension prior to the deadline. The executive director for the board may grant an extension for up to an additional 14 days for good cause shown.

**18VAC110-60-210. General provisions.**

A. A pharmaceutical processor shall only sell cannabis oil ~~only~~ in a child-resistant, secure, and light-resistant container. Upon a written request from the registered patient, parent, ~~or~~ legal guardian, or registered agent, the oil may be dispensed in a non-child-resistant container so long as all labeling is maintained with the product.

B. Only a pharmacist may dispense cannabis oil to registered patients or parents or legal guardians of patients who are minors or incapacitated adults and who are registered with the board, or to a patient's registered agent. A pharmacy technician who meets the requirements of 18VAC110-60-170 C may assist, under the direct supervision of a pharmacist, in the dispensing and selling of cannabis oil.

C. The PIC or pharmacist on duty shall restrict access to the pharmaceutical processor to:

1. A person whose responsibilities necessitate access to the pharmaceutical processor and then for only as long as necessary to perform the person's job duties; or
2. A person who is a registered patient, parent, ~~or~~ legal guardian, or registered agent, in which case such person shall not be permitted behind the service counter or in other areas where Cannabis plants, extracts, or cannabis oil ~~is~~ are stored.

D. All pharmacists and pharmacy technicians shall at all times while at the pharmaceutical processor have their current license or registration available for inspection by the board or the board's agent.

E. While inside the pharmaceutical processor, all pharmaceutical processor employees shall wear name tags or similar forms of identification that clearly identify them, including their position at the pharmaceutical processor.

F. A pharmaceutical processor shall be open for registered patients, parents, ~~or~~ legal guardians, or registered agents to purchase cannabis oil products for a minimum of 35 hours a week, except as otherwise authorized by the board.

G. A pharmaceutical processor that closes during its normal hours of operation shall implement procedures to notify registered patients, parents, ~~and~~ legal guardians, and registered

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agents of when the pharmaceutical processor will resume normal hours of operation. Such procedures may include telephone system messages and conspicuously posted signs. If the pharmaceutical processor is or will be closed during its normal hours of operation for longer than two business days, the pharmaceutical processor shall immediately notify the board.

H. A pharmacist shall counsel registered patients, parents, ~~and~~ legal guardians, and registered agents, if applicable, regarding the use of cannabis oil. Such counseling shall include information related to safe techniques for proper use and storage of cannabis oil and for disposal of the oils in a manner that renders them nonrecoverable.

I. The pharmaceutical processor shall establish, implement, and adhere to a written alcohol-free, drug-free, and smoke-free work place policy that shall be available to the board or the board's agent upon request.

## **18VAC110-60-220. Pharmaceutical processor prohibitions.**

A. No pharmaceutical processor shall:

1. Cultivate Cannabis plants or produce or dispense cannabis oil in any place except the approved facility at the address of record on the application for the pharmaceutical processor permit;
2. Sell, deliver, transport, or distribute Cannabis, including cannabis oil, to any other facility, except for the wholesale distribution of cannabis oil products between pharmaceutical processors;
3. Produce or manufacture cannabis oil for use outside of Virginia; or
4. Provide cannabis oil samples.

B. Except for certain employee access to secured areas designated for cultivation and other areas approved by the board and authorized by the PIC pursuant to § 54.1-3442.6 of the Code of Virginia, no pharmaceutical processor shall be open or in operation, and no person shall be in the pharmaceutical processor, unless a pharmacist is on the premises and directly supervising the activity within the pharmaceutical processor. At all other times, the pharmaceutical processor shall be closed and properly secured.

C. No pharmaceutical processor shall sell anything other than cannabis oil products from the pharmaceutical processor.

D. A pharmaceutical processor shall not advertise cannabis oil products, except it may post the following information on websites:

1. Name and location of the processor;
2. Contact information for the processor;

3. Hours and days the pharmaceutical processor is open for dispensing cannabis oil products;
4. Laboratory results;
5. Product information and pricing; and
6. Directions to the processor facility.

E. No cannabis oil shall be consumed on the premises of a pharmaceutical processor, except for emergency administration to a registered patient.

F. No person except a pharmaceutical processor employee ~~or~~, a registered patient, parent, or legal guardian, or a registered agent shall be allowed on the premises of a processor with the following exceptions: laboratory staff may enter a processor for the sole purpose of identifying and collecting Cannabis, or cannabis oil samples for purposes of conducting laboratory tests; the board or the board's authorized representative may waive the prohibition upon prior written request.

G. All persons who have been authorized in writing to enter the facility by the board or the board's authorized representative shall obtain a visitor identification badge from a pharmaceutical processor employee prior to entering the pharmaceutical processor.

1. An employee shall escort and monitor an authorized visitor at all times the visitor is in the pharmaceutical processor.
2. A visitor shall visibly display the visitor identification badge at all times the visitor is in the pharmaceutical processor and shall return the visitor identification badge to a pharmaceutical processor employee upon exiting the pharmaceutical processor.
3. All visitors shall log in and out. The pharmaceutical processor shall maintain the visitor log that shall include the date, time, and purpose of the visit and that shall be available to the board.
4. If an emergency requires the presence of a visitor and makes it impractical for the pharmaceutical processor to obtain a waiver from the board, the processor shall provide written notice to the board as soon as practicable after the onset of the emergency. Such notice shall include the name and company affiliation of the visitor, the purpose of the visit, and the date and time of the visit. A pharmaceutical processor shall monitor the visitor and maintain a log of such visit as required by this subsection.

H. No cannabis oil shall be sold, dispensed, or distributed via a delivery service or any other manner outside of a pharmaceutical processor, except that a registered parent, ~~or~~ legal guardian, or registered agent or an agent of the processor may deliver cannabis oil to the registered patient or in accordance with 18VAC110-60-310 A. Products may also be wholesale distributed between pharmaceutical processors.



I. Notwithstanding the requirements of subsection F of this section, an agent of the board or local law enforcement or other federal, state, or local government officials may enter any area of a pharmaceutical processor if necessary to perform their governmental duties.

**18VAC110-60-230. Inventory requirements.**

A. Each pharmaceutical processor prior to commencing business shall:

1. Conduct an initial comprehensive inventory of all Cannabis plants, including the seeds, parts of plants, extracts, and cannabis oil, at the facility. The inventory shall include, at a minimum, the date of the inventory, a summary of the inventory findings, and the name, signature, and title of the pharmacist or pharmacy technician who conducted the inventory. If a facility commences business with no Cannabis on hand, the pharmacist shall record this fact as the initial inventory; and

2. Establish ongoing inventory controls and procedures for the conduct of inventory reviews and comprehensive inventories of all Cannabis plants, including the seeds, parts of plants, extracts, and cannabis oil, that shall enable the facility to detect any diversion, theft, or loss in a timely manner.

B. Upon commencing business, each pharmaceutical processor and production facility shall conduct a weekly inventory of all Cannabis plants, including the seeds, parts of plants, and cannabis oil in stock, that shall include, at a minimum, the date of the inventory, a summary of the inventory findings, and the name, signature, and title of the pharmacist or pharmacy technician who conducted the inventory. ~~The record of all cannabis oil sold, dispensed, or otherwise disposed of shall show the date of sale; the name of the pharmaceutical processor; the registered patient, parent, or legal guardian to whom the cannabis oil was sold; the address of such person; and the kind and quantity of cannabis oil sold.~~

C. The record of all cannabis oil sold, dispensed, or otherwise disposed of shall show the date of sale or disposition; the name of the pharmaceutical processor; the name and address of the registered patient, parent, ~~or~~ legal guardian, or registered agent to whom the cannabis oil was sold; the kind and quantity of cannabis oil sold or disposed of; and the method of disposal.

D. A complete and accurate record of all Cannabis plants, including the seeds, parts of plants, and cannabis oil on hand shall be prepared annually on the anniversary of the initial inventory or such other date that the PIC may choose, so long as it is not more than one year following the prior year's inventory.

E. All inventories, procedures, and other documents required by this section shall be maintained on the premises and made available to the board or its agent.

F. Inventory records shall be maintained for three years from the date the inventory was taken.

G. Whenever any sample or record is removed by a person authorized to enforce state or federal law for the purpose of investigation or as evidence, such person shall tender a receipt in lieu thereof and the receipt shall be kept for a period of at least three years.

**18VAC110-60-251. Wholesale distribution of cannabis oil products.**

A. Cannabis oil products from a batch that passed the microbiological, mycotoxin, heavy metal, residual solvent, and pesticide chemical residue tests and are packaged and labeled for sale with an appropriate expiration date in accordance with 18VAC110-60-300 may be wholesale distributed between pharmaceutical processors and between a pharmaceutical processor and a cannabis dispensing facility.

B. A pharmaceutical processor wholesale distributing the oil products shall create a record of the transaction that shows (i) the date of distribution, (ii) the names and addresses of the processor distributing the product and the processor or cannabis dispensing facility receiving the product, and (iii) the kind and quantity of product being distributed. The record of the transaction shall be maintained by the distributing pharmaceutical processor with its records of distribution, and a copy of the record shall be provided to and maintained by the processor or facility receiving the product in its records of receipt. Such records shall be maintained by each process or facility for three years in compliance with 18VAC110-60-260.

C. A pharmaceutical processor wholesale distributing the oil products shall provide the receiving processor or cannabis dispensing facility with a copy of the lab results for the distributed product or electronic access to the information that can be shared upon request to registered patients, parents, legal guardians, registered agents, registered practitioners who have certified qualifying patients, or an agent of the board.

D. A pharmaceutical processor wholesale distributing cannabis oil products shall store and handle products and maintain policies and procedures, to include a process for executing or responding to mandatory and voluntary recalls, in a manner that complies with 18VAC110-60-250.

E. If a pharmaceutical processor wholesale distributing cannabis oil products uses an electronic system for the storage and retrieval of records related to distributing cannabis oil, the pharmaceutical processor shall use a system that is compliant with 18VAC110-60-260.

**18VAC110-60-300. Laboratory requirements; testing.**

A. No pharmaceutical processor shall utilize a laboratory to handle, test, or analyze cannabis oil unless such laboratory:

1. Is independent from all other persons involved in the cannabis oil industry in Virginia, which shall mean that no

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person with a direct or indirect interest in the laboratory shall have a direct or indirect financial interest in a pharmacist, pharmaceutical processor, certifying practitioner, or any other entity that may benefit from the production, manufacture, dispensing, sale, purchase, or use of cannabis oil; and

2. Has employed at least one person to oversee and be responsible for the laboratory testing who has earned from a college or university accredited by a national or regional certifying authority at least (i) a master's level degree in chemical or biological sciences and a minimum of two years of post-degree laboratory experience or (ii) a bachelor's degree in chemical or biological sciences and a minimum of four years of post-degree laboratory experience.

B. After processing and before dispensing the cannabis oil product, a pharmaceutical processor shall make a sample available from each batch of product for a laboratory to (i) test for microbiological contaminants, mycotoxins, heavy metals, residual solvents, and pesticide chemical residue and (ii) conduct an active ingredient analysis and terpenes profile. The sample size shall be a statistically valid sample as determined by the board.

C. From the time that a batch of cannabis oil product has been homogenized for sample testing until the laboratory provides the results from its tests and analysis, the pharmaceutical processor shall segregate and withhold from use the entire batch, except the samples that have been removed by the laboratory for testing. During this period of segregation, the pharmaceutical processor shall maintain the batch in a secure, cool, and dry location so as to prevent the batch from becoming contaminated or losing its efficacy.

D. Under no circumstances shall a pharmaceutical processor sell a cannabis oil product prior to the time that the laboratory has completed its testing and analysis and provided a certificate of analysis to the pharmaceutical processor or other designated facility employee.

E. The processor shall require the laboratory to immediately return or properly dispose of any cannabis oil products and materials upon the completion of any testing, use, or research.

F. If a sample of cannabis oil product does not pass the microbiological, mycotoxin, heavy metal, or pesticide chemical residue test based on the standards set forth in this subsection, the pharmaceutical processor shall dispose of the entire batch from which the sample was taken.

1. For purposes of the microbiological test, a cannabis oil sample shall be deemed to have passed if it satisfies the standards set forth in Section 1111 of the United States Pharmacopeia.

2. For purposes of the mycotoxin test, a sample of cannabis oil product shall be deemed to have passed if it meets the following standards:

| Test Specification |                        |
|--------------------|------------------------|
| Aflatoxin B1       | <20 ug/kg of Substance |
| Aflatoxin B2       | <20 ug/kg of Substance |
| Aflatoxin G1       | <20 ug/kg of Substance |
| Aflatoxin G2       | <20 ug/kg of Substance |
| Ochratoxin A       | <20 ug/kg of Substance |

3. For purposes of the heavy metal test, a sample of cannabis oil product shall be deemed to have passed if it meets the following standards:

| Metal   | Limits - parts per million (ppm) |
|---------|----------------------------------|
| Arsenic | <10 ppm                          |
| Cadmium | <4.1 ppm                         |
| Lead    | <10 ppm                          |
| Mercury | <2 ppm                           |

4. For purposes of the pesticide chemical residue test, a sample of cannabis oil product shall be deemed to have passed if it satisfies the most stringent acceptable standard for a pesticide chemical residue in any food item as set forth in Subpart C of the federal Environmental Protection Agency's regulations for Tolerances and Exemptions for Pesticide Chemical Residues in Food, 40 CFR Part 180.

5. For purposes of the active ingredient analysis, a sample of the cannabis oil product shall be tested for:

- Tetrahydrocannabinol (THC);
- Tetrahydrocannabinol acid (THC-A);
- Cannabidiols (CBD); and
- Cannabidiolic acid (CBDA).

6. For the purposes of the residual solvent test, a sample of the cannabis oil product shall be deemed to have passed if it meets the standards and limits recommended by the American Herbal Pharmacopoeia for Cannabis Inflorescence. If a sample does not pass the residual solvents test, the batch can be remediated with further processing. After further processing, the batch must be retested for microbiological, mycotoxin, heavy metal, residual solvents, and pesticide chemical residue, and an active ingredient analysis and terpenes profile must be conducted.

G. If a sample of cannabis oil product passes the microbiological, mycotoxin, heavy metal, residual solvent, and pesticide chemical residue test, the entire batch may be utilized by the processor for immediate packaging and labeling for sale. An expiration date shall be assigned to the product that is based

upon validated stability testing that addresses product stability when opened and the shelf-life for unopened products.

H. The processor shall require the laboratory to file with the board an electronic copy of each laboratory test result for any batch that does not pass the microbiological, mycotoxin, heavy metal, residual solvents, or pesticide chemical residue test at the same time that it transmits those results to the pharmaceutical processor. In addition, the laboratory shall maintain the laboratory test results and make them available to the board or an agent of the board.

I. Each pharmaceutical processor shall have such laboratory results available upon request to registered patients, parents, ~~or~~ legal guardians, or registered agents and registered practitioners who have certified qualifying patients.

**18VAC110-60-310. Dispensing of cannabis oil.**

A. A pharmacist in good faith may dispense cannabis oil to any registered patient, parent, or legal guardian as indicated on the written certification or to a registered agent for a specific patient.

1. Prior to the initial dispensing of oil pursuant to each written certification, the pharmacist or pharmacy technician at the location of the pharmaceutical processor shall view a current photo identification of the patient, parent, ~~or~~ legal guardian, or registered agent. The pharmacist or pharmacy technician shall verify in the Virginia Prescription Monitoring Program of the Department of Health Professions or other program recognized by the board that the registrations are current, the written certification has not expired, and the date and quantity of the last dispensing of cannabis oil to the registered patient.

2. The pharmacist or pharmacy technician shall make and maintain for three years a paper or electronic copy of the current written certification that provides an exact image of the document that is clearly legible.

3. Prior to any subsequent dispensing, the pharmacist, pharmacy technician, or delivery agent shall view the current written certification and a current photo identification and current registration of the patient, parent, ~~or~~ legal guardian, or registered agent and shall maintain record of such viewing in accordance with policies and procedures of the processor.

B. A pharmacist may dispense a portion of a registered patient's 90-day supply of cannabis oil. The pharmacist may dispense the remaining portion of the 90-day supply of cannabis oil at any time except that no registered patient, parent, ~~or~~ legal guardian, or registered agent shall receive more than a 90-day supply of cannabis oil for a patient in a 90-day period from any pharmaceutical processor.

C. A dispensing record shall be maintained for three years from the date of dispensing, and the pharmacist or pharmacy technician under the direct supervision of the pharmacist shall affix a label to the container of oil that contains:

1. A serial number assigned to the dispensing of the oil;
2. The brand name of cannabis oil that was registered with the board pursuant to 18VAC110-60-285 and its strength;
3. The serial number assigned to the oil during production;
4. The date of dispensing the cannabis oil;
5. The quantity of cannabis oil dispensed;
6. A terpenes profile and a list of all active ingredients, including:
  - a. Tetrahydrocannabinol (THC);
  - b. Tetrahydrocannabinol acid (THC-A);
  - c. Cannabidiol (CBD); and
  - d. Cannabidiolic acid (CBDA);
7. A pass rating based on the laboratory's microbiological, mycotoxins, heavy metals, residual solvents, and pesticide chemical residue analysis;
8. The name and registration number of the registered patient;
9. The name and registration number of the certifying practitioner;
10. Directions for use as may be included in the practitioner's written certification or otherwise provided by the practitioner;
11. The name or initials of the dispensing pharmacist;
12. Name, address, and telephone number of the pharmaceutical processor;
13. Any necessary cautionary statement; and
14. A prominently printed expiration date based on stability testing and the pharmaceutical processor's recommended conditions of use and storage that can be read and understood by the ordinary individual.

D. A pharmaceutical processor shall not label cannabis oil products as "organic" unless the Cannabis plants have been organically grown and the cannabis oil products have been produced, processed, manufactured, and certified to be consistent with organic standards in compliance with 7 CFR Part 205.

E. The cannabis oil shall be dispensed in child-resistant packaging, except as provided in 18VAC110-60-210 A. A package shall be deemed child-resistant if it satisfies the standard for "special packaging" as set forth in the Poison Prevention Packaging Act of 1970 Regulations, 16 CFR 1700.1(b)(4).

F. No person except a pharmacist or a pharmacy technician operating under the direct supervision of a pharmacist shall alter, deface, or remove any label so affixed.

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G. A pharmacist shall be responsible for verifying the accuracy of the dispensed oil in all respects prior to dispensing and shall document that each verification has been performed.

H. A pharmacist shall document a registered patient's self-assessment of the effects of cannabis oil in treating the registered patient's diagnosed condition or disease or the symptoms thereof. A pharmaceutical processor shall maintain such documentation in writing or electronically for three years from the date of dispensing and such documentation shall be made available in accordance with regulation.

I. A pharmacist shall exercise professional judgment to determine whether to dispense cannabis oil to a registered patient, parent, ~~or~~ legal guardian, or registered agent if the pharmacist suspects that dispensing cannabis oil to the registered patient, parent, ~~or~~ legal guardian, or registered agent may have negative health or safety consequences for the registered patient or the public.

## **18VAC110-60-320. Dispensing error review and reporting; quality assurance program.**

A. A pharmaceutical processor shall implement and comply with a quality assurance program that describes, in writing, policies and procedures to detect, identify, and prevent dispensing errors. A pharmaceutical processor shall distribute the written policies and procedures to all pharmaceutical processor employees and shall make the written policies and procedures readily available on the premises of the pharmaceutical processor. The policies and procedures shall include:

1. Directions for communicating the details of a dispensing error to the practitioner who certified a qualifying patient and to the qualifying patient, the patient's parent or legal guardian, the patient's registered agent, or appropriate family member if the patient is deceased or is unable to fully comprehend the communication. The communication shall describe methods of correcting the dispensing error or reducing the negative impact of the error on the qualifying patient; and

2. A process to document and assess dispensing errors to determine the cause of the error and an appropriate response.

B. A pharmaceutical processor shall use the findings of its quality assurance program to develop systems and workflow processes designed to prevent dispensing errors. A pharmaceutical processor PIC shall:

1. Inform pharmaceutical processor employees of changes to policy, procedure, systems, or processes made as a result of recommendations generated by the quality assurance program;

2. Notify all processor employees that the discovery or reporting of a dispensing error shall be relayed immediately to a pharmacist on duty;

3. Ensure that a pharmacist performs a quality assurance review for each dispensing error. A pharmacist shall

commence such review as soon as is reasonably possible, but no later than two business days from the date the dispensing error is discovered; and

4. Create a record of every quality assurance review. This record shall contain at least the following:

a. The date of the quality assurance review and the names and titles of the persons performing the review;

b. The pertinent data and other information relating to the dispensing error reviewed;

c. Documentation of contact with the registered patient, parent, ~~or~~ legal guardian, or registered agent, where applicable, and the practitioner who certified the patient;

d. The findings and determinations generated by the quality assurance review; and

e. Recommended changes to pharmaceutical processor policy, procedure, systems, or processes if any.

C. A pharmaceutical processor shall maintain for three years a copy of the pharmaceutical processor's quality assurance program and records of all reported dispensing errors and quality assurance reviews in an orderly manner and filed by date.

VA.R. Doc. No. R20-6129; Filed February 5, 2021, 2:40 p.m.

## **BOARD OF PHARMACY**

### **Emergency Regulation**

Title of Regulation: **18VAC110-60. Regulations Governing Pharmaceutical Processors (amending 18VAC110-60-10, 18VAC110-60-20, 18VAC110-60-40, 18VAC110-60-50, 18VAC110-60-60, 18VAC110-60-90 through 18VAC110-60-270, 18VAC110-60-300 through 18VAC110-60-330; adding 18VAC110-60-135, 18VAC110-60-136, 18VAC110-60-251, 18VAC110-60-321).**

Statutory Authority: §§ 54.1-2400 and 54.1-3442.6 of the Code of Virginia.

Effective Dates: February 8, 2021, through August 7, 2022.

Agency Contact: Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804)367-4456, FAX (804) 527-4472, or email [caroline.juran@dhp.virginia.gov](mailto:caroline.juran@dhp.virginia.gov).

Preamble:

*Section 2.2-4011 B of the Code of Virginia states that agencies may adopt emergency regulations in situations in which Virginia statutory law requires that a regulation be effective in 280 days or less from its enactment, and the regulation is not exempt under the provisions of § 2.2-4006 A 4 of the Code of Virginia. Chapter 1278 of the 2020 Acts of Assembly authorizes the Board of Pharmacy to issue permits for cannabis dispensing facilities and mandates certain requirements for the permitting as well as for pharmaceutical processors.*

*The emergency action (i) establishes provisions for cannabis dispensing facilities, including an application process and fee; (ii) allows patients who are temporary residents to register; (iii) permits access to cultivation areas of the processor when a pharmacist is not present; (iv) establishes standards for laboratories that provide testing to obtain a controlled substance registration; (v) permits the sale of devices and inert sample products; (vi) allows wholesale distribution between processors and dispensing facilities; and (vii) modifies other regulatory provisions as applicable to align with the statutory amendments and requirements of Chapter 1278.*

## Chapter 60

### Regulations Governing Pharmaceutical Processors and Cannabis Dispensing Facilities

#### 18VAC110-60-10. Definitions.

In addition to words and terms defined in §§ 54.1-3408.3 and 54.1-3442.5 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"90-day supply" means the amount of cannabis oil reasonably necessary to ensure an uninterrupted availability of supply for a 90-day period for registered patients.

"Batch" means a quantity of cannabis oil from a production lot that is identified by a batch number or other unique identifier.

"Board" means the Board of Pharmacy.

"Certification" means a written statement, consistent with requirements of § 54.1-3408.3 of the Code of Virginia, issued by a practitioner for the use of cannabis oil for treatment of or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use.

"Dispensing error" means one or more of the following was discovered after the final verification by the pharmacist, regardless of whether the patient received the oil:

1. Variation from the intended oil to be dispensed, including:
  - a. Incorrect oil;
  - b. Incorrect oil strength;
  - c. Incorrect dosage form;
  - d. Incorrect patient; or
  - e. Inadequate or incorrect packaging, labeling, or directions.
2. Failure to exercise professional judgment in identifying and managing:
  - a. Known therapeutic duplication;
  - b. Known drug-disease contraindications;
  - c. Known drug-drug interactions;
  - d. Incorrect drug dosage or duration of drug treatment;

- e. Known drug-allergy interactions;
- f. A clinically significant, avoidable delay in therapy; or
- g. Any other significant, actual, or potential problem with a patient's drug therapy.

3. Delivery of an oil to the incorrect patient.

4. An act or omission relating to the dispensing of cannabis oil that results in, or may reasonably be expected to result in, injury to or death of a registered patient or results in any detrimental change to the medical treatment for the patient.

"Electronic tracking system" means an electronic radio-frequency identification (RFID) seed-to-sale tracking system that tracks the Cannabis from either the seed or immature plant stage until the cannabis oil is sold to a registered patient, parent, or legal guardian or until the Cannabis, including the seeds, parts of plants, and extracts, are destroyed. The electronic tracking system shall include, at a minimum, a central inventory management system and standard and ad hoc reporting functions as required by the board and shall be capable of otherwise satisfying required recordkeeping.

"ISO/IEC" means the joint technical committee of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC).

"ISO/IEC 17025" means the general requirements specified by the ISO/IEC for the competence of testing and calibration laboratories.

"On duty" means that a pharmacist is on the premises at the address of the permitted pharmaceutical processor and is available as needed.

"Perpetual inventory" means an ongoing system for recording quantities of cannabis oil received, dispensed, or otherwise distributed by a cannabis dispensing facility.

"PIC" means the pharmacist-in-charge.

"Production" or "produce" means the manufacture, planting, preparation, cultivation, growing, harvesting, propagation, conversion, or processing of marijuana, (i) directly or indirectly by extraction from substances of natural origin, (ii) independently by means of chemical synthesis, or (iii) by a combination of extraction and chemical synthesis. "Production" or "produce" includes any packaging or repackaging of the substance or labeling or relabeling of its container.

"Qualifying patient" means a Virginia resident or a person who temporarily resides in Virginia who has received from a practitioner, as defined in § 54.1-3408.3 of the Code of Virginia, a written certification for the use of cannabis oil for treatment of or to alleviate the symptoms of any diagnosed condition or disease.

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"Registered patient" means a qualifying patient who has been issued a registration by the board for the dispensing of cannabis oil to such patient.

"Registration" means an identification card or other document issued by the board that identifies a person as a practitioner or a qualifying patient, parent, or legal guardian.

"Resident" means a person whose principal place of residence is within the Commonwealth as evidenced by a federal or state income tax return or a current Virginia driver's license. If a person is a minor, residency may be established by evidence of Virginia residency by a parent or legal guardian.

"Temperature and humidity" means temperature and humidity maintained in the following ranges:

| Room or Phase           | Temperature                      | Humidity  |
|-------------------------|----------------------------------|---|
| Mother room             | 65 - <del>75</del> <u>85</u> ° F | 50% - <del>60</del> <u>75</u> %                       |
| Nursery phase           | <del>74</del> <u>65</u> - 85° F  | <del>65</del> <u>50</u> % - 75%                       |
| Vegetation phase        | <del>74</del> <u>65</u> - 85° F  | <del>55</del> <u>50</u> % - <del>65</del> <u>75</u> % |
| Flower/harvest phase    | <del>74</del> <u>65</u> - 85° F  | <del>55</del> <u>40</u> % - <del>60</del> <u>75</u> % |
| Drying/extraction rooms | < 75° F                          | <del>55</del> <u>40</u> % - <del>60</del> <u>75</u> % |

"Temporarily resides" means a person that does not maintain a principle place of residence within Virginia but resides in Virginia on a temporary basis as evidenced by documentation substantiating such temporary residence.

## 18VAC110-60-20. Fees.

A. Fees are required by the board as specified in this section. Unless otherwise provided, fees listed in this section shall not be refundable.

### B. Registration of practitioner.

1. Initial registration. \$50
2. Annual renewal of registration. \$50
3. Replacement of registration for a qualifying practitioner whose information has changed or whose original registration certificate has been lost, stolen, or destroyed. \$50

### C. Registration by a qualifying patient, parent, or legal guardian.

1. Initial registration of a patient. \$50
2. Annual renewal of registration of a patient. \$50
3. Initial registration of a parent or legal guardian. \$25

4. Annual renewal of registration of a parent or guardian. \$25
5. Replacement of registration for a qualifying patient, parent, or legal guardian whose original registration certificate has been lost, stolen, or destroyed. \$25

### D. Pharmaceutical processor permit.

1. Application. \$10,000
2. Initial permit. \$60,000
3. Annual renewal of permit. \$10,000
4. Change of name of processor. \$100
5. Change of PIC or any other information provided on the permit application. \$100
6. Change of ownership not requiring a criminal background check. \$100
7. Change of ownership requiring a criminal background check. \$250
8. Any acquisition, expansion, remodel, or change of location requiring an inspection. \$1,000
9. Reinspection fee. \$1,000
10. Registration of each cannabis oil product. \$25

### E. Cannabis dispensing facility permit.

1. Initial permit. \$5,000
2. Annual renewal of permit. \$1,500
3. Change of name of dispensing facility. \$100
4. Change of PIC or any other information provided on the permit application. \$100
5. Change of ownership not requiring a criminal background check. \$100
6. Change of ownership requiring a criminal background check. \$250
7. Any acquisition, expansion, remodel, or change of location requiring an inspection. \$1,000
8. Reinspection fee. \$1,000

## 18VAC110-60-40. Prohibited practices for practitioners.

### A. A practitioner who issues certifications shall not:

1. Directly or indirectly accept, solicit, or receive anything of value from any person associated with a pharmaceutical processor or provider of paraphernalia, excluding information on products or educational materials on the benefits and risks of cannabis oil;

2. Offer a discount or any other thing of value to a qualifying patient, parent, or guardian based on the patient's agreement or decision to use a particular pharmaceutical processor or cannabis oil product;

3. Examine a qualifying patient for purposes of diagnosing the condition or disease at a location where cannabis oil is dispensed or produced; or

4. Directly or indirectly benefit from a patient obtaining a certification. Such prohibition shall not prohibit a practitioner from charging an appropriate fee for the patient visit.

B. A practitioner who issues certifications, and such practitioner's coworker, employee, spouse, parent, or child, shall not have a direct or indirect financial interest in a pharmaceutical processor, a cannabis dispensing facility, or any other entity that may benefit from a qualifying patient's acquisition, purchase, or use of cannabis oil, including any formal or informal agreement whereby a pharmaceutical processor or other person provides compensation if the practitioner issues a certification for a qualifying patient or steers a qualifying patient to a specific pharmaceutical processor or cannabis oil product.

C. A practitioner shall not issue a certification for himself or for family members, employees, or coworkers.

D. A practitioner shall not provide product samples containing cannabis oil other than those approved by the U.S. Food and Drug Administration.

### **18VAC110-60-50. Registration of a patient, parent, or legal guardian.**

A. A qualifying patient for whom a practitioner has issued a certification shall register with the board in accordance with this section. If the qualifying patient is a minor or an incapacitated adult, the qualifying patient's parent or legal guardian shall register with the board in accordance with this section. For a registration application to be considered complete, the following items shall be submitted:

1. A copy of the certification issued by a registered practitioner;

2. Proof of residency of the qualifying patient and proof of residency of a parent or legal guardian, if applicable, such as a government-issued identification card or tax receipt or proof of temporary residency, if applicable, such as a current academic identification card from a Virginia institution of higher learning, rental agreement, utility bill, or attestation on a form prescribed by the board that contains information sufficient to document temporary residency in Virginia;

3. Proof of identity of the qualifying patient and, if the patient is a minor, proof of identity of the parent or legal guardian in the form of a government-issued identification card;

4. Proof of the qualifying patient's age in the form of a birth certificate or other government-issued identification;

5. Payment of the appropriate fees; and

6. Such other information as the board may require to determine the applicant's suitability for registration or to protect public health and safety.

B. A qualifying patient shall not be issued a written certification by more than one practitioner during a given time period.

C. Patients, parents, and legal guardians issued a registration shall carry their registrations with them whenever they are in possession of cannabis oil.

### **18VAC110-60-60. Denial of a qualifying patient, parent, or legal guardian registration application.**

A. The board may deny an application or renewal of the registration of a qualifying patient, parent, or legal guardian if the applicant:

1. Does not meet the requirements set forth in law or regulation or fails to provide complete information on the application form;

2. Does not provide acceptable proof of identity, residency or temporary residency, or age of the patient to the board;

3. Provides false, misleading, or incorrect information to the board;

4. Has had a qualifying registration of a qualifying patient, parent, or legal guardian denied, suspended, or revoked by the board in the previous six months;

5. Has a certification issued by a practitioner who is not authorized to certify patients for cannabis oil; or

6. Has a prior conviction of a violation of any law pertaining to controlled substances.

B. If the board denies an application or renewal of a qualifying patient, parent, or legal guardian applicant, the board shall provide the applicant with notice of the grounds for the denial and shall inform the applicant of the right to request a hearing pursuant to § 2.2-4019 of the Code of Virginia.

### **18VAC110-60-90. Revocation or suspension of a qualifying patient, parent, or legal guardian registration.**

The board may revoke or suspend the registration of a patient, parent, or legal guardian under the following circumstances:

1. The patient's practitioner notifies the board that the practitioner is withdrawing the written certification submitted on behalf of the patient, and 30 days after the practitioner's withdrawal of the written certification the patient has not obtained a valid written certification from a different practitioner;

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2. The patient, parent, or legal guardian provided false, misleading, or incorrect information to the board;
3. The patient, parent, or legal guardian is no longer a resident of Virginia or is no longer temporarily residing in Virginia;
4. The patient, parent, or legal guardian obtained more than a 90-day supply of cannabis oil in a 90-day period;
5. The patient, parent, or legal guardian provided or sold cannabis oil to any person, including another registered patient, parent, or legal guardian;
6. The patient, parent, or legal guardian permitted another person to use the registration of the patient, parent, or legal guardian;
7. The patient, parent, or legal guardian tampered, falsified, altered, modified, or allowed another person to tamper, falsify, alter, or modify the registration of the patient, parent, or legal guardian;
8. The registration of the patient, parent, or legal guardian was lost, stolen, or destroyed, and the patient, parent, or legal guardian failed to notify the board or notified the board of such incident more than five business days after becoming aware that the registration was lost, stolen, or destroyed;
9. The patient, parent, or legal guardian failed to notify the board of a change in registration information or notified the board of such change more than 14 days after the change; or
10. The patient, parent, or legal guardian violated any federal or state law or regulation.

## Part III

### Application and Approval Process for Pharmaceutical Processors and Cannabis Dispensing Facilities

#### **18VAC110-60-100. Publication of notice for submission of applications for a pharmaceutical processor permit.**

A. The board shall publish a notice of open applications for pharmaceutical processor permits. Such notice shall include information on how to obtain and complete an application, the required fees, the criteria for issuance of a permit, and the deadline for receipt of applications.

B. The board shall have the right to amend the notice of open applications prior to the deadline for submitting an application. Such amended notice shall be published in the same manner as the original notice of open applications.

C. The board shall have the right to cancel a notice of open applications prior to the award of a pharmaceutical processor permit.

#### **18VAC110-60-135. Application process for and granting of cannabis dispensing facility.**

A. Pursuant to § 54.1-3442.6 of the Code of Virginia, the board may issue up to five cannabis dispensing facility permits

for each health service area. A permit may be issued to a facility that is owned, at least in part, by the pharmaceutical processor located in that health service area for the dispensing of cannabis oil that has been cultivated and produced on the premises of a pharmaceutical processor. Each cannabis dispensing facility shall be located within the same health service area as the pharmaceutical processor.

B. A separate application and fee for each cannabis dispensing facility permit shall be submitted to the board, along with the following information and documentation:

1. The name and address of the facility, which shall not be within 1,000 feet of a school or daycare;

2. The name and address of the facility's owners with 5% or greater ownership;

3. Name and signature of pharmacist-in-charge practicing at the facility;

4. Details regarding the applicant's plans for security to maintain adequate control against the diversion, theft, or loss of cannabis oil products; and

5. Information necessary for the board to conduct a criminal background check on the applicant.

C. Prior to issuing the permit, an inspection of the facility shall be performed by an agent of the board. The permit shall not be awarded until any deficiency identified by inspectors has been corrected and the facility has been satisfactorily reinspected if warranted.

D. A cannabis dispensing facility shall comply with all state and local laws and ordinances.

E. A cannabis dispensing facility permit shall not be issued to any person to operate from a private dwelling or residence.

F. No person who has been convicted of (i) a felony under the laws of the Commonwealth or another jurisdiction or (ii) within the last five years, any offense in violation of Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 or a substantially similar offense under the laws of another jurisdiction shall be employed by or act as an agent of a pharmaceutical processor or cannabis dispensing facility.

G. If the cannabis dispensing facility is not operational within 90 days from the date the permit is issued, the board shall rescind the permit unless an extension is granted for good cause shown.

H. A cannabis dispensing facility shall be deemed to have commenced operation if it is in receipt of cannabis oil from a pharmaceutical processor.

I. Once the facility is in possession of cannabis oil, a pharmacist shall be on site at all times during the declared hours of operation.



**18VAC110-60-136. Denial of a cannabis dispensing facility permit application.**

A. The board may deny an application for a cannabis dispensing facility if the applicant:

1. Submits an incomplete, false, inaccurate, or misleading application;
2. Fails to pay all applicable fees; or
3. Fails to comply with all requirements for a cannabis dispensing facility.

B. If the board denies an application of cannabis dispensing facility, the board shall provide the applicant with notice of the grounds for the denial and shall inform the applicant of the right to request a hearing pursuant to § 2.2-4019 of the Code of Virginia.

**18VAC110-60-140. Notification of changes by pharmaceutical processor or cannabis dispensing facility.**

A. Unless otherwise provided in law or regulation, the PIC designated on the application to be in full and actual charge of the pharmaceutical processor or cannabis dispensing facility shall provide any notification or information that is required from a pharmaceutical processor or cannabis dispensing facility.

B. Prior to making any change to the pharmaceutical processor or cannabis dispensing facility name, the pharmaceutical processor or cannabis dispensing facility shall submit an application for such change to the board and pay the fee.

C. Any person wishing to engage in the acquisition of an existing pharmaceutical processor or cannabis dispensing facility, change the location of an existing pharmaceutical processor or cannabis dispensing facility, make structural changes to an existing pharmaceutical processor or cannabis dispensing facility, or make changes to a previously approved security system shall submit an application to the board and pay the required fee.

1. The proposed location or structural changes shall be inspected by an authorized agent of the board prior to issuance of a permit.
2. Cannabis, oil acquired from industrial hemp extract, or cannabis oil shall not be moved to a new location until approval is granted by the inspector or board staff.

**18VAC110-60-150. Pharmaceutical processor or cannabis dispensing facility closings; going out of business; change of ownership.**

A. At least 30 days prior to the date a pharmaceutical processor or cannabis dispensing facility closes, either temporarily or permanently, the owner shall:

1. Notify the board;

2. Send written notification to patients with current certification; and

3. Post a notice on the window or door of the pharmaceutical processor or cannabis dispensing facility.

B. The proposed disposition of all Cannabis, oil from industrial hemp, cannabis oil, dispensing records, patient information records, and other required records, as applicable, shall be reported to the board. If the Cannabis, oils, and records are to be transferred to another processor located in Virginia or to another cannabis dispensing facility in the same health service area, the owner shall inform the board and the patients and include on the public notice the name and address of the processor or cannabis dispensing facility to whom the Cannabis, oils, and records are being transferred and the date of transfer.

C. Exceptions to the public notice shall be approved by the board and may include sudden closing due to fire, destruction, natural disaster, death, property seizure, eviction, bankruptcy, or other emergency circumstances. If the pharmaceutical processor or cannabis dispensing facility is not able to meet the notification requirements, the owner shall ensure that the board and public are properly notified as soon as the owner knows of the closure and shall disclose the emergency circumstances preventing the notification within the required deadlines.

D. In the event of an exception to the notice, the PIC or owner shall provide notice as far in advance of closing as allowed by the circumstances.

E. At least 14 days prior to any change in ownership of an existing pharmaceutical processor or cannabis dispensing facility, the owner shall notify the board of the pending change.

1. Upon any change in ownership of an existing pharmaceutical processor or cannabis dispensing facility, the dispensing records for the two years immediately preceding the date of change of ownership and other required patient information shall be provided to the new owners on the date of change of ownership in substantially the same format as previously used immediately prior to the transfer to provide continuity of services.
2. The previous owner shall be held responsible for assuring the proper and lawful transfer of records on the date of the transfer.
3. If a new owner's share constitutes 5.0% or greater of the total ownership, the new owner shall submit to fingerprinting and the criminal history record search required by of § 54.1-3442.6 E of the Code of Virginia.

**18VAC110-60-160. Grounds for action against a pharmaceutical processor permit or cannabis dispensing facility.**

In addition to the bases enumerated in § 54.1-3316 of the Code of Virginia, the board may suspend, revoke, or refuse to

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grant or renew a permit issued; place such permit on probation; place conditions on such permit; or take other actions permitted by statute or regulation on the following grounds:

1. Any criminal conviction under federal or state statutes or regulations or local ordinances, unless the conviction was based on a federal statute or regulation related to the possession, purchase, or sale of cannabis oil that is authorized under state law and regulations;
2. Any civil action under any federal or state statute or regulation or local ordinance (i) relating to the applicant's, licensee's, permit holder's, or registrant's profession or (ii) involving drugs, medical devices, or fraudulent practices, including fraudulent billing practices;
3. Failure to maintain effective controls against diversion, theft, or loss of Cannabis, cannabis oil, or other controlled substances;
4. Intentionally or through negligence obscuring, damaging, or defacing a permit or registration card;
5. Permitting another person to use the permit of a permit holder or registration of a qualifying patient, parent, or legal guardian;
6. Failure to cooperate or give information to the board on any matter arising out of conduct at a pharmaceutical processor; or
7. Discontinuance of business for more than 60 days, unless the board approves an extension of such period for good cause shown upon a written request from a pharmaceutical processor or cannabis dispensing facility. Good cause includes exigent circumstances that necessitate the closing of the facility. Good cause shall not include a voluntary closing of the pharmaceutical processor or ~~production~~ cannabis dispensing facility.

## Part IV

### Requirements for Pharmaceutical Processor or Cannabis Dispensing Facility Personnel

#### **18VAC110-60-170. Pharmaceutical processor or cannabis dispensing facility employee licenses and registrations.**

A. A pharmacist with a current, unrestricted license issued by the board practicing at the location of the address on the pharmaceutical processor or cannabis dispensing facility application shall be in full and actual charge of a pharmaceutical processor or cannabis dispensing facility and shall serve as the pharmacist-in-charge.

~~B. A pharmacist with a current, unrestricted license issued by the board shall provide personal supervision on the premises of the pharmaceutical processor at all times during hours of operation or whenever the processor is being accessed. Except when employees authorized by the PIC pursuant to § 54.1-3442.6 of the Code of Virginia access the secured area designated for cultivation, the pharmacist on duty at the~~

pharmaceutical processor or cannabis dispensing facility shall directly supervise the activities in all areas designated for cultivation, extraction, and dispensing, and the pharmaceutical processor or cannabis dispensing facility shall not operate or be accessed when no pharmacist is on duty. The PIC shall ensure security measures are adequate to protect cannabis from diversion at all times.

C. A person who holds a current, unrestricted registration as a pharmacy technician pursuant to § 54.1-3321 of the Code of Virginia and who has had at least two years of experience practicing as a pharmacy technician may perform the following duties under supervision of a pharmacist:

1. The entry of drug dispensing information and drug history into a data system or other recordkeeping system;
2. The preparation of labels for dispensing the oils or patient information;
3. The removal of the oil to be dispensed from inventory;
4. The measuring of the oil to be dispensed;
5. The packaging and labeling of the oil to be dispensed and the repackaging thereof;
6. The stocking or loading of devices used in the dispensing process;
7. The selling of the oil to the registered patient, parent, or legal guardian; and
8. The performance of any other task restricted to pharmacy technicians by the board's regulations.

D. A pharmacist with a current, unrestricted license; a registered pharmacy intern who has completed the first professional year of pharmacy school; or a pharmacy technician with a current, unrestricted registration issued by the board may perform duties associated with the cultivation, extraction, and dispensing of the oils as authorized by the PIC or as otherwise authorized in law.

E. A person who does not maintain licensure as a pharmacist or registration as a pharmacy technician but has received a degree in horticulture or has at least two years of experience cultivating plants may perform duties associated with the cultivation of Cannabis as authorized by the PIC.

F. A person who does not maintain licensure as a pharmacist or registration as a pharmacy technician but has received a degree in chemistry or pharmacology or has at least two years of experience extracting chemicals from plants may perform duties associated with the extraction of cannabis oil as authorized by the PIC.

~~G. A pharmacist on duty shall directly supervise the activities in all areas designated for cultivation, extraction, and dispensing or have a process in place, approved by the board, that provides adequate supervision to protect the security of the Cannabis, seeds, extracts, and cannabis oil and shall ensure~~

~~quality of the dispensed oils. Pursuant to § 54.1-3442.6 of the Code of Virginia, the PIC may authorize certain employee access to secured areas designated for cultivation. No pharmacist shall be required to be on the premises during such authorized access. The PIC shall ensure security measures are adequate to protect the cannabis from diversion at all times. A pharmaceutical processor may employ individuals who may have less than two years of experience to perform (i) cultivation-related duties under the supervision of an individual who has received a degree in horticulture or a certification recognized by the board or who has at least two years of experience cultivating plants and (ii) extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants.~~

~~H. Except for certain employee access to secured areas designated for cultivation and authorized by the PIC pursuant § 54.1-3442.6 of the Code of Virginia, at no time shall a pharmaceutical processor operate or be accessed without a pharmacist on duty.~~

~~I. No person shall be employed by or serve as an agent of a pharmaceutical processor or cannabis dispensing facility without being at least 18 years of age.~~

~~J. I. No person who has had a license or registration suspended or revoked or been denied issuance of such license or registration shall serve as an employee or agent of the pharmaceutical processor or cannabis dispensing facility unless such license or registration has been reinstated and is current and unrestricted.~~

**18VAC110-60-180. Employee training.**

A. All employees of a pharmaceutical processor or cannabis dispensing facility shall complete training prior to the employee commencing work at the pharmaceutical processor or cannabis dispensing facility. At a minimum, the training shall be in the following areas:

1. The proper use of security measures and controls that have been adopted for the prevention of diversion, theft, or loss of Cannabis, to include the seeds, any parts or extracts of the Cannabis plants and cannabis oil;
2. Procedures and instructions for responding to an emergency;
3. Professional conduct, ethics, and state and federal statutes and regulations regarding patient confidentiality; and
4. Developments in the field of the medical use of cannabis oil.

B. Prior to regular performance of assigned tasks, the employee shall also receive on-the-job training and other related education, which shall be commensurate with the tasks assigned to the employee.

C. The PIC shall assure the continued competency of all employees through continuing in-service training that is provided at least annually, is designed to supplement initial training, and includes any guidance specified by the board.

D. The PIC shall be responsible for maintaining a written record documenting the initial and continuing training of all employees that shall contain:

1. The name of the person receiving the training;
2. The dates of the training;
3. A general description of the topics covered;
4. The name of the person supervising the training; and
5. The signatures of the person receiving the training and the PIC.

E. When a change of pharmaceutical processor or cannabis dispensing facility PIC occurs, the new PIC shall review the training record and sign it, indicating that the new PIC understands its contents.

F. A pharmaceutical processor or cannabis dispensing facility shall maintain the record documenting the employee training and make it available in accordance with regulations.

**18VAC110-60-190. Pharmacy technicians; ratio; supervision and responsibility.**

A. The ratio of pharmacy technicians to pharmacists on duty in the areas of a pharmaceutical processor or cannabis dispensing facility designated for production or dispensing shall not exceed ~~four~~ six pharmacy technicians to one pharmacist.

B. The pharmacist providing direct supervision of pharmacy technicians may be held responsible for the pharmacy technicians' actions. Any violations relating to the dispensing of cannabis oil resulting from the actions of a pharmacy technician shall constitute grounds for action against the license of the pharmacist and the registration of the pharmacy technician. As used in this subsection, "direct supervision" means a supervising pharmacist who:

1. Is on duty where the pharmacy technician is performing routine cannabis oil production or dispensing functions; and
2. Conducts in-process and final checks on the pharmacy technician's performance.

C. Pharmacy technicians shall not:

1. Counsel a registered patient or the patient's parent or legal guardian regarding (i) cannabis oil or other drugs either before or after cannabis oil has been dispensed or (ii) any medical information contained in a patient medication record;
2. Consult with the practitioner who certified the qualifying patient, or the practitioner's agent, regarding a patient or any

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medical information pertaining to the patient's cannabis oil or any other drug the patient may be taking;

3. Interpret the patient's clinical data or provide medical advice;

4. Determine whether a different formulation of cannabis oil should be substituted for the cannabis oil product or formulation recommended by the practitioner or requested by the registered patient or parent or legal guardian; or

5. Communicate with a practitioner who certified a registered patient, or the practitioner's agent, to obtain a clarification on a qualifying patient's written certification or instructions.

## **18VAC110-60-200. Responsibilities of the PIC.**

A. ~~No person shall be PIC for more than one pharmaceutical processor or for one processor and a pharmacy.~~ The PIC of a pharmaceutical processor shall not serve as PIC of any other facility at any one time. A processor shall employ the PIC at the pharmaceutical processor for at least 35 hours per week, except as otherwise authorized by the board. A person may serve simultaneously as the PIC for no more than two cannabis dispensing facilities located within the same health service area at any one time.

B. The PIC or the pharmacist on duty shall control all aspects of the practice of the pharmaceutical processor or cannabis dispensing facility. Any decision overriding such control of the PIC or other pharmacist on duty may be grounds for disciplinary action against the pharmaceutical processor or cannabis dispensing facility permit.

C. The PIC of a pharmaceutical processor ~~PIC~~ or cannabis dispensing facility shall be responsible for ensuring that:

1. Pharmacy technicians are registered and all employees are properly trained;

2. All record retention requirements are met;

3. All requirements for the physical security of the Cannabis, to include the seeds, any parts or extracts of the Cannabis plants and the cannabis oil are met;

4. The pharmaceutical processor or cannabis dispensing facility has appropriate pharmaceutical reference materials to ensure that cannabis oil can be properly dispensed;

5. The following items are conspicuously posted in the pharmaceutical processor or cannabis dispensing facility in a location and in a manner so as to be clearly and readily identifiable to registered patients, parents, or legal guardians:

a. Pharmaceutical processor permit or cannabis dispensing facility permit;

b. Licenses for all pharmacists practicing at the pharmaceutical processor or cannabis dispensing facility; and

c. The price of all cannabis oil products offered by the pharmaceutical processor or cannabis dispensing facility; and

6. Any other required filings or notifications are made on behalf of the pharmaceutical processor or dispensing facility as set forth in regulation.

D. When the PIC ceases practice at a pharmaceutical processor or cannabis dispensing facility or no longer wishes to be designated as PIC, he shall immediately return the ~~pharmaceutical processor~~ permit to the board indicating the effective date on which he ceased to be the PIC.

E. An outgoing PIC shall have the opportunity to take a complete and accurate inventory of all Cannabis, to include plants, extracts, or cannabis oil on hand on the date he ceases to be the PIC, unless the owner submits written notice to the board showing good cause as to why this opportunity should not be allowed.

F. A PIC who is absent from practice for more than 30 consecutive days shall be deemed to no longer be the PIC. If the PIC knows of an upcoming absence of longer than 30 days, he shall be responsible for notifying the board and returning the permit. For unanticipated absences by the PIC that exceed 15 days with no known return date within the next 15 days, the permit holder shall immediately notify the board and shall obtain a new PIC.

G. An application for a permit designating the new PIC shall be filed with the required fee within 14 days of the original date of resignation or termination of the PIC on a form provided by the board. It shall be unlawful for a pharmaceutical processor or cannabis dispensing facility to operate without a new permit past the 14-day deadline unless the board receives a request for an extension prior to the deadline. The executive director for the board may grant an extension for up to an additional 14 days for good cause shown.

## Part V

### Operation of a Pharmaceutical Processor or Cannabis Dispensing Facility

## **18VAC110-60-210. General provisions.**

A. A pharmaceutical processor or cannabis dispensing facility shall sell cannabis oil only in a child-resistant, secure, and light-resistant container. Upon a written request from the registered patient, parent, or legal guardian, the oil may be dispensed in a non-child-resistant container so long as all labeling is maintained with the product.

B. Only a pharmacist may dispense cannabis oil to registered patients or parents or legal guardians of patients who are minors or incapacitated adults and who are registered with the board. A pharmacy technician who meets the requirements of 18VAC110-60-170 C may assist, under the direct supervision of a pharmacist, in the dispensing and selling of cannabis oil.

C. The PIC or pharmacist on duty shall restrict access to the pharmaceutical processor or cannabis dispensing facility to:

1. A person whose responsibilities necessitate access to the pharmaceutical processor or cannabis dispensing facility and then for only as long as necessary to perform the person's job duties; or
2. A person who is a registered patient, parent, or legal guardian, in which case such person shall not be permitted behind the service counter or in other areas where Cannabis plants, extracts, or cannabis oil is stored.

D. All pharmacists and pharmacy technicians shall at all times while at the pharmaceutical processor or cannabis dispensing facility have their current license or registration available for inspection by the board or the board's agent.

E. While inside the pharmaceutical processor or cannabis dispensing facility, all ~~pharmaceutical processor~~ employees shall wear name tags or similar forms of identification that clearly identify them, including their position at the pharmaceutical processor or cannabis dispensing facility.

F. A pharmaceutical processor or cannabis dispensing facility shall be open for registered patients, parents, or legal guardians to purchase cannabis oil products for a minimum of 35 hours a week, except as otherwise authorized by the board.

G. A pharmaceutical processor or cannabis dispensing facility that closes during its normal hours of operation shall implement procedures to notify registered patients, parents, and legal guardians of when the pharmaceutical processor or cannabis dispensing facility will resume normal hours of operation. Such procedures may include telephone system messages and conspicuously posted signs. If the pharmaceutical processor or cannabis dispensing facility is or will be closed during its normal hours of operation for longer than two business days, the pharmaceutical processor or cannabis dispensing facility shall immediately notify the board.

H. A pharmacist shall counsel registered patients, parents, and legal guardians regarding the use of cannabis oil. Such counseling shall include information related to safe techniques for proper use and storage of cannabis oil and for disposal of the oils in a manner that renders them nonrecoverable.

I. The pharmaceutical processor or cannabis dispensing facility shall establish, implement, and adhere to a written alcohol-free, drug-free, and smoke-free work place policy that shall be available to the board or the board's agent upon request.

**18VAC110-60-220. Pharmaceutical processor and cannabis dispensing facility prohibitions.**

A. No pharmaceutical processor shall:

1. Cultivate Cannabis plants or produce or dispense cannabis oil in any place except the approved facility at the address of

record on the application for the pharmaceutical processor permit;

2. Sell, deliver, transport, or distribute Cannabis, including cannabis oil, to any other facility except for the wholesale distribution of cannabis oil products between pharmaceutical processors and to a cannabis dispensing facility;
3. Produce or manufacture cannabis oil for use outside of Virginia; or
4. Provide cannabis oil samples.

B. No cannabis dispensing facility shall:

1. Dispense cannabis oil in any place except the approved facility at the address of record on the application for the cannabis dispensing facility permit;
2. Sell, deliver, transport, or distribute cannabis oil to any other facility, except that it may distribute cannabis oil back to the pharmaceutical processor from which it obtained the oil; or
3. Provide cannabis oil samples.

C. Except for certain employee access to secured areas designated for cultivation and authorized by the PIC pursuant to § 54.1-3442.6 of the Code of Virginia, no pharmaceutical processor or cannabis dispensing facility shall be open or in operation, and no person shall be in the pharmaceutical processor or cannabis dispensing facility, unless a pharmacist is on the premises and directly supervising the activity within the pharmaceutical processor or cannabis dispensing facility. At all other times, the pharmaceutical processor or cannabis dispensing facility shall be closed and properly secured.

~~E. D.~~ No pharmaceutical processor or cannabis dispensing facility shall sell anything other than cannabis oil products from the pharmaceutical processor except for devices for administration of dispensed products.

~~D. E.~~ A pharmaceutical processor or cannabis dispensing facility shall not advertise cannabis oil products, except it may post the following information on websites:

1. Name and location of the processor or facility;
2. Contact information for the processor or facility;
3. Hours and days the pharmaceutical processor or cannabis dispensing facility is open for dispensing cannabis oil products;
4. Laboratory results;
5. Product information and pricing; and
6. Directions to the processor or facility.

~~E. F.~~ No cannabis oil shall be consumed on the premises of a pharmaceutical processor or cannabis dispensing facility, except for emergency administration to a registered patient.

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~~F.~~ G. No person except a pharmaceutical processor or cannabis dispensing facility employee or a registered patient, parent, or legal guardian shall be allowed on the premises of a processor or facility with the following exceptions: laboratory staff may enter a processor for the sole purpose of identifying and collecting Cannabis or cannabis oil samples for purposes of conducting laboratory tests; the board or the board's authorized representative may waive the prohibition upon prior written request.

~~G.~~ H. All persons who have been authorized in writing to enter the facility by the board or the board's authorized representative shall obtain a visitor identification badge from a pharmaceutical processor or cannabis dispensing facility employee prior to entering the ~~pharmaceutical processor or facility~~.

1. An employee shall escort and monitor an authorized visitor at all times the visitor is in the pharmaceutical processor or cannabis dispensing facility.

2. A visitor shall visibly display the visitor identification badge at all times the visitor is in the pharmaceutical processor or cannabis dispensing facility and shall return the visitor identification badge to a ~~pharmaceutical processor~~ an employee upon exiting the ~~pharmaceutical processor or facility~~.

3. All visitors shall log in and out. The pharmaceutical processor or cannabis dispensing facility shall maintain the visitor log that shall include the date, time, and purpose of the visit and that shall be available to the board.

4. If an emergency requires the presence of a visitor and makes it impractical for the pharmaceutical processor or cannabis dispensing facility to obtain a waiver from the board, the processor or facility shall provide written notice to the board as soon as practicable after the onset of the emergency. Such notice shall include the name and company affiliation of the visitor, the purpose of the visit, and the date and time of the visit. A pharmaceutical processor or cannabis dispensing facility shall monitor the visitor and maintain a log of such visit as required by this subsection.

~~H.~~ I. No cannabis oil shall be sold, dispensed, or distributed via a delivery service or any other manner outside of a pharmaceutical processor or cannabis dispensing facility, except that a registered parent or legal guardian or an agent of the processor or cannabis dispensing facility may deliver cannabis oil to the registered patient or in accordance with 18VAC110-60-310 A.

~~I.~~ J. Notwithstanding the requirements of subsection F of this section, an agent of the board or local law enforcement or other federal, state, or local government officials may enter any area of a pharmaceutical processor or cannabis dispensing facility if necessary to perform their governmental duties.

## 18VAC110-60-230. Inventory requirements.

A. Each pharmaceutical processor or cannabis dispensing facility prior to commencing business shall:

1. Conduct an initial comprehensive inventory of all Cannabis plants, including the seeds, parts of plants, extracts, and cannabis oil, at the facility. The inventory shall include, at a minimum, the date of the inventory, a summary of the inventory findings, and the name, signature, and title of the pharmacist or pharmacy technician who conducted the inventory. If a facility commences business with no Cannabis or cannabis oil on hand, the pharmacist shall record this fact as the initial inventory; and

2. Establish ongoing inventory controls and procedures for the conduct of inventory reviews and comprehensive inventories of all Cannabis plants, including the seeds, parts of plants, extracts, and cannabis oil, that shall enable the facility to detect any diversion, theft, or loss in a timely manner.

B. Upon commencing business, each pharmaceutical processor and ~~production facility~~ shall conduct a weekly inventory of all Cannabis plants, including the seeds, parts of plants, and cannabis oil in stock, that shall include, at a minimum, the date of the inventory, a summary of the inventory findings, and the name, signature, and title of the pharmacist or pharmacy technician who conducted the inventory. ~~The record of all cannabis oil sold, dispensed, or otherwise disposed of shall show the date of sale; the name of the pharmaceutical processor; the registered patient, parent, or legal guardian to whom the cannabis oil was sold; the address of such person; and the kind and quantity of cannabis oil sold.~~

C. Upon commencing business, each cannabis dispensing facility shall maintain a perpetual inventory of all cannabis oil products received and dispensed that accurately indicates the physical count of each cannabis oil product on-hand at the time of performing the inventory. The perpetual inventory shall include a reconciliation of each cannabis oil product at least monthly with a written explanation for any difference between the physical count and the theoretical count.

D. The record of all cannabis oil sold, dispensed, or otherwise disposed of shall show the date of sale or disposition; the name of the pharmaceutical processor; the name and address of the registered patient, parent, or legal guardian to whom the cannabis oil was sold; the kind and quantity of cannabis oil sold or disposed of; and the method of disposal.

~~D.~~ E. A complete and accurate record of all Cannabis plants, including the seeds, parts of plants, and cannabis oil on hand shall be prepared annually on the anniversary of the initial inventory or such other date that the PIC may choose, so long as it is not more than one year following the prior year's inventory.

~~E. F.~~ All inventories, procedures, and other documents required by this section shall be maintained on the premises and made available to the board or its agent.

~~F. G.~~ Inventory records shall be maintained for three years from the date the inventory was taken.

~~G. H.~~ Whenever any sample or record is removed by a person authorized to enforce state or federal law for the purpose of investigation or as evidence, such person shall tender a receipt in lieu thereof and the receipt shall be kept for a period of at least three years.

**18VAC110-60-240. Security requirements.**

A. A pharmaceutical processor shall initially cultivate only the number of Cannabis plants necessary to produce cannabis oil for the number of patients anticipated within the first nine months of operation. Thereafter, the processor shall:

1. Not maintain more than 12 Cannabis plants per patient at any given time based on dispensing data from the previous 90 days; and
2. Not maintain cannabis oil in excess of the quantity required for normal, efficient operation;

B. At no time shall a cannabis dispensing facility maintain cannabis oil in excess of the quantity required for normal, efficient operation.

C. Items a pharmaceutical processor shall properly secure include Cannabis plants, seeds, parts of plants, extracts and cannabis oil. A cannabis dispensing facility shall properly secure cannabis oil. To secure these items a pharmaceutical processor and a cannabis dispensing facility shall:

- ~~3.~~ 1. Maintain all Cannabis plants, seeds, parts of plants, extracts, and cannabis oil in a secure area or location accessible only by the minimum number of authorized employees essential for efficient operation;
- ~~4.~~ 2. Store all cut parts of Cannabis plants, extracts, or cannabis oil in an approved safe or approved vault within the pharmaceutical processor or cannabis dispensing facility and not sell cannabis oil products when the pharmaceutical processor or cannabis dispensing facility is closed;
- ~~5.~~ 3. Keep all approved safes, approved vaults, or any other approved equipment or areas used for the production, cultivation, harvesting, processing, manufacturing, or storage of cannabis oil securely locked or protected from entry, except for the actual time required to remove or replace the Cannabis, seeds, parts of plants, extracts, or cannabis oil;
- ~~6.~~ 4. Keep all locks and security equipment in good working order;
- ~~7.~~ 5. Restrict access to keys or codes to all safes, approved vaults, or other approved equipment or areas to pharmacists practicing at the pharmaceutical processor or cannabis

dispensing facility, except for persons authorized by the PIC and § 54.1-3442.6 of the Code of Virginia to access secured areas designated for cultivation when no pharmacist is on the premises; and

~~8. Not allow keys to be left in the locks or accessible to non-pharmacists.~~

~~B. D.~~ The pharmaceutical processor or cannabis dispensing facility shall have an adequate security system to prevent and detect diversion, theft, or loss of Cannabis seeds, plants, extracts, or cannabis oil. A device for the detection of breaking and a back-up alarm system with an ability to remain operational during a power outage shall be installed in each pharmaceutical processor or cannabis dispensing facility. The installation and the device shall be based on accepted alarm industry standards and subject to the following conditions:

1. The device shall be a sound, microwave, photoelectric, ultrasonic, or other generally accepted and suitable device;
2. The device shall be monitored in accordance with accepted industry standards, be maintained in operating order, have an auxiliary source of power, and be capable of sending an alarm signal to the monitoring entity when breached if the communication line is not operational;
3. The device shall fully protect the entire processor or facility and shall be capable of detecting breaking by any means when activated;
4. The device shall include a duress alarm, a panic alarm, and an automatic voice dialer; and
5. Access to the alarm system for the pharmaceutical processor or cannabis dispensing facility shall be restricted to the pharmacists working at the pharmaceutical processor or cannabis dispensing facility, and the system shall be activated whenever the ~~pharmaceutical processor or facility~~ pharmaceutical processor or facility is closed for business. Pursuant to § 54.1-3442.6 of the Code of Virginia, the PIC of a pharmaceutical processor may authorize certain employee access to secured areas designated for cultivation. No pharmacist shall be required to be on the premises during such authorized access. The PIC of a pharmaceutical processor or a cannabis dispensing facility shall ensure security measures are adequate to protect the Cannabis and cannabis oil from diversion at all times.

~~C. E.~~ A pharmaceutical processor or cannabis dispensing facility shall keep the outside perimeter of the premises well-lit. A processor or facility shall have video cameras in all areas that may contain Cannabis plants, seeds, parts of plants, extracts, or cannabis oil and at all points of entry and exit, which shall be appropriate for the normal lighting conditions of the area under surveillance.

1. The processor or facility shall direct cameras at all approved safes, approved vaults, dispensing areas, or cannabis oil sales areas, and any other area where Cannabis

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plants, seeds, extracts, or cannabis oil are being produced, harvested, manufactured, stored, or handled. At entry and exit points, the processor or facility shall angle cameras so as to allow for the capture of clear and certain identification of any person entering or exiting the facility;

2. The video system shall have:

- a. A failure notification system that provides an audible, text, or visual notification of any failure in the surveillance system. The failure notification system shall provide an alert to the processor or facility within five minutes of the failure, either by telephone, email, or text message;
- b. The ability to immediately produce a clear color still photo that is a minimum of 9600 dpi from any camera image, live or recorded;
- c. A date and time stamp embedded on all recordings. The date and time shall be synchronized and set correctly and shall not significantly obscure the picture; and
- d. The ability to remain operational during a power outage;

3. All video recordings shall allow for the exporting of still images in an industry standard image format. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that can be played on a standard computer operating system. A pharmaceutical processor or cannabis dispensing facility shall erase all recordings prior to disposal or sale of the facility; and

4. The processor or facility shall make 24-hour recordings from all video cameras available for immediate viewing by the board or the board's agent upon request and shall retain the recordings for at least 30 days. If a processor or facility is aware of a pending criminal, civil, or administrative investigation or legal proceeding for which a recording may contain relevant information, the processor or facility shall retain an unaltered copy of the recording until the investigation or proceeding is closed or the entity conducting the investigation or proceeding notifies the pharmaceutical processor or cannabis dispensing facility PIC that it is not necessary to retain the recording.

~~D.~~ F. The processor or facility shall maintain all security system equipment and recordings in a secure location so as to prevent theft, loss, destruction, or alterations. All security equipment shall be maintained in good working order and shall be tested at least every six months.

~~E.~~ G. A pharmaceutical processor or cannabis dispensing facility shall limit access to surveillance areas to persons who are essential to surveillance operations, law-enforcement agencies, security system service employees, the board or the board's agent, and others when approved by the board. A processor or facility shall make available a current list of authorized employees and security system service employees

who have access to the surveillance room to the processor or facility. The pharmaceutical processor or cannabis dispensing facility shall keep all onsite surveillance rooms locked and shall not use such rooms for any other function.

~~F.~~ H. If diversion, theft, or loss of Cannabis plants, seeds, parts of plants, extracts, or cannabis oil has occurred from a pharmaceutical processor, the board may require additional safeguards to ensure the security of the products.

## **18VAC110-60-250. Requirements for the storage and handling of Cannabis or cannabis oil.**

A. A pharmaceutical processor or cannabis dispensing facility shall:

1. Have storage areas that provide adequate lighting, ventilation, sanitation, temperature, and humidity as defined in 18VAC110-60-10 and space, equipment, and security conditions for the cultivation of Cannabis and the production and dispensing of cannabis oil;
2. Separate for storage in a quarantined area Cannabis plants, seeds, parts of plants, extracts, including cannabis oil, that is outdated, damaged, deteriorated, misbranded, or adulterated, or whose containers or packaging have been opened or breached, until such Cannabis plants, seeds, parts of plants, extracts, or cannabis oil are destroyed;
3. Be maintained in a clean, sanitary, and orderly condition; and
4. Be free from infestation by insects, rodents, birds, or vermin of any kind.

B. A pharmaceutical processor shall compartmentalize all areas in the facility based on function and shall restrict access between compartments. The processor shall establish, maintain, and comply with written policies and procedures regarding best practices for the secure and proper cultivation of Cannabis and production of cannabis oil. These shall include policies and procedures that:

1. Restrict movement between compartments;
2. Provide for different colored identification cards for facility employees based on the compartment to which they are assigned at a given time so as to ensure that only employees necessary for a particular function have access to that compartment of the facility;
3. Require pocketless clothing for all ~~production facility~~ employees working in an area containing Cannabis plants, seeds, and extracts, including cannabis oil; and
4. Document the chain of custody of all Cannabis plants, parts of plants, seeds, extracts, and cannabis oil products.

C. A cannabis dispensing facility shall establish, maintain, and comply with written policies and procedures regarding best practices for the secure and proper dispensing of cannabis



oil, including a requirement for pocketless clothing for all facility employees working in an area containing cannabis oil.

D. The PIC of a pharmaceutical processor or a cannabis dispensing facility shall establish, maintain, and comply with written policies and procedures for the cultivation, production, security, storage, and inventory of Cannabis, including the seeds, parts of plants, extracts, and the cannabis oil, as applicable. Such policies and procedures shall include methods for identifying, recording, and reporting diversion, theft, or loss, and for correcting all errors and inaccuracies in inventories. Pharmaceutical processors and cannabis dispensing facilities shall include in their written policies and procedures a process for the following:

1. Handling mandatory and voluntary recalls of cannabis oil. The process shall be adequate to deal with recalls due to any action initiated at the request of the board and any voluntary action by the pharmaceutical processor or cannabis dispensing facility to (i) remove defective or potentially defective cannabis oil from the market or (ii) promote public health and safety by replacing existing cannabis oil with improved products or packaging;
2. Preparing for, protecting against, and handling any crises that affect the security or operation of any facility in the event of strike, fire, flood, or other natural disaster, or other situations of local, state, or national emergency;
3. Ensuring that any outdated, damaged, deteriorated, misbranded, or adulterated Cannabis, including seeds, parts of plants, extracts, and cannabis oil, is segregated from all other Cannabis, seeds, parts of plants, extracts, and cannabis oil and destroyed. This procedure shall provide for written documentation of the Cannabis, including seeds, parts of plants, extracts, and cannabis oil disposition; and
4. Ensuring the oldest stock of Cannabis, including seeds, parts of plants, extracts, and cannabis oil product is used first. The procedure may permit deviation from this requirement if such deviation is temporary and appropriate.

~~D.~~ E. The pharmaceutical processor shall store all Cannabis, including seeds, parts of plants, extracts, and cannabis oil, in the process of production, transfer, or analysis in such a manner as to prevent diversion, theft, or loss; shall make Cannabis, including the seeds, parts of plants, extracts, and cannabis oil accessible only to the minimum number of specifically authorized employees essential for efficient operation; and shall return the aforementioned items to their secure location immediately after completion of the production, transfer, or analysis process or at the end of the scheduled business day. If a production process cannot be completed at the end of a working day, the pharmacist shall securely lock the processing area or tanks, vessels, bins, or bulk containers containing Cannabis, including the seeds, parts of plants, extracts, and cannabis oil, inside an area or building that affords adequate security.

F. The cannabis dispensing facility shall store all cannabis oil in such a manner as to prevent diversion, theft, or loss; shall make cannabis oil accessible only to the minimum number of specifically authorized employees essential for efficient operation; and shall return the oil to its secure location at the completion of the dispensing or at end of the scheduled business day.

#### **18VAC110-60-251. Wholesale distribution of cannabis oil products.**

A. Cannabis oil products from a batch that passed the microbiological, mycotoxin, heavy metal, residual solvent, and pesticide chemical residue tests and are packaged and labeled for sale with an appropriate expiration date in accordance with 18VAC110-60-300 may be wholesale distributed between pharmaceutical processors and between a pharmaceutical processor and a cannabis dispensing facility.

B. A pharmaceutical processor wholesale distributing the oil products shall create a record of the transaction that shows (i) the date of distribution, (ii) the names and addresses of the processor distributing the product and the processor or cannabis dispensing facility receiving the product, and (iii) the kind and quantity of product being distributed. The record of the transaction shall be maintained by the distributing pharmaceutical processor with its records of distribution, and a copy of the record shall be provided to and maintained by the processor or facility receiving the product in its records of receipt. Such records shall be maintained by each process or facility for three years in compliance with 18VAC110-60-260.

C. A pharmaceutical processor wholesale distributing the oil products shall provide the receiving processor or cannabis dispensing facility with a copy of the lab results for the distributed product or electronic access to the information that can be shared upon request to registered patients, parents, legal guardians, registered agents, registered practitioners who have certified qualifying patients, or an agent of the board.

D. A pharmaceutical processor wholesale distributing cannabis oil products shall store and handle products and maintain policies and procedures, to include a process for executing or responding to mandatory and voluntary recalls, in a manner that complies with 18VAC110-60-250.

E. If a pharmaceutical processor wholesale distributing cannabis oil products uses an electronic system for the storage and retrieval of records related to distributing cannabis oil, the pharmaceutical processor shall use a system that is compliant with 18VAC110-60-260.

#### **18VAC110-60-260. Recordkeeping requirements.**

A. If a pharmaceutical processor or cannabis dispensing facility uses an electronic system for the storage and retrieval of patient information or other records related to cultivating, producing, and dispensing cannabis oil, as applicable, the

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pharmaceutical processor or cannabis dispensing facility shall use a system that:

1. Guarantees the confidentiality of the information contained in the system;
2. Is capable of providing safeguards against erasures and unauthorized changes in data after the information has been entered and verified by the pharmacist; and
3. Is capable of being reconstructed in the event of a computer malfunction or accident resulting in the destruction of the data bank.

B. All records relating to the inventory, laboratory results, and dispensing shall be maintained for a period of three years and shall be made available to the board upon request.

## **18VAC110-60-270. Reportable events; security.**

A. Upon becoming aware of (i) diversion, theft, loss, or discrepancies identified during inventory; (ii) unauthorized destruction of any cannabis oil; or (iii) any loss or unauthorized alteration of records related to cannabis oil or qualifying patients, a pharmacist or pharmaceutical processor or cannabis dispensing facility shall immediately notify appropriate law-enforcement authorities and the board.

B. A pharmacist, ~~or~~ pharmaceutical processor, or cannabis dispensing facility shall provide the notice required by subsection A of this section to the board by way of a signed statement that details the circumstances of the event, including an accurate inventory of the quantity and brand names of cannabis oil diverted, stolen, lost, destroyed, or damaged and confirmation that the local law-enforcement authorities were notified. A pharmacist, ~~or~~ processor, or facility shall make such notice no later than 24 hours after discovery of the event.

C. A pharmacist, ~~or~~ pharmaceutical processor, or cannabis dispensing facility shall notify the board no later than the next business day, followed by written notification no later than 10 business days, of any of the following:

1. An alarm activation or other event that requires a response by public safety personnel;
2. A breach of security;
3. The failure of the security alarm system due to a loss of electrical support or mechanical malfunction that is expected to last longer than eight hours; and
4. Corrective measures taken if any.

D. A pharmacist, ~~or~~ pharmaceutical processor, or cannabis dispensing facility shall immediately notify the board of an employee convicted of a felony or any offense referenced in § 54.1-3442.6 of the Code of Virginia.

## **18VAC110-60-300. Laboratory requirements; testing.**

A. No pharmaceutical processor shall utilize a laboratory to handle, test, or analyze cannabis oil unless such laboratory:

1. Is independent from all other persons involved in the cannabis oil industry in Virginia, which shall mean that no person with a direct or indirect interest in the laboratory shall have a direct or indirect financial interest in a pharmacist, pharmaceutical processor, cannabis dispensing facility, certifying practitioner, or any other entity that may benefit from the production, manufacture, dispensing, sale, purchase, or use of cannabis oil; and

2. Has employed at least one person to oversee and be responsible for the laboratory testing who has earned from a college or university accredited by a national or regional certifying authority at least (i) a master's level degree in chemical or biological sciences and a minimum of two years of post-degree laboratory experience or (ii) a bachelor's degree in chemical or biological sciences and a minimum of four years of post-degree laboratory experience.

3. Has obtained a controlled substances registration certificate pursuant to § 54.1-3423 of the Code of Virginia authorizing the testing of cannabis products.

4. Has provided proof to the board of accreditation in testing and calibration in accordance with the most current version of the International Standard for Organization and the ISO/IEC 17025 or proof that the laboratory has applied for accreditation in testing and calibration in the most current version of ISO/IEC 17025. Any testing and calibration method utilized to perform a Cannabis-related analysis for pharmaceutical processors shall be in accordance with the laboratory's ISO/IEC 17025 accreditation. The accrediting body shall be recognized by International Laboratory Accreditation Cooperation.

a. A laboratory applying for authorization to provide cannabis-related analytical tests for pharmaceutical processors shall receive ISO/IEC 17025 accreditation within two years from the date the laboratory applied for ISO/IEC 17025 accreditation. A laboratory may request, and the board may grant for good cause shown, additional time for the laboratory to receive ISO/IEC 17025 accreditation.

b. A laboratory shall send proof of ISO/IEC 17025 accreditation to the board for cannabis-related analytical test methods for pharmaceutical processors for which it has received ISO/IEC 17025 accreditation no later than five business days after the date in which the accreditation was received.

c. A laboratory may use nonaccredited analytical test methods so long as the laboratory has commenced an application for ISO/IEC 17025 accreditation for analytical test methods for cannabis-related analysis for pharmaceutical processors. No laboratory shall use nonaccredited analytical test methods for cannabis-related analysis for pharmaceutical processors if it has applied for and has not received ISO/IEC 17025 accreditation within two years. The laboratory may request and the board may

grant for good cause shown additional time for the laboratory to utilize non-accredited analytical test methods for cannabis-related analysis.

d. At such time that a laboratory loses its ISO/IEC 17025 accreditation for any cannabis-related analytical test methods for pharmaceutical processors, it shall inform the board within twenty-four hours. The laboratory shall immediately stop handling, testing or analyzing Cannabis for pharmaceutical processors.

5. Complies with a transportation protocol for transporting Cannabis or cannabis oil products to or from itself or to or from pharmaceutical processors.

B. After processing and before dispensing the cannabis oil product, a pharmaceutical processor shall make a sample available from each homogenized batch of product for a laboratory to (i) test for microbiological contaminants, mycotoxins, heavy metals, residual solvents, and pesticide chemical residue and (ii) conduct an active ingredient analysis and terpenes profile. Each laboratory shall determine a valid sample size for testing, which may vary due to sample matrix, analytical method, and laboratory-specific procedures. A minimum sample size of 0.5% of individual units for dispensing or distribution from each homogenized batch is required to achieve a representative sample for analysis.

C. From the time that a batch of cannabis oil product has been homogenized for sample testing until the laboratory provides the results from its tests and analysis, the pharmaceutical processor shall segregate and withhold from use the entire batch, except the samples that have been removed by the laboratory for testing. During this period of segregation, the pharmaceutical processor shall maintain the batch in a secure, cool, and dry location so as to prevent the batch from becoming contaminated or losing its efficacy.

D. Under no circumstances shall a pharmaceutical processor or cannabis dispensing facility sell a cannabis oil product prior to the time that the laboratory has completed its testing and analysis and provided a certificate of analysis to the pharmaceutical processor or other designated facility employee.

E. The processor shall require the laboratory to immediately return or properly dispose of any cannabis oil products and materials upon the completion of any testing, use, or research.

F. If a sample of cannabis oil product does not pass the microbiological, mycotoxin, heavy metal, or pesticide chemical residue test based on the standards set forth in this subsection, the pharmaceutical processor shall dispose of the entire batch from which the sample was taken.

1. For purposes of the microbiological test, a cannabis oil sample shall be deemed to have passed if it satisfies the standards set forth in Section 1111 of the United States Pharmacopeia.

2. For purposes of the mycotoxin test, a sample of cannabis oil product shall be deemed to have passed if it meets the following standards:

| Test Specification |                        |
|--------------------|------------------------|
| Aflatoxin B1       | <20 ug/kg of Substance |
| Aflatoxin B2       | <20 ug/kg of Substance |
| Aflatoxin G1       | <20 ug/kg of Substance |
| Aflatoxin G2       | <20 ug/kg of Substance |
| Ochratoxin A       | <20 ug/kg of Substance |

3. For purposes of the heavy metal test, a sample of cannabis oil product shall be deemed to have passed if it meets the following standards:

| Metal   | Limits - parts per million (ppm) |
|---------|----------------------------------|
| Arsenic | <10 ppm                          |
| Cadmium | <4.1 ppm                         |
| Lead    | <10 ppm                          |
| Mercury | <2 ppm                           |

4. For purposes of the pesticide chemical residue test, a sample of cannabis oil product shall be deemed to have passed if it satisfies the most stringent acceptable standard for a pesticide chemical residue in any food item as set forth in Subpart C of the federal Environmental Protection Agency's regulations for Tolerances and Exemptions for Pesticide Chemical Residues in Food, 40 CFR Part 180.

5. For purposes of the active ingredient analysis, a sample of the cannabis oil product shall be tested for:

- a. Tetrahydrocannabinol (THC);
- b. Tetrahydrocannabinol acid (THC-A);
- c. Cannabidiols (CBD); and
- d. Cannabidiolic acid (CBDA).

6. For the purposes of the residual solvent test, a sample of the cannabis oil product shall be deemed to have passed if it meets the standards and limits recommended by the American Herbal Pharmacopoeia for Cannabis Inflorescence. If a sample does not pass the residual solvents test, the batch can be remediated with further processing. After further processing, the batch must be retested for microbiological, mycotoxin, heavy metal, residual solvents, and pesticide chemical residue, and an active ingredient analysis and terpenes profile must be conducted.

G. If a sample of cannabis oil product passes the microbiological, mycotoxin, heavy metal, residual solvent, and pesticide chemical residue test, the entire batch may be utilized by the processor for immediate packaging and labeling for sale. An expiration date shall be assigned to the product that is based

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upon validated stability testing that addresses product stability when opened and the shelf-life for unopened products.

H. The processor shall require the laboratory to file with the board an electronic copy of each laboratory test result for any batch that does not pass the microbiological, mycotoxin, heavy metal, residual solvents, or pesticide chemical residue test at the same time that it transmits those results to the pharmaceutical processor. In addition, the laboratory shall maintain the laboratory test results and make them available to the board or an agent of the board.

I. Each pharmaceutical processor or cannabis dispensing facility shall have such laboratory results available upon request to registered patients, parents or legal guardians, ~~and~~ registered practitioners who have certified qualifying patients, the board, or an agent of the board.

## **18VAC110-60-310. Dispensing of cannabis oil.**

A. A pharmacist in good faith may dispense cannabis oil to any registered patient, parent, or legal guardian as indicated on the written certification.

1. Prior to the initial dispensing of cannabis oil pursuant to each written certification, the pharmacist or pharmacy technician at the location of the pharmaceutical processor or cannabis dispensing facility shall view a current photo identification of the patient, parent, or legal guardian. The pharmacist or pharmacy technician shall verify in the Virginia Prescription Monitoring Program of the Department of Health Professions or other program recognized by the board that the registrations are current, the written certification has not expired, and the date and quantity of the last dispensing of cannabis oil to the registered patient.

2. The pharmacist or pharmacy technician shall make and maintain for three years a paper or electronic copy of the current written certification that provides an exact image of the document that is clearly legible.

3. Prior to any subsequent dispensing, the pharmacist, pharmacy technician, or delivery agent shall view the current written certification and a current photo identification and current registration of the patient, parent, or legal guardian and shall maintain record of such viewing in accordance with policies and procedures of the pharmaceutical processor or cannabis dispensing facility.

B. A pharmacist may dispense a portion of a registered patient's 90-day supply of cannabis oil. The pharmacist may dispense the remaining portion of the 90-day supply of cannabis oil at any time except that no registered patient, parent, or legal guardian shall receive more than a 90-day supply of cannabis oil in a 90-day period from any pharmaceutical processor or cannabis dispensing facility.

C. A dispensing record shall be maintained for three years from the date of dispensing, and the pharmacist or pharmacy

technician under the direct supervision of the pharmacist shall affix a label to the container of oil that contains:

1. A serial number assigned to the dispensing of the oil;
2. The brand name of cannabis oil that was registered with the board pursuant to 18VAC110-60-285 and its strength;
3. The serial number assigned to the oil during production;
4. The date of dispensing the cannabis oil;
5. The quantity of cannabis oil dispensed;
6. A terpenes profile and a list of all active ingredients, including:
  - a. Tetrahydrocannabinol (THC);
  - b. Tetrahydrocannabinol acid (THC-A);
  - c. Cannabidiol (CBD); and
  - d. Cannabidiolic acid (CBDA);
7. A pass rating based on the laboratory's microbiological, mycotoxins, heavy metals, residual solvents, and pesticide chemical residue analysis;
8. The name and registration number of the registered patient;
9. The name and registration number of the certifying practitioner;
10. Directions for use as may be included in the practitioner's written certification or otherwise provided by the practitioner;
11. The name or initials of the dispensing pharmacist;
12. Name, address, and telephone number of the pharmaceutical processor or cannabis dispensing facility;
13. Any necessary cautionary statement; and
14. A prominently printed expiration date based on stability testing and the pharmaceutical processor's or cannabis dispensing facility's recommended conditions of use and storage that can be read and understood by the ordinary individual.

D. A pharmaceutical processor shall not label cannabis oil products as "organic" unless the Cannabis plants have been organically grown and the cannabis oil products have been produced, processed, manufactured, and certified to be consistent with organic standards in compliance with 7 CFR Part 205.

E. The cannabis oil shall be dispensed in child-resistant packaging, except as provided in 18VAC110-60-210 A. A package shall be deemed child-resistant if it satisfies the standard for "special packaging" as set forth in the Poison Prevention Packaging Act of 1970 Regulations, 16 CFR 1700.1(b)(4).

F. No person except a pharmacist or a pharmacy technician operating under the direct supervision of a pharmacist shall alter, deface, or remove any label so affixed.

G. A pharmacist shall be responsible for verifying the accuracy of the dispensed oil in all respects prior to dispensing and shall document that each verification has been performed.

H. A pharmacist shall document a registered patient's self-assessment of the effects of cannabis oil in treating the registered patient's diagnosed condition or disease or the symptoms thereof. A pharmaceutical processor or cannabis dispensing facility shall maintain such documentation in writing or electronically for three years from the date of dispensing and such documentation shall be made available in accordance with regulation.

I. A pharmacist shall exercise professional judgment to determine whether to dispense cannabis oil to a registered patient, parent, or legal guardian if the pharmacist suspects that dispensing cannabis oil to the registered patient, parent, or legal guardian may have negative health or safety consequences for the registered patient or the public.

**18VAC110-60-320. Dispensing error review and reporting; quality assurance program.**

A. A pharmaceutical processor or cannabis dispensing facility shall implement and comply with a quality assurance program that describes, in writing, policies and procedures to detect, identify, and prevent dispensing errors. A pharmaceutical processor or cannabis dispensing facility shall distribute the written policies and procedures to all pharmaceutical processor or cannabis dispensing facility employees and shall make the written policies and procedures readily available on the premises of the pharmaceutical processor or cannabis dispensing facility. The policies and procedures shall include:

1. Directions for communicating the details of a dispensing error to the practitioner who certified a qualifying patient and to the qualifying patient, the patient's parent or legal guardian or appropriate family member if the patient is deceased or is unable to fully comprehend the communication. The communication shall describe methods of correcting the dispensing error or reducing the negative impact of the error on the qualifying patient; and
2. A process to document and assess dispensing errors to determine the cause of the error and an appropriate response.

B. A pharmaceutical processor or cannabis dispensing facility shall use the findings of its quality assurance program to develop systems and workflow processes designed to prevent dispensing errors. A pharmaceutical processor or cannabis dispensing facility PIC shall:

1. Inform pharmaceutical processor or cannabis dispensing facility employees of changes to policy, procedure, systems, or processes made as a result of recommendations generated by the quality assurance program;

2. Notify all processor or facility employees that the discovery or reporting of a dispensing error shall be relayed immediately to a pharmacist on duty;

3. Ensure that a pharmacist performs a quality assurance review for each dispensing error. A pharmacist shall commence such review as soon as is reasonably possible, but no later than two business days from the date the dispensing error is discovered; and

4. Create a record of every quality assurance review. This record shall contain at least the following:

- a. The date of the quality assurance review and the names and titles of the persons performing the review;
- b. The pertinent data and other information relating to the dispensing error reviewed;
- c. Documentation of contact with the registered patient, parent, or legal guardian where applicable, and the practitioner who certified the patient;
- d. The findings and determinations generated by the quality assurance review; and
- e. Recommended changes to pharmaceutical processor or cannabis dispensing facility policy, procedure, systems, or processes if any.

C. A pharmaceutical processor or cannabis dispensing facility shall maintain for three years a copy of the pharmaceutical processor's or cannabis dispensing facility's quality assurance program and records of all reported dispensing errors and quality assurance reviews in an orderly manner and filed by date.

**18VAC110-60-321. Devices and inert product samples.**

A. A pharmaceutical processor or cannabis dispensing facility may have for sale, on-site, devices intended for the administration of dispensed cannabis oil products.

B. The pharmaceutical processor or cannabis dispensing facility may use and distribute inert product samples that do not contain any active cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility without the need for a written certification. Such inert product samples may not be sold or further distributed.

**18VAC110-60-330. Disposal of cannabis oil.**

A. To mitigate the risk of diversion, a pharmaceutical processor shall routinely and promptly dispose of undesired, excess, unauthorized, obsolete, adulterated, misbranded, or deteriorated green waste, extracts, and cannabis oil, as applicable. Green waste includes Cannabis plants, including seeds, and parts of plants, extracts, or cannabis oil by disposal in accordance with a plan approved by the board and in a manner as to render the cannabis oil nonrecoverable. Green waste shall be weighed, ground, and combined with a

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minimum of 51% non-cannabis waste to render it unrecognizable.

B. The destruction and disposal of green waste, extracts, and cannabis oil, as applicable, shall be witnessed by the PIC and an agent of the board or another pharmacist not employed by the pharmaceutical processor a pharmacist and at least one other employee of the pharmaceutical processor or cannabis dispensing facility, respectively, and shall be conducted under video surveillance. The persons disposing of the green waste, extracts, or cannabis oil shall maintain and make available a separate record of each such disposal indicating:

1. The date and time of disposal;
2. The manner of disposal;
3. The name and quantity of cannabis oil product disposed of; and
4. The signatures of the persons destroying or disposing of the green waste, extracts, or cannabis oil.

C. The record of disposal shall be maintained at the pharmaceutical processor or cannabis dispensing facility for three years from the date of disposal.

VA.R. Doc. No. R21-6538; Filed February 5, 2021, 2:43 p.m.

## BOARD OF PHYSICAL THERAPY

### Final Regulation

Title of Regulation: 18VAC112-20. Regulations Governing the Practice of Physical Therapy (amending 18VAC112-20-10, 18VAC112-20-25, 18VAC112-20-50, 18VAC112-20-65, 18VAC112-20-70, 18VAC112-20-90, 18VAC112-20-100, 18VAC112-20-120, 18VAC112-20-130 through 18VAC112-20-140).

Statutory Authority: §§ 54.1-2400 and 54.1-3474 of the Code of Virginia.

Effective Date: April 30, 2021.

Agency Contact: Corie Tillman Wolf, Executive Director, Board of Physical Therapy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4674, FAX (804) 527-4413, or email [ptboard@dhp.virginia.gov](mailto:ptboard@dhp.virginia.gov).

#### Summary:

*The amendments (i) ensure more clarity in the supervision of trainees, (ii) facilitate renewal by modifying the active practice requirement, (iii) facilitate return to practice for some physical therapists with inactive or lapsed licenses, (iv) coordinate rules for foreign-trained applicants with requirements of Federation of State Boards of Physical Therapy for approval to sit for the licensing examination, (v) recognize physical therapy licensure in Canada as qualification for endorsement, and (vi) expand the approval of entities that may offer or accredit continuing education.*

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.

#### 18VAC112-20-10. Definitions.

In addition to the words and terms defined in § 54.1-3473 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Active practice" means a minimum of ~~460~~ 320 hours of professional practice as a physical therapist or physical therapist assistant within the ~~24-month~~ 48-month period immediately preceding renewal. Active practice may include supervisory, administrative, educational, or consultative activities or responsibilities for the delivery of such services.

"Approved program" means an educational program accredited by ~~the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association~~ CAPTE.

~~"Assessment tool" means a PT or any other self-directed assessment tool approved by FSBPT.~~

~~"CLEP" means the College Level Examination Program.~~

"CAPTE" means the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association.

"Contact hour" means 60 minutes of time spent in continuing learning activity exclusive of breaks, meals, or vendor exhibits.

"Direct supervision" means a physical therapist or a physical therapist assistant is physically present and immediately available and is fully responsible for the physical therapy tasks or activities being performed.

"Discharge" means the discontinuation of interventions in an episode of care that have been provided in an unbroken sequence in a single practice setting and related to the physical therapy interventions for a given condition or problem.

"Encounter" means an interaction between a patient and a physical therapist or physical therapist assistant for the purpose of providing health care services or assessing the health and therapeutic status of a patient.

"Evaluation" means a process in which the physical therapist makes clinical judgments based on data gathered during an examination or screening in order to plan and implement a treatment intervention, provide preventive care, reduce risks of injury and impairment, or provide for consultation.

"FCCPT" means the Foreign Credentialing Commission on Physical Therapy.

"FSBPT" means the Federation of State Boards of Physical Therapy.

"General supervision" means a physical therapist shall be available for consultation.

"National examination" means the examinations developed and administered by the Federation of State Boards of Physical Therapy and approved by the board for licensure as a physical therapist or physical therapist assistant.

"Reevaluation" means a process in which the physical therapist makes clinical judgments based on data gathered during an examination or screening in order to determine a patient's response to the treatment plan and care provided.

"Support personnel" means a person who is performing designated routine tasks related to physical therapy under the direction and supervision of a physical therapist or physical therapist assistant within the scope of this chapter.

"TOEFL" means the Test of English as a Foreign Language.

"Trainee" means a person seeking licensure as a physical therapist or physical therapist assistant who is undergoing a traineeship.

"Traineeship" means a period of active clinical practice during which an applicant for licensure as a physical therapist or physical therapist assistant works under the direct supervision of a physical therapist approved by the board.

"TSE" means the Test of Spoken English.

"Type 1" means continuing learning activities offered by an approved organization as specified in 18VAC112-20-131.

"Type 2" means continuing learning activities ~~which that~~ may or may not be offered by an approved organization but shall be activities considered by the learner to be beneficial to practice or to continuing learning.

### **18VAC112-20-25. Current name and address.**

Each licensee shall furnish the board his current name and address of record. All notices required by law or by this chapter to be given by the board to any licensee shall be validly given when ~~mailed sent~~ to the latest address of record provided or when served to the licensee. Any change of name or change in the address of record or the public address, if different from the address of record, shall be furnished to the board within 30 days of such change.

### **18VAC112-20-50. Education requirements: graduates of schools not approved by an accrediting agency approved by the board.**

A. An applicant for initial licensure as a physical therapist who is a graduate of a school not approved by an accrediting agency approved by the board shall submit the required application and fee and provide documentation of the physical therapist's certification by a report from the FCCPT or of the physical therapist eligibility for licensure as verified by a report from any other credentialing agency approved by the board that

substantiates that the physical therapist has been evaluated in accordance with requirements of subsection B of this section.

B. The board shall only approve a credentialing agency that:

1. Utilizes the FSBPT Coursework Evaluation Tool for Foreign Educated Physical Therapists, ~~based on the year of graduation as required to sit for FSBPT examination~~, and utilizes original source documents to establish substantial equivalency to an approved physical therapy program;
2. Conducts a review of any license or registration held by the physical therapist in any country or jurisdiction to ensure that the license or registration is current and unrestricted or was unrestricted at the time it expired or was lapsed; and
3. Verifies English language proficiency by passage of the TOEFL and TSE examination or the TOEFL iBT, the Internet-based tests of listening, reading, speaking, and writing or by review of evidence that the applicant's physical therapy program was taught in English or that the native tongue of the applicant's nationality is English.

C. An applicant for licensure as a physical therapist assistant who is a graduate of a school not approved by the board shall submit with the required application and fee the following:

1. Proof of proficiency in the English language by passing TOEFL and TSE or the TOEFL iBT, the Internet-based tests of listening, reading, speaking, and writing by a score determined by the board or an equivalent examination approved by the board. TOEFL iBT or TOEFL and TSE may be waived upon evidence that the applicant's physical therapist assistant program was taught in English or that the native tongue of the applicant's nationality is English.
2. A copy of the original certificate or diploma that has been certified as a true copy of the original by a notary public, verifying ~~his~~ the applicant's graduation from a physical therapy curriculum. If the certificate or diploma is not in the English language, submit either:
  - a. An English translation of such certificate or diploma by a qualified translator other than the applicant; or
  - b. An official certification in English from the school attesting to the applicant's attendance and graduation date.
3. Verification of the equivalency of the applicant's education to the educational requirements of an approved program for physical therapist assistants from a scholastic credentials service approved by the board and based upon the FSBPT coursework tool for physical therapist assistants.

D. An applicant for initial licensure as a physical therapist or a physical therapist assistant who is not a graduate of an approved program shall also submit verification of having successfully completed a 1,000-hour traineeship within a two-year period under the direct supervision of a licensed physical therapist. The board may grant an extension beyond two years for circumstances beyond the control of the applicant, such as

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temporary disability, officially declared disasters, or mandatory military service.

1. The traineeship shall be in accordance with requirements in 18VAC112-20-140.
2. The traineeship requirements of this part may be waived if the applicant for a license can verify, in writing, the successful completion of one year of clinical physical therapy practice as a licensed physical therapist or physical therapist assistant in the United States, its territories, the District of Columbia, or Canada, equivalent to the requirements of this chapter.

## **18VAC112-20-65. Requirements for licensure by endorsement.**

A. A physical therapist or physical therapist assistant who holds a current, unrestricted license in the United States, its territories, the District of Columbia, or Canada may be licensed in Virginia by endorsement.

B. An applicant for licensure by endorsement shall submit:

1. Documentation of having met the educational requirements prescribed in 18VAC112-20-40 or 18VAC112-20-50. In lieu of meeting such requirements, an applicant may provide evidence of clinical practice consisting of at least 2,500 hours of patient care during the five years immediately preceding application for licensure in Virginia with a current, unrestricted license issued by another U.S. jurisdiction or Canadian province;
2. The required application, fees, and credentials to the board;
3. A current report from the ~~Healthcare Integrity and Protection Data Bank (HIPDB)~~ National Practitioner Data Bank (NPDB);
4. Evidence of completion of 15 hours of continuing education for each year in which the applicant held a license in another U.S. jurisdiction or Canada, or 60 hours obtained within the past four years;
5. Documentation of passage of an examination equivalent to the Virginia examination at the time of initial licensure or documentation of passage of an examination required by another state or Canadian province at the time of initial licensure in that state or province; and
6. Documentation of active practice in physical therapy in another U.S. jurisdiction or Canada for at least 320 hours within the four years immediately preceding his application for licensure. A physical therapist who does not meet the active practice requirement shall:
  - a. ~~Successfully~~ successfully complete 320 hours in a traineeship in accordance with requirements in 18VAC112-20-140; ~~or~~

~~b. Document that he attained at least Level 2 on the FSBPT assessment tool within the two years preceding application for licensure in Virginia and successfully complete 160 hours in a traineeship in accordance with the requirements in 18VAC112-20-140.~~

C. A physical therapist assistant seeking licensure by endorsement who has not actively practiced physical therapy for at least 320 hours within the four years immediately preceding his application for licensure shall successfully complete 320 hours in a traineeship in accordance with the requirements in 18VAC112-20-140.

## **18VAC112-20-70. Traineeship for unlicensed graduate scheduled to sit for the national examination.**

A. Upon approval of the president of the board or his designee, an unlicensed graduate who is registered with the Federation of State Boards of Physical Therapy to sit for the national examination may be employed as a trainee under the direct supervision of a licensed physical therapist until the results of the national examination are received.

B. The traineeship, which shall be in accordance with requirements in 18VAC112-20-140, shall terminate ~~two~~ five working days following receipt by the candidate of the licensure examination results.

C. The unlicensed graduate may reapply for a new traineeship while awaiting to take the next examination, provided he has registered to retake the examination. A new traineeship shall not be approved ~~for~~ if more than one year has passed following the receipt of the first examination results. An unlicensed graduate who has passed the examination may be granted a new traineeship for the period between passage of the examination and granting of a license. An unlicensed graduate shall not be granted more than three traineeships within the one year following the receipt of the first examination results.

## **18VAC112-20-90. General responsibilities.**

A. The physical therapist shall be responsible for managing all aspects of the physical therapy care of each patient and shall provide:

1. The initial evaluation for each patient and its documentation in the patient record;
2. Periodic reevaluation, including documentation of the patient's response to therapeutic intervention; and
3. The documented status of the patient at the time of discharge, including the response to therapeutic intervention. If a patient is discharged from a health care facility without the opportunity for the physical therapist to reevaluate the patient, the final note in the patient record may document patient status.

B. The physical therapist shall communicate the overall plan of care to the patient or his legally authorized representative and shall also communicate with a referring doctor of



medicine, osteopathy, chiropractic, podiatry, or dental surgery; nurse practitioner; or physician assistant to the extent required by § 54.1-3482 of the Code of Virginia.

C. A physical therapist assistant may assist the physical therapist in performing selected components of physical therapy intervention to include treatment, measurement, and data collection, but not to include the performance of an evaluation as defined in 18VAC112-20-10.

D. A physical therapist assistant's visits to encounters with a patient may be made under general supervision.

E. A physical therapist providing services with a direct access certification as specified in § 54.1-3482 of the Code of Virginia shall utilize the Direct Access Patient Attestation and Medical Release Form prescribed by the board or otherwise include in the patient record the information, attestation and written consent required by subsection B of § 54.1-3482 of the Code of Virginia.

**18VAC112-20-100. Supervisory responsibilities.**

A. A physical therapist shall be fully responsible for any action of persons performing physical therapy functions under the physical therapist's supervision or direction.

B. Support personnel shall only perform routine assigned physical therapy tasks under the direct supervision of a licensed physical therapist or a licensed physical therapist assistant, who shall only assign those tasks or activities that are nondiscretionary and do not require the exercise of professional judgment.

C. A physical therapist shall provide direct supervision to no more than three individual trainees or students at any one time.

D. A physical therapist shall provide direct supervision to a student in an approved program who is satisfying clinical educational requirements in physical therapy. A physical therapist or a physical therapist assistant shall provide direct supervision to a student in an approved program for physical therapist assistants.

E. A physical therapist shall provide direct supervision to a student who is satisfying clinical educational requirements in physical therapy in a nonapproved physical therapist program that has been granted the Candidate for Accreditation status from CAPTE. Either a physical therapist or physical therapist assistant shall provide direct supervision to a student who is satisfying clinical education requirements in a nonapproved physical therapist assistant program that has been granted the Candidate for Accreditation status from CAPTE.

**18VAC112-20-120. Responsibilities to patients.**

A. The initial patient visit encounter shall be made by the physical therapist for evaluation of the patient and establishment of a plan of care.

B. The physical therapist assistant's first visit encounter with the patient shall only be made after verbal or written communication with the physical therapist regarding patient status and plan of care. Documentation of such communication shall be made in the patient's record.

C. Documentation of physical therapy interventions shall be recorded on a patient's record by the physical therapist or physical therapist assistant providing the care.

D. The physical therapist shall reevaluate the patient as needed, but not less than according to the following schedules:

1. For inpatients in hospitals as defined in § 32.1-123 of the Code of Virginia, it shall be not less than once every seven consecutive days.
2. For patients in other settings, it shall be not less than one of 12 visits encounters made to the patient during a 30-day period, or once every 30 days from the last reevaluation, whichever occurs first.
3. For patients who have been receiving physical therapy care for the same condition or injury for six months or longer, it shall be at least every 90 days from the last reevaluation.

Failure to abide by this subsection due to the absence of the physical therapist in case of illness, vacation, or professional meeting; for a period not to exceed five consecutive days; will not constitute a violation of these provisions.

E. The physical therapist shall be responsible for ongoing involvement in the care of the patient to include regular communication with a physical therapist assistant regarding the patient's plan of treatment.

**18VAC112-20-130. Biennial renewal of license.**

A. A physical therapist ~~and or~~ physical therapist assistant who intends to continue practice shall renew his license biennially by December 31 in each even-numbered year and pay to the board the renewal fee prescribed in 18VAC112-20-27.

B. A licensee whose licensure has not been renewed by the first day of the month following the month in which renewal is required shall pay a late fee as prescribed in 18VAC112-20-27.

C. In order to renew an active license, a licensee shall be required to:

1. Complete a minimum of ~~460~~ 320 hours of active practice in the preceding ~~two~~ four years; and
2. Comply with continuing competency requirements set forth in 18VAC112-20-131.

D. The board may grant an extension of the deadline for completing active practice requirements for up to one year for good cause shown upon a written request from the licensee prior to the renewal date.

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E. The board may grant an exemption to the active practice requirement for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disaster, upon a written request from the licensee prior to the renewal date.

## **18VAC112-20-131. Continued competency requirements for renewal of an active license.**

A. In order to renew an active license biennially, a physical therapist or a physical therapist assistant shall complete at least 30 contact hours of continuing learning activities within the two years immediately preceding renewal. In choosing continuing learning activities or courses, the licensee shall consider the following: (i) the need to promote ethical practice, (ii) an appropriate standard of care, (iii) patient safety, (iv) application of new medical technology, (v) appropriate communication with patients, and (vi) knowledge of the changing health care system.

B. To document the required hours, the licensee shall maintain the Continued Competency Activity and Assessment Form that is provided by the board and that shall indicate completion of the following:

1. A minimum of 20 of the contact hours required for physical therapists and 15 of the contact hours required for physical therapist assistants shall be in Type 1 courses. For the purpose of this section, "course" means an organized program of study, classroom experience, or similar educational experience that is directly related to the clinical practice of physical therapy and approved or provided by one of the following organizations or any of its components:

- a. The Virginia Physical Therapy Association;
- b. The American Physical Therapy Association;
- c. Local, state, or federal government agencies;
- d. Regionally accredited colleges and universities;
- e. Health care organizations accredited by a national accrediting organization granted authority by the Centers for Medicare and Medicaid Services to assure compliance with Medicare conditions of participation;
- f. The American Medical Association - Category I Continuing Medical Education course;
- g. The National Athletic Trainers' Association; ~~or~~
- h. The Federation of State Boards of Physical Therapy;
- i. The National Strength and Conditioning Association; or
- j. Providers approved by other state licensing boards for physical therapy.

One credit hour of a college course shall be considered the equivalent of 15 contact hours of Type 1 continuing education.

2. No more than 10 of the contact hours required for physical therapists and 15 of the contact hours required for physical therapist assistants may be Type 2 activities or courses,

which may or may not be offered by an approved organization but which shall be related to the clinical practice of physical therapy. For the purposes of this subdivision, Type 2 activities may include:

~~consultation~~ a. Consultation with colleagues, independent study, and research or writing on subjects related to practice.

~~Up to two of the Type 2 continuing education hours may be satisfied through delivery~~ b. Delivery of physical therapy services, without compensation, to low-income individuals receiving services through a local health department or a free clinic organized in whole or primarily for the delivery of health services for up to two of the Type 2 hours.

~~Up to two of the Type 2 continuing education hours may be satisfied by attendance~~ c. Attendance at a meeting of the board or disciplinary proceeding conducted by the board for up to two of the Type 2 hours.

d. Classroom instruction of workshops or courses.

e. Clinical supervision of students and research and preparation for the clinical supervision experience.

Forty hours of clinical supervision or instruction shall be considered the equivalent of one contact hour of Type 2 activity.

3. Documentation of specialty certification by the American Physical Therapy Association may be provided as evidence of completion of continuing competency requirements for the biennium in which initial certification or recertification occurs.

4. Documentation of graduation from a transitional doctor of physical therapy program may be provided as evidence of completion of continuing competency requirements for the biennium in which the physical therapist was awarded the degree.

~~5. A physical therapist who can document that he attained at least Level 2 on the FSBPT assessment tool may receive five hours of Type 1 credit for the biennium in which the assessment tool was taken. A physical therapist who can document that he attained at least Level 3 or 4 on the FSBPT assessment tool may receive 10 hours of Type 1 credit for the biennium in which the assessment tool was taken. Continuing competency credit shall only be granted for the FSBPT assessment tool once every four years.~~

C. A licensee shall be exempt from the continuing competency requirements for the first biennial renewal following the date of initial licensure by examination in Virginia.

D. The licensee shall retain his records on the completed form with all supporting documentation for a period of four years following the renewal of an active license.

E. The licensees selected in a random audit conducted by the board shall provide the completed Continued Competency Activity and Assessment Form and all supporting documentation within 30 days of receiving notification of the audit.

F. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.

G. The board may grant an extension of the deadline for continuing competency requirements for up to one year for good cause shown upon a written request from the licensee prior to the renewal date.

H. The board may grant an exemption for all or part of the requirements for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters, upon a written request from the licensee prior to the renewal date.

**18VAC112-20-135. Inactive license.**

A. A physical therapist or physical therapist assistant who holds a current, unrestricted license in Virginia shall, upon a request on the renewal application and submission of the required renewal fee, be issued an inactive license.

1. The holder of an inactive license shall not be required to meet active practice requirements.
2. An inactive licensee shall not be entitled to perform any act requiring a license to practice physical therapy in Virginia.

B. A physical therapist or physical therapist assistant who holds an inactive license may reactivate his license by:

1. Paying the difference between the renewal fee for an inactive license and that of an active license for the biennium in which the license is being reactivated;
2. Providing proof of 320 active practice hours in another any jurisdiction in which the physical therapist or physical therapist assistant was licensed for active practice within the four years immediately preceding application for reactivation.

~~a. If the inactive physical therapist licensee does not meet the requirement for active practice, the license may be reactivated by completing 320 hours in a traineeship that meets the requirements prescribed in 18VAC112-20-140 or documenting that he has attained at least Level 2 on the FSBPT assessment tool within the two years preceding application for reactivation of licensure in Virginia and successfully completing 160 hours in a traineeship in accordance with requirements in 18VAC112-20-140.~~

~~b. If the inactive physical therapist assistant licensee does not meet the requirement for active practice, the license may be reactivated by completing 320 hours in a traineeship that meets the requirements prescribed in 18VAC112-20-140; and~~

3. Completing the number of continuing competency hours required for the period in which the license has been inactive, not to exceed four years.

**18VAC112-20-136. Reinstatement requirements.**

A. A physical therapist or physical therapist assistant whose Virginia license is lapsed for two years or less may reinstate his license by payment of the renewal and late fees as set forth in 18VAC112-20-27 and completion of continued competency requirements as set forth in 18VAC112-20-131.

B. A physical therapist or physical therapist assistant whose Virginia license is lapsed for more than two years and who is seeking reinstatement shall:

1. Apply for reinstatement and pay the fee specified in 18VAC112-20-27;
2. Complete the number of continuing competency hours required for the period in which the license has been lapsed, not to exceed four years; and
3. Have actively practiced physical therapy in another any jurisdiction in which the physical therapist or physical therapist assistant was licensed for active practice for at least 320 hours within the four years immediately preceding applying for reinstatement.

~~a. If a physical therapist licensee does not meet the requirement for active practice, the license may be reinstated by completing 320 hours in a traineeship that meets the requirements prescribed in 18VAC112-20-140 or documenting that he has attained at least Level 2 on the FSBPT assessment tool within the two years preceding application for licensure in Virginia and successfully completing 160 hours in a traineeship in accordance with requirements in 18VAC112-20-140.~~

~~b. If a physical therapist assistant licensee does not meet the requirement for active practice, the license may be reinstated by completing 320 hours in a traineeship that meets the requirements prescribed in 18VAC112-20-140.~~

**18VAC112-20-140. Traineeship requirements.**

A. The traineeship shall be approved by the board and served under the direction and supervision of a licensed physical therapist.

B. Supervision and identification of trainees:

1. There shall be a limit of two physical therapists assigned to provide supervision for each trainee.
2. The supervising physical therapist shall countersign patient documentation (i.e., notes, records, charts) for services provided by a trainee.
3. The trainee shall wear identification designating them as a "physical therapist trainee" or a "physical therapist assistant trainee."

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## C. Completion of traineeship.

1. The physical therapist supervising the trainee shall submit a report to the board at the end of the required number of hours on forms supplied by the board.
2. If the traineeship is not successfully completed at the end of the required hours, as determined by the supervising physical therapist, the president of the board or his designee shall determine if a new traineeship shall commence. If the president of the board determines that a new traineeship shall not commence, then the application for licensure shall be denied.
3. The second traineeship may be served under a different supervising physical therapist and may be served in a different organization than the initial traineeship. If the second traineeship is not successfully completed, as determined by the supervising physical therapist, then the application for licensure shall be denied.

VA.R. Doc. No. R19-5968; Filed February 5, 2021, 1:53 p.m.

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## TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

### COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM

#### Final Regulation

Title of Regulation: **24VAC35-60. Ignition Interlock Program Regulations (amending 24VAC35-60-40 through 24VAC35-60-90, 24VAC35-60-110, 24VAC35-60-130; adding 24VAC35-60-140).**

Statutory Authority: §§ 18.2-270.1 and 18.2-270.2 of the Code of Virginia.

Effective Date: July 1, 2021.

Agency Contact: Richard L. Foy, Field Services Specialist, Commission on the Virginia Alcohol Safety Action Program, 1111 Est Main Street, Suite 801, Richmond, VA 23219, telephone (804) 786-5895, or email [rfoy@vasap.virginia.gov](mailto:rfoy@vasap.virginia.gov).

#### Summary:

*The amendments include: (i) adjusting the timing of initial ignition interlock rolling retests and subsequent random tests; (ii) requiring additional photographs of the vehicle's driver seat area; (iii) adding additional grounds for which ignition interlock service providers and technicians may be disciplined; (iv) requiring ignition interlock service providers to notify the Virginia Alcohol Safety Action Program (VASAP) only when they receive a negative adjudication instead of notifying VASAP of any and all pending lawsuits; (v) preventing offenders from transferring from one interlock vendor to another; (vi) prohibiting device*

*installation by a new vendor if the offender owes another vendor any amount of money; (vii) introducing a \$2,500 fee to the vendors for application for a new device certification; (viii) allowing the Commission on VASAP to receive the monthly administrative fee for local offices and then distribute it to the local ASAP offices; (ix) granting the Commission on VASAP the authority to suspend service-related requirements of this regulation in applicable geographical areas when there exists a federal or state disaster or declaration of emergency; (x) allowing temporary codes to be provided to persons that would allow them to unlock their locked ignition interlock devices for a longer period than currently permitted; (xi) prohibiting use of a single vehicle that is equipped with an ignition interlock in order to meet the probationary requirements of multiple offenders; and (xii) permitting VASAP to approve light sources other than the vehicle headlights for the required flashing lights when a rolling retest is failed or skipped.*

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.

#### **24VAC35-60-40. Approval of manufacturers and service providers.**

A. The commission shall issue a request in compliance with the Commonwealth of Virginia procurement procedures to contract with ignition interlock service providers for the services and commodities required for the implementation and maintenance of the Commonwealth's ignition interlock program. Contracts will be for a length of time established by the commission.

B. Integrity of the ignition interlock program shall be upheld by restricting the delivery of interlock service to the actual provider of the product (authorized service provider), thereby effectively preventing the extension of subcontracts to other persons or businesses that lack long-term investment, long-term experience, or in-depth knowledge of product and service, potentially resulting in a higher likelihood of neglect of duty or illegal exchange of funds. Denial of subcontracting of the interlock service to the consumer is an integral part of protecting offender confidentiality and the chain of evidence for court testimony and evidentiary procedures.

C. A service provider seeking to contract with the commission shall:

1. Submit evidence demonstrating successful experience in the development and maintenance of an ignition interlock service program in Virginia, other states, or other countries. The service provider shall be dedicated to the installation and maintenance of ignition interlock devices;
2. Supply and train staff and service center supervisors to ensure good customer service and compliance with all contract requirements.

- a. Personnel seeking to perform ignition interlock services or administrative duties in the Commonwealth of Virginia shall not necessarily be barred from employment due to a criminal record; however, a criminal record may be considered in conjunction with other information to determine the overall suitability of applicants for employment.
  - b. The authorized service provider shall provide, upon request of the commission or the court via a properly served subpoena, expert or other required testimony in any civil, criminal, or administrative proceedings as to the method of manufacturing the device, ignition interlock functionality, and the testing protocol by which the device is calibrated and serviced.
  - c. The service provider shall provide a completed application for state certification to the commission to perform ignition interlock services for all technicians and state directors seeking to work in the Commonwealth of Virginia. The application shall be submitted at least 10 days prior to the employee performing any ignition interlock services in the Commonwealth of Virginia with the exception of newly hired employees in training who shall be permitted to perform services while under the direct supervision of a certified technician for a period of 90 days prior to applying for state certification.
  - d. The service provider shall identify all key personnel who will be providing ignition interlock services for the Commonwealth of Virginia and furnish the commission with credentials on these personnel.
  - e. The service provider shall notify the commission at least five business days in advance of a reduction in staffing levels of key personnel at the local or district offices in the Commonwealth of Virginia.
  - f. The service provider shall ensure that technicians and the state director are trained and available to testify in court if required by a court or Commonwealth's Attorney or upon a 10-business-day notice by the ASAP in that court's jurisdiction, regardless of whether a subpoena is issued;
3. Submit a description of the service provider's plan to be approved by the commission, for distribution of the device in all locations of the Commonwealth of Virginia where ignition interlock services will be performed. At least one physical ignition interlock service facility shall be located within a 50-mile radius of every residence in the Commonwealth of Virginia unless otherwise authorized by the commission. Ignition interlock service providers shall provide the commission with a list of all service center days and hours of operation and provide an updated list within 24 hours of any changes. Interlock service facilities shall be inspected and certified by the commission prior to the initial provision of services to offenders. Each interlock service facility shall be inspected and certified at least annually thereafter. Interlock service providers shall:
- a. Comply with all local business license and zoning regulations, and with all federal, state, and local health, fire, and building code requirements. Prior to the jurisdictional compliance deadline, a copy of a valid business license or business license payment receipt shall be forwarded to the commission. The official valid business license and tax document are required to be posted in a conspicuous place at the service facility immediately upon receipt when applicable;
  - b. Comply with all local, state, and federal laws pertaining to the provision of physical access to persons with disabilities;
  - c. Maintain offender records in a manner that complies with federal confidentiality guidelines. All offender files, payment receipts, and other identifying information shall be located in locked filing cabinets in one centralized location in the Richmond, Virginia area. Electronic storage of client files shall be encrypted and secured to prevent third party access;
  - d. Require and enforce maintenance of a drug-free workplace and have posted in a conspicuous place, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the service provider's workplace. The notice shall specify the actions that will be taken against employees for violations of the policy;
  - e. Replace an ignition interlock service facility within 90 days whenever the closing of an interlock service facility results in noncompliance with the requirement to possess a facility within a 50-mile radius of every residence in the Commonwealth of Virginia. The service provider is also required to notify offenders of the closure date and the address of an alternate interlock service facility within 15 days of the closure date;
  - f. Ensure that technicians maintain a professional appearance and are attired in such a manner as to be readily identifiable as service provider employees;
  - g. Ensure that interlock service facilities are tidy and pose no hazards to public safety; and
  - h. Provide the commission a minimum of 20 days notice prior to the scheduled opening date of a new location. This requirement allows the commission reasonable time to schedule an inspection of the new facility prior to opening services to ASAP offenders;
4. Submit sufficient documentation to enable the verification of adequate insurance covering liability related to ignition interlock operations, services, and equipment, including coverage in Virginia, with a minimum policy limit of \$1 million per occurrence and \$3 million general aggregate total. The service provider's liability insurance shall be considered primary above all other available insurance and

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shall so stipulate in the "other insurance" or other applicable section of the service provider's insurance contract. The service provider shall provide a signed statement from the manufacturer holding harmless the Commonwealth of Virginia and the commission and its members, employees, and agents from all claims, demands, and actions as a result of damage or injury to persons or property that may arise directly or indirectly out of an act or omission by the manufacturer or its service provider relating to the installation, service, repair, use, or removal of an ignition interlock device. Coverage shall extend to any action taken or not taken by ASAPs or the commission due to verified errors in reporting of interlock activity by the service provider;

5. Submit documentation that the service provider will provide a full-time state ignition interlock director who will work exclusively with the Virginia interlock program. Among other duties, the state ignition interlock director will be expected to (i) respond promptly to problems in the field; (ii) upon request of the commission, testify before applicable courts, the General Assembly of Virginia, or the commission; (iii) assist and provide training to the commission, ASAP staffs, local and statewide, and other stakeholders as requested by the commission; and (iv) be responsible for quality control reports and statistics, updates to all required documentation, and field services reporting and repairs. Ignition interlock state directors are also permitted to oversee remote alcohol monitoring programs for a Virginia-approved remote alcohol monitoring device manufacturer. In the event of a state director vacancy, service providers shall submit to the commission the name of an interim state director within 10 days of the vacancy and the name of a permanent state director within 90 days of the vacancy;

6. Not discriminate against an employee or applicant for employment due to race, religion, color, sex, national origin, age, disability, or other basis prohibited by state or federal law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the service provider. The service provider agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. Furthermore, the service provider in all solicitations or advertisements for employees placed by or on behalf of the service provider shall state that the contractor is an equal opportunity employer. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this subdivision;

7. Not knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986 (P.L. 99-603; 100 Stat. 3359) during the performance of the contract for goods and services; ~~and~~

8. Notify the commission in writing within 15 days of a disciplinary action taken by a state or other political entity in which the service provider conducts or has conducted ignition interlock business. This notification shall include the reason for the disciplinary action and other information as the commission may reasonably request. This requirement applies regardless of the existence of an appeal; and

9. Notify the commission in writing of all final adjudications unfavorable to the service provider related to the ignition interlock device or delivery of ignition interlock services.

D. Provided that all vendor and device certification requirements are met, the commission may contract with those manufacturers or service providers and may approve multiple makes and models of ignition interlock devices for use in the Commonwealth of Virginia.

## **24VAC35-60-50. Fees.**

A. All potential service providers desiring to conduct business in the Commonwealth of Virginia's ignition interlock program shall submit a \$250 nonrefundable application fee to the commission.

B. The following additional fees shall be paid by the service provider to the commission:

1. A \$250 annual contract review fee;

2. A \$75 annual review fee for each ignition interlock service center;

3. A \$250 retest fee each and every time a service provider employee is required to take a second or subsequent Virginia Ignition Interlock Certification Exam due to an unsuccessful attempt on the first exam; ~~and~~

4. A ~~\$40~~ \$20 monthly ignition interlock administrative fee for each offender. The fee shall be accompanied by an associated offender list, categorized by ASAP, supporting the payment amounts. The ASAP offender list and payment shall be submitted no later than the 10th day of the month following the month when the ignition interlock services were provided; and

5. A \$2,500 fee per each new ignition interlock device certification application submitted to the commission that was not previously certified in the Commonwealth.

~~C. A \$10 monthly ignition interlock administrative fee shall be paid by the service provider directly to the servicing ASAP for each offender. The fee shall be accompanied by an associated offender list, categorized by ASAP, supporting the payment amounts. The ASAP offender list and payment shall be submitted no later than the 10th day of the month following the month when the applicable ignition interlock services were provided.~~

~~D. C.~~ Service providers may charge offenders for ignition interlock services at rates up to, but not to exceed, the following:

1. \$65 for a standard ignition interlock installation;
2. \$130 for the installation of an ignition interlock on a hybrid motor vehicle, motor vehicle with a push button starter, or other vehicle requiring more than four hours of installation labor time when approved by the commission;
3. \$75 for a change of vehicle ignition interlock installation;
4. \$0 for an ignition interlock removal;
5. \$95 plus applicable taxes for monthly ignition interlock calibrations or monitoring, inclusive of the monthly administrative fees to be paid to the commission ~~and servicing ASAP~~;
6. \$8.00 per month for optional insurance to cover theft or accidental damage to the ignition interlock and its components;
7. An amount of 10% over the actual replacement cost of the ignition interlock and its components when theft or accidental damage occurs and the offender has not purchased the optional insurance;
8. \$50 plus mileage calculated at the Commonwealth of Virginia mileage rate in effect at the time, not to exceed 100 miles, for service calls;
9. \$50 for violation resets, when the violation is determined to be due to the fault of the offender;
10. \$35 for missed appointments;
11. An amount permitted by the Code of Virginia at the time for returned checks;
12. \$50 for provision of a permanent lockout code, when the lockout is determined to be due to the fault of the offender; and
13. \$50 per hour, not to exceed four total hours, for repairs and reinstallation of the ignition interlock when the commission determines that the offender illegally tampered with the device.

~~E. D.~~ In the event of changes to the Code of Virginia or the Ignition Interlock Program Regulations (24VAC35-60) mandating enhanced technological capabilities of ignition interlock devices used in the Commonwealth, the commission may increase offender installation and calibration fees up to a maximum of 25%.

~~F. E.~~ All service providers shall create and maintain an indigency fund for offenders who are eligible for a reduction in fees based upon a declaration of indigency by the court and approval by the commission. Service providers shall not deny service to any offender for whom there has been a declaration of indigency and approval by the commission.

**24VAC35-60-60. Suspension or revocation of ignition interlock device or service facility certification.**

A. The commission may indefinitely suspend or revoke certification of an ignition interlock device or ignition interlock service facility, and the Executive Finance Committee, for a period not to exceed 30 days, may suspend or revoke certification of an ignition interlock device or ignition interlock service facility for the following reasons:

1. When there is a voluntary request by a manufacturer to cancel certification of a device;
2. When a device is discontinued by the manufacturer;
3. When the manufacturer's liability insurance is terminated or canceled;
4. When the manufacturer or service provider attempts to conceal its true ownership;
5. When materially false or inaccurate information is provided relating to a device's performance standards;
6. When there are defects in design, materials, or workmanship causing repeated failures of a device;
7. When the manufacturer or service provider knowingly permits nonqualified service technicians to perform work;
8. When a manufacturer or service provider assists users with circumventing or tampering with a device;
9. When a service provider fails to fully correct an identified ignition interlock facility noncompliance issue within the timeframe required by the Code of Virginia, the provisions of this chapter, or a service provider contract;
10. When there is a pattern of identified interlock service facility noncompliance issues;
11. When a service provider impedes, interrupts, disrupts, or negatively impacts an investigation conducted by the commission involving customer service issues, vehicle damage, or other complaint brought forward by a third party; or
12. When there is an identified public safety or client confidentiality issue at an ignition interlock service facility.

B. If a suspension or revocation of an ignition interlock device or service facility certification occurs, the manufacturer or service provider may request, ~~within 15 days of notification, a hearing with the commission to contest the decision~~ judicial review in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Should a revocation of certification be upheld, the manufacturer or service provider whose device has been revoked (i) shall be responsible for removal of all devices installed and serviced by the service provider that are subject to the revocation, and (ii) will bear the costs associated with the required removal and installation of new approved devices.

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In addition, the manufacturer or service provider whose device or facility is subject to the revocation shall continue to provide services for these ASAP offenders for a time to be determined by the commission, but no longer than 90 days.

C. When the certification of an ignition interlock device or ignition interlock service facility is suspended or revoked, service providers or manufacturers shall continue to provide services for ASAP offenders; however, no new ignition interlock installations shall be permitted during the period of suspension.

D. If a service provider terminates the contract or goes out of business, the manufacturer or service provider shall be responsible for removal of all devices installed and serviced by the service provider that terminates the contract or goes out of business and shall bear the costs associated with the required removal and installation of new approved devices. In addition, the manufacturer or service provider that terminates the contract or goes out of business shall continue to provide services for these ASAP offenders for 90 days from the date of the service provider's notification to the commission that they will be terminating ignition interlock services in Virginia.

## **24VAC35-60-70. Ignition interlock device specifications.**

A. All ignition interlock devices used pursuant to §§ 18.2-270.1 and 46.2-391.01 of the Code of Virginia shall be approved by the commission. The commission shall maintain a list of approved ignition interlock devices.

B. A service provider seeking to contract with the commission shall submit:

1. The name and address of the ignition interlock device manufacturer;
2. The name and model number of the ignition interlock device; and
3. A detailed description of the device including drawings, schematics, wiring protocols, and instructions for its installation and operation.

C. The manufacturer or service provider shall provide literature promoting its device to the commission and for distribution to the ASAPs.

D. The manufacturer or service provider shall provide certification from an independent laboratory that its ignition interlock device has been tested in accordance with the most current model specifications published in the Federal Register by the National Highway Traffic Safety Administration. The manufacturer or service provider is required to provide a certified affidavit that the ignition interlock device model complies with all applicable state standards, including written documentation, current within five years, from either a certified testing laboratory or a National Highway Traffic Safety Administration testing lab that the ignition interlock model for which certification is being sought meets or exceeds

the current National Highway Traffic Safety Administration's model specifications. Included with the certification report should be the name and location of the testing laboratory, the address and phone number of the testing laboratory, a description of the tests performed, copies of the data and results of the testing procedures, and the names and qualifications of the individuals performing the tests.

E. If a device is submitted for approval by a service provider other than the manufacturer, the submitting party shall submit a notarized affidavit from the manufacturer of the device certifying that the submitting party is an authorized manufacturer's representative.

F. Except where otherwise required in this chapter, all ignition interlock devices shall meet the model specifications for Breath Alcohol Ignition Interlock Devices as set forth in the most current model specifications published in the Federal Register by the National Highway Traffic Safety Administration and operate reliably over the range of motor vehicle environments or motor vehicle manufacturing standards. At a minimum, the following specifications shall be met:

1. The ignition interlock device shall work accurately and reliably in an unsupervised environment, at minimal inconvenience to others, and without impeding the safe operation of the motor vehicle.
2. The ignition interlock device shall be able to analyze a specimen of alveolar breath for alcohol concentration, correlate accurately with established measures of blood alcohol concentration, and be calibrated according to the manufacturer's specifications.
3. The ignition interlock device shall ~~be alcohol specific, using use~~ an electrochemical fuel cell that reacts to and measures ethanol, ~~minimizing positive results from other substances.~~
4. The ignition interlock device shall indicate when a 1.5 L breath sample has been collected and shall indicate this by audible or visual means. The commission may authorize service providers to adjust the breath volume requirement to as low as 1.0 L upon receipt of documentation from a licensed physician verifying the existence of an applicable medical condition. The physician's documentation shall be submitted in a format approved by the commission.
5. The ignition interlock device shall detect and record a BAC that reaches the fail point for all completed breath samples.
6. The results of the test shall be noted through the use of green, yellow, and red signals or similar pass/fail indicators. No digital blood alcohol concentration shall be indicated to the offender.
7. The ignition interlock device shall lock out an offender when a BAC reaches the fail point.



8. The ignition interlock device shall have the ability to ~~activate continuously flash the vehicle's lights and, or other light source approved by the commission, while simultaneously activating the vehicle's horn when whenever~~ a required rolling retest is missed or failed.

9. The ignition interlock device shall have the ability to perform a permanent lockout if the offender fails to appear for a scheduled monitoring appointment within 30 days of the later of the installation date or most recent calibration date. The service provider shall provide a code, smart key, or other similar unlock feature that has been approved by the commission to offenders whose interlock is in a permanent lockout status. The duration of the time period that the interlock is unlocked shall not be more than or less than three hours unless otherwise approved by the commission. The code shall only unlock the interlock device and shall not disable other interlock features. Interlock service providers shall not provide an ignition interlock code that disables the ignition interlock features to persons without first obtaining authorization from the commission.

10. The ignition interlock device shall automatically purge alcohol before allowing subsequent analyses.

11. The ignition interlock device shall issue a warning of an impending permanent lockout.

12. The ignition interlock device shall be capable of random retesting and timed retesting.

13. The ignition interlock device shall warn the offender of upcoming service appointments for at least five days prior to the appointment. Should the offender fail to appear, the device shall lock out on the 31st day after the later of the installation date or previous calibration date, and the motor vehicle shall not be operable until the service provider has reset the device.

14. The internal memory of the ignition interlock device shall be capable of recording and storing a minimum of 15,000 interlock events and shall enter a service reminder if the memory reaches 90% of capacity.

15. The ignition interlock device shall be designed and installed in a manner as to minimize opportunities for tampering, alteration, bypass, or circumvention. The ignition interlock device shall not spontaneously bypass the ignition system or starter relay, nor shall it be able to be made operational by a mechanical means of providing air to simulate alveolar breath. Bogus breath anti-circumvention features used to pass laboratory testing of the ignition interlock device shall be turned on. In addition, service providers shall connect the ignition interlock device to a constant and uninterrupted power source to further prevent an opportunity to circumvent the system.

16. The ignition interlock device shall be capable of recording and providing evidence of actual or attempted tampering, alteration, bypass, or circumvention.

17. The ignition interlock device shall operate accurately and reliably at temperatures between -40°C and 85°C.

18. The ignition interlock device shall operate up to altitudes of 2.5 km above sea level.

19. The readings of the ignition interlock device shall not be affected by humidity, dust, electromagnetic interference, smoke, exhaust fumes, food substance, or normal automobile vibration when used in accordance with the manufacturer's instructions.

20. The operation of the ignition interlock device shall not be affected by normal fluctuations of power source voltage.

21. The ignition interlock shall be installed with a fully functional camera that is equipped to record the date, time, and photo of [ ~~all persons providing accepted breath samples to the ignition interlock device; however, this requirement shall not pertain to motorcycles and mopeds. In addition, service providers are required to present a reference photo of the offender to confirm the offender's identity.~~ the vehicle's driver seat upon:

a. The delivery of an accepted breath sample to the ignition interlock device;

b. A missed retest on the ignition interlock device; and

c. An initial engine start of the motor vehicle, within a timeframe established by the commission.

This requirement shall not pertain to motorcycles and mopeds. In addition, service providers are required to present a reference photo of the offender to confirm the offender's identity. ]

G. All ignition interlock devices that have been approved by the commission shall have affixed to the ignition interlock handset a warning label with the following language: "Any person tampering with or attempting to circumvent this ignition interlock system shall be guilty of a Class 1 misdemeanor and, upon conviction, be subject to a fine or incarceration or both." The cost and supply of the warning labels to be affixed to the ignition interlock devices shall be borne by the manufacturer or service provider. The manufacturer or service provider shall submit to the commission a prototype of the warning label for approval.

H. For initial startup of the motor vehicle:

1. The ignition interlock device shall enable the starter relay after the successful completion of a breath alcohol test.

2. The device shall allow an operator to take up to two minutes after the starter relay is enabled to start the engine.

3. The ignition interlock device shall permit a free restart.

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4. If the initial test results in a lockout due to the offender's BAC level, the ignition interlock device shall not allow an additional attempt for five minutes.

5. If the offender's BAC still reaches the fail point on the first retest, the machine shall lock out for an additional 10 minutes and shall do so thereafter for subsequent failed retests. A violation reset message shall instruct the offender to return the ignition interlock device to the service provider for servicing within five days.

6. If the ignition interlock device is not reset within five days, a permanent lockout shall occur.

I. A rolling retest feature is required for all ignition interlock devices. For rolling retests:

1. An ignition interlock device shall require a rolling retest ~~within the first five~~ [ ~~not less than 10~~ randomly within 10 to 15 ] minutes after the start of the motor vehicle and randomly thereafter at least once every ~~45 to 60~~ minutes as long as the motor vehicle is in operation.

2. The ignition interlock device shall produce a visual and audible signal of the need to produce a breath sample for the rolling retest and shall be modified as necessary to accommodate operators who are hearing impaired. The offender shall have 15 minutes to provide the required rolling retest breath sample.

3. A free restart shall not apply if the ignition interlock device was awaiting a rolling retest that was not delivered.

4. A deep lung breath sample at or above the fail point or a failure to provide a rolling retest deep lung breath sample within the required time shall activate the motor vehicle's horn and cause the motor vehicle's headlights, parking lights, emergency lights, or other light source approved by the commission to flash until the engine is shut off by the offender or a passing breath test is provided.

5. Once the vehicle has been turned off, all prestart requirements shall become applicable.

6. The violations reset message shall instruct the offender to return the ignition interlock device to the service provider for servicing within five days.

7. If the ignition interlock device is not reset within five days, a permanent lockout will occur.

J. Additional technical specifications for the operation and installation of the ignition interlock device may be described in the contract between the commission and the service provider.

K. The vendor shall notify the commission in writing if the approval or certification of a device that is approved or has been submitted for approval for use in Virginia is or ever has been denied, withdrawn, suspended, or revoked in another state, whether the action occurred before or after approval in

Virginia. This notification shall be made in a timely manner, not to exceed 15 days after the vendor has received notice of the denial, withdrawal, suspension, or revocation of approval or certification of the device, whether or not the action will or has been appealed.

## **24VAC35-60-80. Ignition interlock device installation.**

A. No offender who has a case pending in the court system shall have an interlock installed in Virginia unless enrolled in and monitored by the ASAP program in the area where the case originated. Offenders subject to a DMV ignition interlock requirement shall not have an interlock installed in Virginia unless first authorized by the ASAP. Prior to installation of the device, the vendor must receive written or electronic authorization from the ASAP. This section also applies to out-of-state offenders who have a Virginia ignition interlock requirement. This enables the commission to maintain consistency in policy and use of ignition interlock devices in the Commonwealth of Virginia and allows for a consistent pattern of instruction to the service provider.

B. The ignition interlock device shall be installed by a commission-approved manufacturer or authorized service provider within 30 days of the date of the court order; if not, the service provider shall notify the ASAP. Once the ignition interlock has been installed, the service provider shall send an authorized installation report to the ASAP, via a method established by the commission, documenting that the ignition interlock device has been installed. Once verification of an authorized installation has been received by the ASAP, DMV shall be notified that the offender has successfully installed the interlock device.

C. All agreements between the service provider and the offender shall be in the form of a contract and signed by the service provider and the offender. Copies of the written contract shall be retained by the service provider with a copy given to the offender.

D. Prior to installation of the ignition interlock device, offenders shall provide to the service provider:

1. Photo identification. If no photo identification is available at the time of installation, other adequate proof of identification may be accepted to avoid delay of the installation. However, photo identification must be presented prior to the first calibration appointment;

2. A copy of the registration or title containing the vehicle identification number (VIN) of all motor vehicles owned or routinely driven by the offender and a statement disclosing the names of all other operators of the motor vehicles owned or driven by the offender;

3. A notarized affidavit, approved by the commission, from the registered owner of the vehicle granting permission to install the device if the car is not registered to the offender. If the owner is present at installation, provides valid

identification, and signs the consent to install form in the service provider technician's presence, notarization of the consent to install form is not required; and

4. Written authorization from the commission if the air volume requirement, blow pressure, or anti-circumvention features of the ignition interlock device are to be lowered or disabled in order to compensate for an offender's diminished lung capacity, when applicable.

E. Under no circumstances shall an offender or anyone accompanying the offender be permitted to observe installation of the ignition interlock device.

F. The service provider shall inspect all motor vehicles prior to installation of the device to ensure that they are in acceptable mechanical and electrical condition. Under no circumstances shall staff of the authorized service provider install a device until and unless the motor vehicle is approved following the inspection. A commission-approved pre-inspection checklist documenting the vehicle's condition at installation shall be completed and placed in the offender's file.

G. The installation shall include tamper-resistant features at all ignition interlock electrical connections so as to make evident all attempts to circumvent or otherwise alter the normal functioning of the ignition interlock. At a minimum, the service provider shall ensure that the vehicle starter wire connected to the ignition interlock is secured with uniquely identifiable heat shrink tubing or its equivalent and that all connected wires are wrapped with uniquely labeled service provider tape.

H. An oral, written, or video orientation to the ignition interlock device shall be developed and delivered by the service provider to the offender and other persons who may drive the motor vehicle, including information on the use and maintenance of the device as well as all service center locations, and procedures for regular and emergency servicing. A demonstration interlock will be available at the installation site for use in the training of customers.

I. If, during the installation, the offender fails to pass the initial breath test, the installation shall be halted and the ASAP notified.

J. The manufacturer or service provider shall maintain a toll-free 24-hour emergency phone service that may be used to request assistance in the event of failure of the ignition interlock device or motor vehicle problems related to operation of the ignition interlock device. The assistance provided by the authorized service provider shall include technical information and aid in obtaining towing or roadside service. The expense of towing and roadside service shall be borne by the offender unless it is determined by the commission that the ignition interlock device failed through no fault of the offender. If this is the case, the manufacturer or service provider shall be responsible for applicable expenses. The ignition interlock device shall be made functional within 48 hours of the call for assistance or the ignition interlock device shall be replaced.

K. At the time of device installation, a service provider may charge an installation fee. The maximum permissible cost for installation shall be set by the commission, and service providers shall not be permitted to exceed the maximum fee established by the commission. A portion of these fees shall include costs for offender indigency funds. In addition to the maximum fee permitted, service providers may collect applicable taxes and charge for optional insurance to cover device theft or accidental damage. Optional insurance shall be offered by the service provider, and a written copy of the insurance policy stating clearly the applicable coverages, coverage amounts, conditions, and exclusions shall be given to offenders who purchase the insurance. When the ignition interlock is installed on a motorcycle or moped, service providers may require offenders to provide a saddle bag or similar waterproof container in which the device components may be stored as a condition of eligibility for the optional insurance.

L. The manufacturer or the service provider shall provide service to those offenders who are eligible for a reduction in fees based upon a declaration of indigence by the court and approval by the commission.

M. No later than the first service appointment, the offender shall provide to the service provider a statement from the licensed drivers who will be driving the offender's motor vehicle acknowledging their understanding of the requirements of the use of the ignition interlock device.

N. An ignition interlock device installed and assigned to one offender shall not be assigned simultaneously to any additional offender for the purpose of attempting to comply with a Virginia ignition interlock requirement.

O. The ignition interlock device shall not be removed from any offender's vehicle for the sole purpose of permitting an offender to transfer to another interlock service provider without written permission from the commission. If the offender's reason to transfer to another interlock service provider is based upon a malfunctioning interlock device or a legitimate customer service issue, the commission shall not unreasonably deny permission and shall authorize the transfer within five business days of all relevant information being received.

## **24VAC35-60-90. Calibration and monitoring visit.**

A. Only calibration units (i) found on the current National Highway Traffic Safety Administration's Conforming Products List of Calibrating Units for Breath Alcohol Testers or (ii) approved by the commission shall be used by the service provider to calibrate ignition interlock devices.

B. The service provider shall:

1. Provide service and monitoring of the ignition interlock device at least every 30 days. All ignition interlock calibrations shall occur at a service provider interlock

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service facility unless otherwise approved by the commission;

2. Calibrate the ignition interlock device at each service appointment using a dry gas or wet bath reference sample. The service provider shall ensure that dry gas and wet bath reference values are adjusted in a manner approved by the commission;

3. Calibrate the ignition interlock device for accuracy by using a wet bath simulator or dry gas alcohol standard with an alcohol reference value between .030 and .050 g/210L;

4. Expel a three-second purge from the wet bath simulator or dry gas standard prior to introducing the alcohol reference sample into the ignition interlock device;

5. Perform an accuracy check that will consist of two consecutive reference checks with the result of each individual check being within plus or minus 10% or 0.003, whichever is smaller, of the alcohol reference value introduced into the ignition interlock device. The time period between the first and second consecutive accuracy check shall not exceed five minutes;

6. House and use wet bath simulators in environmentally stable, temperature controlled settings. Wet bath simulators shall contain mercury-in-glass thermometers or digital thermometers. The thermometers shall read 34°C, plus or minus 0.2°C, during analysis and be certified annually using a National Institute of Standards and Technology traceable digital reference thermometer. In addition, the service provider shall use alcohol reference solutions prepared and tested in a laboratory with reference values traceable to the National Institute of Standards and Technology. The 500-ml bottles containing simulator solution shall be tamper proof and labeled with the lot or batch number, value of the reference sample in g/210L, and date of preparation or expiration. Alcohol reference solutions must be used prior to expiration and within one year from the date of preparation. In addition, wet bath simulator solutions shall be replaced every 30 days or prior to every 30th test, whichever occurs first. A sticker shall be placed on the wet bath simulator indicating the date of the most recent simulator solution replacement. In addition, a written logbook or electronic database recording the date and result of each simulator test shall be maintained on site;

7. Store dry gas alcohol standard tanks in a manner consistent with the gas manufacturer's specifications. The dry gas tanks shall have a label attached that contains the components and concentration of the reference value of the gas, an expiration date that shall not be longer than three years from the date of preparation, and the lot or batch number. Dry gas alcohol standards must be certified to a known reference value and be traceable to the National Institute of Standards and Technology. The reference value shall be adjusted for changes in elevation and pressure.

Interlock service vendors shall possess a certificate of analysis from the dry gas standard manufacturer. Dry gas tanks shall be secured in a manner as to prevent harm to the public;

8. Retrieve data from the ignition interlock device data log for the previous period and electronically submit it to the ASAP within 24 hours of calibration;

9. Record the odometer reading of the vehicle;

10. Check the ignition interlock device and wiring for signs of circumvention or tampering and electronically report violations to ASAP within the required timeframe established by the commission;

11. Collect the monthly monitoring fee from the offender. If an offender who has not been declared to be indigent by the court is three or more months delinquent in payments, the service provider may, in its discretion, refuse to provide calibration services, but shall not remove the ignition interlock device without authorization from the commission. Offenders with an outstanding balance [ in excess of \$250 ] with any Virginia-approved ignition interlock service provider shall not be permitted to install an interlock device with another ignition interlock service provider;

12. Verify that the offender has a photo identification prior to calibrating the ignition interlock device if photo identification was not already presented at the time of installation; and

13. Conform to other calibration requirements established by the commission, as applicable.

C. All malfunctions of the ignition interlock device shall be repaired or the ignition interlock device replaced by the service provider within 48 hours at no additional expense to the offender. If it is shown that the malfunction is due to damage to the device as a result of mistreatment or improper use, the offender shall be responsible for applicable repair fees.

D. A certified technician shall be available at the service center during specified hours to answer questions and to deal with mechanical concerns that may arise with a motor vehicle as a result of the ignition interlock device.

E. The ignition interlock device shall record, at a minimum, the following data:

1. ~~The~~ [ The ] time and date of failed breath tests;

2. The time and date of passed breath tests;

3. The breath alcohol level of all tests; [ and ]

4. The time and date of attempts to tamper or circumvent the ignition interlock device [ ;

~~5. A photo of each person delivering an accepted breath test sample for analysis by the ignition interlock device; and~~

~~6. A reference photo of the offender; and~~

~~7. A photo of the vehicle's driver seat after every initial start-up provided on the interlock device within a timeframe established by the commission. ]~~

F. At the time of device calibration, a service provider may charge a monthly monitoring fee. The maximum permissible cost for monitoring and calibration shall be set by the commission through the ignition interlock regulations, and service providers shall not be permitted to exceed the maximum fee established by the commission. A portion of these fees shall include costs for administrative support and offender indigency funds. In addition to the maximum fee permitted, service providers may collect applicable taxes and charge for optional insurance to cover device theft and accidental damage. Fees for the first monthly monitoring and calibration visit will be collected from the user in advance at the time of installation and monthly thereafter when services are rendered.

**24VAC35-60-110. Records and reporting.**

A. The service provider shall be subject to announced or unannounced site reviews for the purpose of inspecting the facilities and offender records. Upon request, access to all service provider locations, records, and financial information shall be provided to the commission for the purpose of verifying compliance with state law, commission regulations, and the service provider agreement.

B. In accordance with federal confidentiality guidelines, all personal and medical information provided to the service provider regarding offenders shall be kept confidential. If the information is temporarily held at the offender's service center, it shall be stored in a locked filing cabinet when unattended by a service provider employee.

C. After installing an interlock, the service provider shall provide the ASAP with an installation report, within 24 hours, that includes:

1. The name, address, and telephone number of the offender;
2. The registration information of the motor vehicle; and
3. The serial number of the installed ignition interlock device and camera.

D. After performing a monitoring and calibration check, the service provider shall submit to the ASAP, within 24 hours, all data generated to include:

1. Name of the offender whose device was monitored;
2. Name, address, and telephone number of the monitoring official;
3. Date of monitoring and calibration;
4. Motor vehicle make, model, year, identification number, and odometer reading;
5. Number of miles driven during the monitoring period;

6. Make, model, and serial number of the ignition interlock device and camera;

7. A change out of the device (handset or control box) and reason for the change out;

8. Data indicating that the offender has attempted to start or drive the motor vehicle with a positive BAC at or above the fail point;

9. Attempts to alter, tamper, circumvent, bypass, or otherwise remove the device;

10. Noncompliance with conditions of the ASAP or interlock program;

11. Offender concerns;

12. Charges incurred for the monitoring visit; [ and ]

13. Date of next scheduled monitoring visit [ ;

~~14. A photo of each person who has delivered an accepted breath test sample or missed a retest on the ignition interlock device; and~~

~~15. A reference photo of the offender; and~~

~~16. A photo of the vehicle's driver seat after every initial start-up provided on the interlock device within a timeframe established by the commission ]~~.

E. In addition, the service provider shall have available monthly reports detailing:

1. Installations during the period covered;
2. Calibrations performed during the period, by date and offender name, detailing any unit replacements made during the monitoring period;
3. Datalogger information from all ignition interlock devices;
4. Evidence of misuse, abuse, or attempts to tamper with the ignition interlock device;
5. Device failure due to material defect or improper installation; and
6. A summary of complaints received and corrective action taken.

F. The service provider shall be responsible for purchasing and providing necessary computer hardware and software to convey all data and information requested by the commission if the equipment is not already present at the commission office or the ASAP.

G. Accurate reports shall be submitted to the ASAP in the format specified by the commission.

H. The service provider shall provide a copy of the most recent "ASAP Ignition Interlock Agreement" to each offender

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at the interlock installation appointment and shall require the offender to read and sign the agreement.

## **24VAC35-60-130. Service provider technician certification.**

A. Service provider state directors and technicians are required to possess a Virginia Ignition Interlock Certification Letter to perform ignition interlock services in the Commonwealth of Virginia. Newly hired technicians, however, may perform ignition interlock services under the direct supervision of a certified technician for training purposes for up to 90 days prior to obtaining a Virginia Ignition Interlock Certification Letter. In order to apply for a certification letter, service providers shall submit a completed application to the commission for approval of newly hired technicians and state directors. If approved by the commission, this application process may be waived for technicians and state directors providing interlock services in the Commonwealth of Virginia prior to June 30, 2016. The completed application shall include submission of:

1. A completed applicant form provided by the commission;
2. A complete local and national criminal history check;
3. A complete driver's record; and
4. Documentation issued by the commission of successful completion of the Virginia Ignition Interlock Certification Exam.

Failure to submit a completed application will result in disqualification from consideration for a Virginia Ignition Interlock Certification Letter by the commission to perform ignition interlock services in the Commonwealth of Virginia. ~~The commission reserves the right to deny a certification letter to an interlock service provider technician or state director due to concerns identified in the application to include, but not be limited to, criminal history background and driver's transcript issues.~~

B. Applicants shall be required to complete a Virginia Ignition Interlock Certification Exam. Successful completion of the exam requires a score of 80% or higher. Applicants who fail to successfully complete the state certification exam on the first attempt shall be allowed a second opportunity to successfully complete the exam. Applicants who fail to successfully complete the state certification exam on the second attempt shall not be allowed to reapply to provide ignition interlock services for the Commonwealth of Virginia for six months from the date of the second failed exam. Service providers shall be required to pay an administrative fee, as provided in 24VAC35-60-50 B 3, to the commission for all second and subsequent attempts to successfully complete the state certification exam. Applicants who successfully pass the state certification exam will receive documentation of successful completion from the commission that shall be submitted with the application for a Virginia Ignition Interlock

Certification Letter to perform ignition interlock services in the Commonwealth of Virginia.

C. The commission may deny, revoke, suspend, or terminate a ~~previously issued~~ Virginia Ignition Interlock Certification Letter for a service provider technician or state director for any of the following reasons:

1. ~~The technician or state director is~~ Having been convicted of a felony;
2. ~~The technician or state director is~~ Having been convicted of a misdemeanor potentially punishable by confinement;
3. ~~The technician or state director commits~~ Committing an unethical, deceptive, or dishonest act that negatively impacts the integrity of the ignition interlock program;
4. ~~The technician or state director fails~~ Failing to demonstrate the ability to consistently comply with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level; ~~or~~
5. ~~The technician or state director fails~~ Failing to demonstrate ~~possession of the~~ sufficient knowledge or skill required to perform ignition interlock services in the Commonwealth of Virginia;
6. Making a material misstatement or omission in an application; or
7. Defrauding any client, service provider, or other person or entity in the conduct of the licensee's business.

A service provider technician or state director whose Virginia Ignition Interlock Certification Letter has been denied, revoked, suspended or ~~revoked~~ terminated may request, ~~within 15 days of notification, a hearing with the commission to contest the decision~~ judicial review in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). In the event that the decision to suspend or revoke the Virginia Ignition Interlock Certification Letter of a service provider's technician or state director is upheld, the technician or state director shall not perform interlock services in the Commonwealth of Virginia for the entire suspension period, ~~to include any period of contestment,~~ or in the case of a revocation or termination, on a permanent basis. This prohibition includes any period during which the denial, suspension, revocation, or termination is being contested. The service provider is required to return the Virginia Ignition Interlock Certification Letter to the commission within 15 days of the date that the certification was suspended, revoked, or terminated, by the commission.

D. Once the completed application has been approved by the commission and all other qualifications have been met by the applicant, a Virginia Ignition Interlock Certification Letter to perform ignition interlock services in the Commonwealth of Virginia shall be issued to the applicant by the commission. The certification letter shall contain the effective date of the

letter and a certification number specific to the applicant. The certification letter will be valid for a time period specified by the commission unless otherwise suspended, revoked, or terminated but for no longer than the service provider contract end date. In the event that an applicant is not approved for a Virginia Ignition Interlock Certification Letter to perform interlock services in the Commonwealth of Virginia, the commission will notify the service provider in writing within 10 days of the determination. The Virginia Ignition Interlock Certification Letter is subject to review by the commission at its discretion during the course of the certification period.

E. An application to renew a Virginia Ignition Interlock Certification Letter for an ignition interlock technician or state director shall be submitted 30 days prior to the expiration date printed on the current certification letter. A technician or state director who has had his state certification revoked or terminated shall be ineligible to reapply for a Virginia Ignition Interlock Certification Letter unless otherwise approved by the commission.

F. Service providers are required to surrender Virginia Ignition Interlock Certification Letters for technicians and state directors who are no longer employed with their company. The surrendered certification letter shall be sent to the commission within 15 days of the date that the technician or state director is no longer employed with the service provider.

G. In addition to the successful completion of the Virginia Ignition Interlock Certification Exam required for application, the commission may order that a technician or state director performing ignition interlock services in the Commonwealth of Virginia review requirements and retake the state certification exam to demonstrate that the technician or state director possesses the knowledge required to perform ignition interlock services in the Commonwealth of Virginia.

**24VAC35-60-140. Emergency declarations.**

The commission reserves the right to suspend service-related requirements of this chapter in applicable geographical areas when there exists a federal or state disaster or declaration of emergency.

VA.R. Doc. No. R20-6270; Filed February 5, 2021, 11:45 a.m.

**Final Regulation**

**Title of Regulation: 24VAC35-70. Remote Alcohol Monitoring Device Regulations (adding 24VAC35-70-10 through 24VAC35-70-140).**

Statutory Authority: § 18.2-270.2 of the Code of Virginia.

Effective Date: July 1, 2021.

Agency Contact: Richard Foy, Field Services Specialist, Commission on the Virginia Alcohol Safety Action Program, 1111 East Main Street, Suite 801, Richmond, VA 23219, telephone (804) 786-5895, FAX (804) 786-6286, or email [richard.foy@vasap.virginia.gov](mailto:richard.foy@vasap.virginia.gov).

**Summary:**

*Pursuant to Chapter 1007 of the 2020 Acts of Assembly, this regulatory action establishes 24VAC35-70, Remote Alcohol Monitoring Device Regulations. The regulation includes requirements for (i) qualifications of remote alcohol monitoring device manufacturers and service providers, (ii) training and certification of remote alcohol monitoring technicians and state directors, (iii) remote alcohol monitoring device specifications and calibration, (iv) program participation fees, (v) customer orientation training, and (vi) recordkeeping.*

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

**Chapter 70**

**Remote Alcohol Monitoring Device Regulations**

**24VAC35-70-10. Definitions.**

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

"Alcohol" means ethyl alcohol, also called ethanol (C<sub>2</sub>H<sub>5</sub>OH).

"ASAP" means a local alcohol safety action program.

"Blood alcohol concentration" or "BAC" means the amount of alcohol in an offender's blood or breath, as determined by chemical analysis, that is measured by the number of grams of alcohol per 100 milliliters of blood or 210 liters of breath.

"Bodily fluid" means any bodily fluid capable of being used to estimate blood alcohol concentration, provided the relationship between such bodily fluid and BAC has been established according to scientifically acceptable standards. Such fluids include blood, exhaled deep lung breath, perspiration (transdermal), and saliva.

"Breath test" means an analysis of the breath alcohol concentration of a deep lung breath sample, where "deep lung breath sample" or "alveolar breath sample" means a minimum 1.0-liter air sample that is the last portion of a prolonged, uninterrupted exhalation and that gives a quantitative measurement of alcohol concentration from which breath sample concentrations can be determined. "Alveolar" refers to the alveoli that are the smallest air passages in the lungs surrounded by capillary blood vessels and through which an interchange of gases occurs during respiration.

"Calibration" means a device system check indicating the absence of issues that affect the remote alcohol monitoring device's ability to provide an accurate alcohol concentration reading.

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"Commission" means the Commission on Virginia Alcohol Safety Action Program or its designee.

"Device" means a remote alcohol monitoring device.

"Device certification" means the testing and approval process required by the Commission on Virginia Alcohol Safety Action Program for all remote alcohol monitoring devices.

"Executive Finance Committee" means the advisory subcommittee of the commission composed of the Executive Director of the Commission on Virginia Alcohol Safety Action Program, two commission members, and such other persons as the commission designates.

"Manufacturer" means the entity that is responsible for the design, production, and distribution of remote alcohol monitoring devices to service providers.

"Offender" means the individual required by the court to use a remote alcohol monitoring device.

"Orientation" means to increase offender familiarity and understanding of remote alcohol monitoring device operation and program expectations through training and set up of the remote alcohol monitoring device for use by the offender.

"Remote alcohol monitoring device" means an unsupervised mobile testing device with the ability to confirm the location and presence of alcohol in a person and that is capable of scheduled, random, and on-demand tests that provide immediate or as-requested results. A testing device may be worn or used by persons ordered by the court to provide measurements of the presence of alcohol in their blood via breath or bodily fluid.

"Retest" means an additional opportunity to provide a deep lung breath or transdermal sample.

"Routine maintenance" means inspection, calibration, and other simple, small-scale activities associated with regular and general upkeep of the remote alcohol monitoring device against normal wear and tear but does not include internal repair.

"Service center" means the physical location where remote alcohol monitoring services are performed.

"Service provider" means an authorized entity that provides orientation of approved remote alcohol monitoring devices for manufacturers. Among other activities, service providers may calibrate and perform routine maintenance of devices as well as provide required reports and testify in court. In some cases, the service provider may also be a manufacturer of a remote alcohol monitoring device.

"Set point" means the level at which the breath or transdermal alcohol concentration initiates a sequence of events to determine if the BAC or TAC sample is a confirmed alcohol event.

"State director" means a manufacturer employee who provides oversight of the manufacturer's remote alcohol monitoring device operations in the Commonwealth of Virginia.

"Tampering" means an unlawful act or attempt to disable or circumvent the legal operation of the remote alcohol monitoring device.

"Technician" means a service provider employee who provides remote alcohol monitoring services in the Commonwealth of Virginia on behalf of a manufacturer.

"Testing window" means a time period programmed into the remote alcohol monitoring device in which an offender can provide an on demand, random, or scheduled breath or transdermal test.

"Transdermal" means transfer through the skin or the quantification of alcohol from a vapor after it passes through the skin.

"Transdermal alcohol content" or "TAC" means the detection of alcohol in human subjects using an external, noninvasive detection device attached and secured to the skin with tamper resistance approved by the commission.

"Transdermal test" means an analysis of the transdermal concentration of a bodily fluid sample.

"Violation" means an event, such as a breath or transdermal test indicating alcohol consumption; a refusal to provide a deep lung breath or transdermal sample; altering, concealing, hiding, or attempting to hide one's identity from the remote alcohol monitoring device's camera while providing a breath sample; or tampering that breaches the guidelines for use of the remote alcohol monitoring device.

"Virginia Remote Alcohol Monitoring Certification Letter" means a letter issued by the commission to a service provider technician or state director authorizing the service provider technician or state director to perform remote alcohol monitoring services in the Commonwealth of Virginia.

## **24VAC35-70-20. When remote alcohol monitoring devices are required.**

Remote alcohol monitoring devices are required when ordered by a court.

## **24VAC35-70-30. Approval of manufacturers.**

A. The commission shall issue a request in compliance with the Commonwealth of Virginia procurement procedures to contract with remote alcohol monitoring manufacturers for the services and commodities required for the implementation and maintenance of the Commonwealth's remote alcohol monitoring program. Contracts will be for a length of time established by the commission.

B. A manufacturer seeking to contract with the commission shall:



1. Submit evidence demonstrating successful experience in the development and maintenance of a remote alcohol monitoring service program in Virginia, other states, or other countries;

2. Supply and train staff, technicians, and state directors and provide remote alcohol monitoring device orientation to ensure good customer service and compliance with all contract requirements. Personnel seeking to perform remote alcohol monitoring services or administrative duties in the Commonwealth of Virginia shall not necessarily be barred from employment due to a criminal record; however, a criminal record may be considered in conjunction with other information to determine the overall suitability of applicants for employment;

3. Provide, upon request of the commission or the court, via a properly served subpoena, expert or other required testimony in any civil, criminal, or administrative proceedings as to the method of manufacturing the device, remote alcohol monitoring functionality, and the testing protocol by which the device is calibrated and serviced. The manufacturer may assign a service provider designee to perform these duties;

4. Identify all key personnel who will be providing remote alcohol monitoring services for the Commonwealth of Virginia and furnish the commission with credentials on these personnel;

5. Notify the commission at least five business days in advance of a reduction in staffing levels of key personnel in the Commonwealth of Virginia;

6. Ensure that service provider technicians and state directors, or their designee, are trained and available to testify in court if required by a court or Commonwealth's Attorney, or upon a 10-business-day notice by the ASAP in that court's jurisdiction, regardless of whether a subpoena is issued;

7. Submit a description of the manufacturer's plan, to be approved by the commission, for distribution of the device to all locations of the Commonwealth of Virginia where remote alcohol monitoring services will be performed. Services shall be made available within a 50-mile radius of every residence in the Commonwealth of Virginia unless otherwise authorized by the commission. Manufacturers are permitted to subcontract remote alcohol monitoring services to third-party service providers that meet the requirements of this chapter for delivery of their remote alcohol monitoring services in the Commonwealth of Virginia. Alcohol Safety Action Programs may qualify as third-party service providers for a manufacturer for remote alcohol monitoring services in the Commonwealth of Virginia if approved by the commission. Alcohol Safety Action Programs that are approved by the commission to contract with remote alcohol monitoring manufacturers to provide

remote alcohol monitoring services shall employ a minimum of one state-certified technician for every 50 remote alcohol monitoring offenders monitored by their program and shall meet the same certification requirements as all other service providers;

8. Submit sufficient documentation to enable the verification of adequate insurance to cover liability related to remote alcohol monitoring operations, services, and equipment, including coverage in Virginia, with a minimum policy limit of \$1 million per occurrence and \$3 million general aggregate total. This liability insurance shall be considered primary above all other available insurance and shall so stipulate in the "other insurance" or applicable section of the insurance contract. The manufacturer shall provide a signed statement holding harmless the Commonwealth of Virginia and the commission and its members, employees, and agents from all claims, demands, and actions as a result of damage or injury to persons or property that may arise directly or indirectly out of an act or omission by the manufacturer or the manufacturer's service provider relating to the orientation, service, repair, or use of a remote alcohol monitoring device. Coverage shall extend to any action taken or not taken by ASAPs (unless the ASAP is a service provider for a remote alcohol monitoring device manufacturer) or the commission due to verified errors in reporting of remote alcohol monitoring device activity by the manufacturer or the manufacturer's service provider;

9. Submit documentation that the manufacturer will provide a state remote alcohol monitoring director who will serve as a central point of contact for the commission regarding all aspects of the manufacturer's remote alcohol monitoring operations in the Commonwealth. Among other duties, the manufacturer's state remote alcohol monitoring director will be expected to (i) respond promptly to problems in the field; (ii) upon request of the commission, provide testimony themselves or through their designee before applicable courts, the General Assembly of Virginia, or the commission; (iii) assist and provide training to the commission; and (iv) be responsible for quality control of reports and statistics, updates to all required documentation, and field services reporting and repairs. In the event of a state director vacancy, the manufacturer shall submit to the commission the name of an interim state director within 10 days of the vacancy and the name of a permanent state director within 90 days of the vacancy;

10. Not discriminate against an employee or applicant for employment due to race, religion, color, sex, national origin, age disability, or other basis prohibited by state or federal law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary for the normal operation of the manufacturer or the manufacturer's service provider. The manufacturer agrees to post at all service provider locations in conspicuous places available to employees and applicants for

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employment, notices setting forth the provisions of this nondiscrimination clause. Furthermore, the manufacturer shall require that its service providers, in all solicitations or advertisements for employees placed by or on behalf of the service provider, state that the contractor is an equal opportunity employer. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this subdivision;

11. Not knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986 (P.L. 99-603; 100 Stat. 3359) during the performance of the contract for goods and services;

12. Notify the commission in writing within 15 days of a disciplinary action taken by a state or other political entity against the manufacturer in areas where the manufacturer conducts or has conducted remote alcohol monitoring business. This notification shall include the reason for the disciplinary action and other information as the commission may reasonably request. This requirement applies regardless of the existence of an appeal;

13. Notify the commission in writing of all final adjudications against the manufacturer related to the remote alcohol monitoring device or delivery of remote alcohol monitoring services;

14. Provide remote alcohol monitoring generated reports and report all required alcohol-related violations to the Alcohol Safety Action Program of jurisdiction; and

15. Provide documentation annually of the manufacturer's certification to the current International Organization for Standardization (ISO) 9001 Quality Management System (QMS) for aspects related to design, maintenance, and distribution of a remote alcohol monitoring device. Along with this certification, a copy of the manufacturer's Quality Assurance Plan (QAP) for checking the accuracy of the calibration of the remote alcohol monitoring device is required.

C. Provided that all manufacturer, facility certification, and device certification requirements are met, the commission may contract with those manufacturers and may approve multiple makes and models of remote alcohol monitoring devices for use in the Commonwealth of Virginia.

## **24VAC35-70-40. Remote alcohol monitoring service facility certification.**

Each remote alcohol monitoring service facility shall be inspected and certified by the commission prior to opening and at least annually thereafter. Remote alcohol monitoring service facilities shall:

1. Comply with all local business license and zoning requirements and with all federal, state, and local health, fire, and building code requirements. Prior to the jurisdictional

compliance deadline, a copy of a valid business license or business license payment receipt, and tax document shall be posted in a conspicuous place at the service facility immediately upon receipt when applicable;

2. Comply with all local, state, and federal laws pertaining to the provisions of physical access to persons with disabilities;

3. Maintain offender records in a manner that complies with federal confidentiality guidelines. All offender files, payment receipts, and other identifying information shall be located in locked filing cabinets if unattended by a technician. Electronic storage of offender files shall be encrypted and secured to prevent third party access;

4. Require and enforce maintenance of a drug-free workplace and have posted in a conspicuous place available to employees and applicants for employment a statement notifying employees that the manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the service provider's workplace. The notice shall specify the actions that may be taken against employees for violations of the policy;

5. Notify offenders of the address and closure date of any remote alcohol service facility and provide the address of an alternate remote alcohol monitoring service facility within 15 days of the closure date, if applicable;

6. Ensure that employees maintain a professional appearance and are attired in such a manner as to be readily identifiable as service provider employees;

7. Ensure that the locations where remote alcohol monitoring services are performed are tidy and pose no hazards to public safety; and

8. Provide the commission a minimum of 20 days' notice prior to the scheduled opening date of a new location. This requirement allows the commission reasonable time to schedule an inspection of the new facility prior to opening services to ASAP offenders.

## **24VAC35-70-50. Remote alcohol monitoring device specifications and certification.**

A. All remote alcohol monitoring devices used in the Commonwealth of Virginia shall be certified by the commission. The commission shall maintain a list of approved remote alcohol monitoring devices.

B. A manufacturer seeking to have a remote alcohol monitoring device certified by the commission shall submit:

1. The name and address of the remote alcohol monitoring device manufacturer;

2. The name and model number of the remote alcohol monitoring device; and

3. A detailed description of the device including drawings, wiring protocols if applicable, and instructions used in orientation.

C. The manufacturer or the manufacturer's service provider shall provide literature promoting its device to the commission and for distribution to the ASAPs.

D. The manufacturer shall provide a certification report that the remote alcohol monitoring device conforms to the minimum specifications set forth by the commission. Included with the certification report should be the name and location of the testing facility, the address and phone number of the testing facility, and the names and qualifications of the individuals performing the tests. This section applies only to the portion of the device that records breath or bodily fluid samples for analysis. At a minimum, the following specifications shall be met:

1. The remote alcohol monitoring device shall work accurately and reliably in an unsupervised environment at minimal inconvenience to others.

2. The remote alcohol monitoring device shall be able to analyze a specimen of alveolar breath or bodily fluid for alcohol concentration, correlate accurately with established measures of blood or transdermal alcohol concentration, and be calibrated according to the manufacturer's specifications.

3. The remote alcohol monitoring device shall use an electrochemical fuel cell or other technology approved by the commission that reacts to and measures ethanol.

4. A remote alcohol monitoring device that is designed to take a breath test shall indicate when an acceptable breath sample has been collected, indicating this by audible or visual means. The remote alcohol monitoring device shall not be set to a breath volume requirement of less than 1.0 L.

5. The remote alcohol monitoring device shall detect and record a BAC or TAC for all completed breath or bodily fluid samples.

6. The results of the test shall be noted through the use of green, yellow, and red signals or similar pass or fail indicators. No digital blood or transdermal alcohol concentration shall be indicated to the offender.

7. The remote alcohol monitoring device shall automatically purge alcohol before allowing subsequent analyses.

8. The remote alcohol monitoring device shall be capable of random, scheduled, continuous, or on-demand tests that provide immediate, scheduled, or on-demand results.

9. The internal memory of the remote alcohol monitoring device shall be capable of recording and storing a minimum of 500 remote alcohol monitoring events.

10. The remote alcohol monitoring device shall be designed and set up in a manner as to minimize opportunities for tampering, alteration, bypass, or circumvention.

11. The remote alcohol monitoring device shall be capable of recording and providing evidence of actual tampering, alteration, bypass, or circumvention.

12. The remote alcohol monitoring device shall operate accurately and reliably at temperatures between 10° and 40°C.

13. The remote alcohol monitoring device shall operate up to altitudes of 2.5 km above sea level.

14. The readings of the remote alcohol monitoring device shall not be affected by humidity, dust, electromagnetic interference, smoke, or food substance when used in accordance with the manufacturer's instructions.

15. The remote alcohol monitoring device shall be set up with a means to confirm the location and presence of alcohol in an offender. If a remote alcohol monitoring device is equipped with global positioning system (GPS) capabilities, GPS coordinates are not to be shared by the manufacturer unless required by court order, subpoena, or law.

16. The remote alcohol monitoring device shall have a set point equivalent to 0.02g/210 liters of breath unless otherwise approved by the commission.

17. The testing window shall be 30 minutes unless otherwise approved by the commission.

18. Remote alcohol monitoring devices that are not continuously attached to the offender to confirm identity shall be equipped with an internal camera to provide evidence that the offender is the individual providing breath samples into the device as required by law or court order.

19. The remote alcohol monitoring device shall prompt for a subsequent breath or transdermal test 30 minutes after any reading above the set point. If the subsequent test records any BAC level, or is refused, a confirmed alcohol violation will be reported to the ASAP by the manufacturer or the manufacturer's service provider in a manner specified by the commission, unless the manufacturer has its own alcohol violation confirmation process. In situations where a manufacturer has its own alcohol violation confirmation process, the manufacturer may use its process as an alternative standard to report an alcohol violation if approved by the commission.

20. Prompted remote alcohol monitoring device tests that are not provided within the testing window shall be reported as a confirmed alcohol violation to the ASAP by the manufacturer or the manufacturer's service provider in a manner specified by the commission.

21. In the event the remote alcohol monitoring device battery level falls below 20%, the device shall prompt the offender

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to connect to a power supply. A low battery condition under 20% of capacity and connecting or disconnecting the device from a constant power supply shall be uniquely recorded in the device's memory.

22. Remote alcohol monitoring devices shall have calibration stability of at least six months.

23. Remote alcohol monitoring devices shall be produced by a manufacturer that maintains certification to the current International Organization for Standardization (ISO) 9001 Quality Management Systems for aspects related to the design, maintenance, and distribution of the device. Documentation demonstrating compliance with this requirement shall be submitted to the commission by the manufacturer on an annual basis.

E. All remote alcohol monitoring devices that have been approved by the commission shall have affixed a warning label with the following language: "Any person tampering with or attempting to circumvent this remote alcohol monitoring system shall be guilty of a Class 1 misdemeanor and, upon conviction, be subject to a fine or incarceration or both." Remote alcohol monitoring devices may be equipped with a GPS. If a remote alcohol monitoring device is equipped with a GPS, the following additional language is required in bold on the warning label: "Please note that this remote alcohol monitoring device is equipped with a functioning GPS." The cost and supply of the warning labels to be affixed to the remote alcohol monitoring devices shall be borne by the manufacturer or service provider. The manufacturer or service provider shall submit to the commission a prototype of the warning label for approval.

F. Additional technical specifications for the operation and installation of the remote alcohol monitoring device may be described in the contract between the commission and the manufacturer.

G. The manufacturer shall notify the commission in writing if the approval or certification of a device that is approved, or has been submitted for approval for use in Virginia, is or ever has been denied, withdrawn, suspended, or revoked in another state, whether the action occurred before or after approval in Virginia. This notification shall be made in a timely manner, not to exceed 15 days after the manufacturer has received notice of the denial, withdrawal, suspension, or revocation of approval or certification of the device, whether or not the action will or has been appealed.

## **24VAC35-70-60. Fees.**

A. All potential manufacturers desiring to conduct business in the Commonwealth of Virginia's remote alcohol monitoring program shall submit a \$250 nonrefundable application fee to the commission.

B. The following additional fees shall be paid by the manufacturer to the commission:

1. A \$250 annual contract review fee;

2. A \$50 annual review fee for each remote alcohol monitoring service location;

3. A \$30 monthly remote alcohol monitoring administrative fee for each offender. The fee shall be accompanied by an associated offender list, categorized by ASAP, supporting the payment amounts. The ASAP offender list and payment shall be submitted no later than the 10th day of the month following the month when the remote alcohol monitoring services were provided;

4. A \$250 retest fee each and every time a service provider employee is required to take a second or subsequent Virginia Remote Alcohol Monitoring Certification Exam due to an unsuccessful attempt on the first exam; and

5. A \$250 remote alcohol monitoring device certification fee for any new device proposed for use in the Commonwealth.

C. Service providers may charge offenders for remote alcohol monitoring services at rates up to, but not to exceed, the following:

1. \$80 for a standard remote alcohol monitoring device orientation;

2. \$330 plus applicable taxes per month for remote alcohol monitoring device calibrations and monitoring, inclusive of the monthly administrative fees to be paid to the commission;

3. \$10 per month for optional insurance to cover theft or accidental damage to the remote alcohol monitoring device and its components;

4. An amount of 10% over the actual replacement cost of the remote alcohol monitoring device and its components when theft or accidental damage occurs and the offender has not purchased the optional insurance;

5. \$50 plus mileage calculated at the Commonwealth of Virginia mileage rate in effect at the time, not to exceed 100 miles, for service calls;

6. \$35 for missed appointments; and

7. An amount permitted by the Code of Virginia at the time for returned checks.

D. All manufacturers or their service providers shall create and maintain an indigency fund for offenders who are eligible for a reduction in fees based upon a declaration of indigency by the court and approval by the commission. No manufacturer or manufacturer's service provider shall deny service to any offender for whom there has been a declaration of indigency by the court and approval by the commission.

**24VAC35-70-70. Suspension or revocation of remote alcohol monitoring devices or service facility certification.**

A. The commission may indefinitely suspend or revoke certification of a remote alcohol monitoring device or service facility. The Executive Finance Committee, for a period not to exceed 30 days, may suspend or revoke certification of a remote alcohol monitoring device or service facility for the following reasons:

1. When there is a voluntary request by a manufacturer to cancel certification of a device;
2. When a device is discontinued by the manufacturer;
3. When the manufacturer's liability insurance is terminated or canceled, or in cases where the service provider is responsible for the liability insurance, the insurance is canceled and not remedied by the manufacturer within three business days;
4. When the manufacturer or a manufacturer's service provider attempts to conceal its true ownership;
5. When materially false or inaccurate information is provided relating to a device's performance standards by the manufacturer;
6. When there are defects in design, materials, or workmanship causing repeated failures of a device;
7. When a manufacturer or a manufacturer's service provider knowingly permits nonqualified employees to perform work;
8. When a manufacturer or a manufacturer's service provider assists users with circumventing or tampering with a device;
9. When a manufacturer fails to fully correct an identified remote alcohol monitoring facility noncompliance issue within the timeframe required by the Code of Virginia, the provisions of this chapter, or a remote alcohol monitoring manufacturer contract;
10. When there is a pattern of identified remote alcohol monitoring facility noncompliance issues;
11. When a manufacturer or a manufacturer's service provider impedes, interrupts, disrupts, or negatively impacts an investigation conducted by the commission involving customer service issues or other complaint brought forward by a third party;
12. When there is an identified public safety or offender confidentiality issue at a remote alcohol monitoring service facility; or
13. When a manufacturer fails to maintain annual certification with the International Organization for Standardization (ISO) 9001 Quality Management System (QMS) for aspects related to design, maintenance, and distribution of a remote alcohol monitoring device.

B. If a suspension or revocation of a remote alcohol monitoring device or service facility certification occurs, the manufacturer may request judicial review in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Should a revocation of certification be upheld, the manufacturer whose device has been revoked (i) shall be responsible for removal of all devices installed and serviced by the manufacturer's service providers that are subject to the revocation and (ii) will bear the costs associated with the required removal and installation of new approved devices. In addition, the manufacturer whose device or facility is subject to the revocation shall continue to provide services for these ASAP offenders for a time to be determined by the commission, but no longer than 90 days.

C. When the certification of a remote alcohol monitoring device or remote alcohol monitoring service facility is suspended or revoked, manufacturers shall continue to make sure services are provided for ASAP offenders; however, no new remote alcohol monitoring installations shall be permitted during the period of suspension.

D. If a manufacturer or a manufacturer's service provider terminates the contract or goes out of business, the manufacturer shall be responsible for removal of all of its devices operational in the Commonwealth and shall bear the costs associated with required offender transfers to new approved devices. In addition, if a manufacturer or a manufacturer's service provider terminates the contract or goes out of business, the manufacturer or manufacturer's service provider shall continue to provide services for 90 days after notification to the commission that services will be terminated in Virginia.

**24VAC35-70-80. Remote alcohol monitoring device orientation.**

A. No offender who has a court order pursuant to § 18.2-270.1 of the Code of Virginia shall use a remote alcohol monitoring device in Virginia unless enrolled in and monitored by the ASAP. Prior to providing offender orientation of the device, the service provider shall first receive written or electronic authorization from the ASAP for the particular offender. This section also applies to out-of-state offenders who have a Virginia court-ordered remote alcohol monitoring requirement. This enables the commission to maintain consistency in policy and use of remote alcohol monitoring devices in the Commonwealth of Virginia and allows for a consistent pattern of instruction to the manufacturer's service providers.

B. The remote monitoring device shall have orientation provided by a commission-approved service provider within 30 days of the date of the court order; if not, the service provider shall notify the ASAP. Once orientation has occurred, the service provider shall notify the ASAP via a method established by the commission, documenting that the remote alcohol monitoring device orientation has been completed.

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C. All agreements between the service provider and the offender shall be in the form of a contract and signed by the service provider and the offender. Copies of the contract shall be retained by the service provider in a manner that complies with federal confidentiality guidelines, with a copy given to the offender.

D. Prior to orientation of the remote alcohol monitoring device, offenders shall provide to the service provider:

1. Photo identification; and
2. Written authorization from the commission when the air volume requirement, blow pressure, or anti-circumvention features of the remote alcohol monitoring device are to be lowered or disabled in order to compensate for an offender's diminished lung capacity, when applicable.

E. A training video for remote alcohol monitoring devices shall be developed and delivered by the service provider to the offender, including information on the use and maintenance of the device as well as procedures for regular and emergency servicing. A remote alcohol monitoring demonstration unit shall be made available to an offender at the offender's orientation appointment for training and practice purposes.

F. Prior to attaching a transdermal unit to an offender, the offender must be breath tested using a remote alcohol monitoring device certified by the commission for use in Virginia to confirm the offender has no BAC level. If during the orientation and demonstration of the remote alcohol monitoring device, the offender provides a positive BAC, the ASAP shall be notified.

G. The service provider shall maintain a toll-free 24-hour emergency telephone service that may be used to request assistance in the event of failure of the remote alcohol monitoring device. The assistance provided by the authorized service provider shall include technical information. The remote alcohol monitoring device shall be made functional within 48 hours of the call for assistance or the remote alcohol monitoring device shall be replaced.

H. At the time of device orientation, a service provider may charge an orientation fee. The maximum permissible cost for orientation of the device shall be set by the commission, and service providers shall not be permitted to exceed the maximum fee established by the commission. A portion of these fees shall include costs for offender indigency funds. In addition to the maximum fee permitted, service providers may collect applicable taxes and charge for optional insurance to cover device theft or accidental damage. Optional insurance may be offered by the service provider, and a written copy of the insurance policy stating clearly the applicable coverages, coverage amounts, conditions, and exclusions shall be given to offenders who purchase the insurance.

I. The manufacturer or manufacturer's service providers shall provide service to those offenders who are eligible for a

reduction in fees based upon a declaration of indigence by the court and approval by the commission.

J. A remote alcohol monitoring device installed and assigned to one offender shall not be assigned simultaneously to any additional offender for the purpose of attempting to comply with a court-ordered Virginia remote alcohol monitoring requirement.

K. Remote alcohol monitoring services provided by one service provider for an individual offender shall not be transferred to another remote alcohol monitoring service provider without written permission from the commission. If the offender's reason to transfer to another remote alcohol monitoring service provider is based upon a malfunctioning remote alcohol monitoring device or legitimate customer service issue, the commission shall not unreasonably deny permission.

L. Remote alcohol monitoring test times shall be set by the court of jurisdiction. In the absence of recommended time settings by the court of jurisdiction, default test times shall be set by the commission.

## **24VAC35-70-90. Calibration and monitoring.**

A. Only calibration units found on the current National Highway Traffic Safety Administration's Conforming Products List of Calibrating Units for Breath Alcohol Testers [ or subsequently approved for inclusion in the next conforming products list publication, ] and certified by the commission shall be used by manufacturers or their service providers to calibrate remote alcohol monitoring devices.

B. The manufacturer or the manufacturer's service provider shall:

1. Provide calibration and monitoring of the remote alcohol monitoring device at least every 30 days. If the device self-system check during calibration indicates a potential inaccuracy issue, the manufacturer or service provider shall:

a. Check the remote alcohol monitoring device for accuracy using a dry gas reference sample [ ~~Only units currently on the National Highway Traffic Safety Administration's Conforming Products List (CPL) or those subsequently tested and approved for inclusion in the next CPL publication may be used. Dry gas reference values shall be adjusted in a manner~~ ] approved by the commission;

b. Check the remote alcohol monitoring device for accuracy by using a dry gas alcohol standard with an alcohol reference value between 0.030 and 0.050 g/210L;

c. Expel a three-second purge of the remote alcohol monitoring device prior to introducing the alcohol reference sample into the device. This is not required if there is less than three inches of tubing from the dry gas dispenser to the device;

d. Perform an accuracy check that will consist of two consecutive reference checks with the result of each individual check being within plus or minus 10% or 0.003, whichever is greater, of the alcohol reference value introduced into the remote alcohol monitoring device. The time period between the first and second consecutive accuracy checks shall not exceed five minutes; and

e. Store dry gas alcohol standard tanks in a manner consistent with the gas manufacturer's specifications. The dry gas tanks shall have a label attached that contains the components and concentration of the reference value of the gas, an expiration date that shall not be longer than three years from the date of preparation, and the lot or batch number. Dry gas alcohol standards must be certified to a known reference value and be traceable to the National Institute of Standards and Technology. The reference value shall be adjusted for changes in elevation and pressure. Manufacturers or their service providers shall possess a certificate of analysis from the dry gas standard manufacturer. Dry gas tanks shall be secured in a manner as to prevent harm to the public;

2. Retrieve data from the remote alcohol monitoring device data log for the previous period and electronically submit alcohol-related violations to the ASAP within 24 hours of retrieval;

3. Check the remote alcohol monitoring device for signs of circumvention or tampering if suspicious activity has been indicated to the service provider and electronically report violations to ASAP within the required timeframe established by the commission;

4. Collect the monthly monitoring fee from the offender. If an offender who has not been declared to be indigent by the court is one or more months delinquent in payments, the service provider may, in its discretion, refuse to provide services but shall not retrieve the remote alcohol monitoring device without authorization from the commission. Offenders with an outstanding balance in excess of \$250 with any Virginia-approved remote alcohol monitoring device service provider shall not be permitted to install a remote alcohol monitoring device with another remote alcohol monitoring service provider unless otherwise approved by the commission; and

5. Conform to other calibration requirements established by the commission, as applicable.

C. All malfunctions other than routine maintenance of the remote alcohol monitoring device shall be either repaired or replaced by the manufacturer within two business days at no additional expense to the offender. If it is shown that the malfunction is due to damage to the device as a result of mistreatment or improper use, the offender shall be responsible for applicable repair or replacement fees. Routine maintenance of the device may be performed by the service provider.

D. The remote alcohol monitoring device shall record, at a minimum, the following data:

1. The time and date of all breath or transdermal tests;
2. The breath or transdermal alcohol level of all tests;
3. The time and date of attempts to tamper or circumvent the remote alcohol monitoring device;
4. For a unit that uses a breath sample, a photo of each person delivering an accepted breath test sample for analysis by the remote alcohol monitoring device; and
5. A reference photo of the offender.

E. A service provider may charge a monthly monitoring fee. The maximum permissible cost for monitoring and calibration shall be set by the commission through the remote alcohol monitoring regulations, and service providers shall not be permitted to exceed the maximum fee established by the commission. A portion of these fees shall include costs for administrative support and offender indigency funds. In addition to the maximum fee permitted, service providers may collect applicable taxes and charge for optional insurance to cover device theft and accidental damage. Fees for the first monthly monitoring and calibration visit will be collected from the user in advance at the time of installation and monthly thereafter when services are rendered.

## **24VAC35-70-100. Remote alcohol monitoring device retrieval.**

A. Prior to retrieval of the remote alcohol monitoring device, the service provider must receive written or electronic authorization from the ASAP. This requirement also applies to offenders with a court-ordered Virginia remote alcohol monitoring requirement who are receiving services from a service provider in another state.

B. Offenders may not have their remote alcohol monitoring device retrieved or replaced by another manufacturer without written or electronic authorization from the commission. Whenever retrieval of a remote alcohol monitoring device is approved by the commission for the purpose of changing service providers, and the authorized retrieval is a result of a determination that the initial service provider failed to provide a level of service meeting contract requirements, the remote alcohol monitoring regulations, or the Code of Virginia, the original service provider shall bear the costs associated with orientation of the device by the new service provider.

C. Once the remote alcohol monitoring device has been retrieved, the service provider shall send an authorized report to the ASAP via a method established by the commission documenting that the remote alcohol monitoring device has been retrieved by the service provider.

D. No fee shall be charged to the offender for retrieval of the remote alcohol monitoring device.

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## **24VAC35-70-110. Records and reporting.**

A. The service provider shall be subject to announced or unannounced site reviews by the commission for the purpose of inspecting the facilities and offender records. Upon request, access to all service provider locations, records, and financial information shall be provided to the commission for the purpose of verifying compliance with state laws, commission regulations, and service provider agreements.

B. In accordance with federal confidentiality guidelines, all personal and medical information provided to the service provider regarding offenders shall be kept confidential. If the information is temporarily held at the offender's service center, it shall be stored in a locked filing cabinet when unattended by a service provider employee.

C. After providing orientation for a remote alcohol monitoring device, the service provider shall provide the ASAP, within 24 hours, an orientation report that includes:

1. The name, address, and telephone number of the offender; and
2. The serial number of the offender's remote alcohol monitoring device.

D. After performing a monitoring and calibration check, the service provider shall submit to the ASAP, within 24 hours, all data generated, to include:

1. Name of the offender whose device was monitored;
2. Name, address, and telephone number of the monitoring official;
3. Date of monitoring and calibration;
4. Make, model, and serial number of the remote alcohol monitoring device;
5. Attempts to alter, tamper, circumvent, bypass, or otherwise remove the device;
6. Noncompliance with conditions of the ASAP or remote alcohol monitoring program;
7. Offender concerns;
8. Charges incurred for the monitoring visit;
9. Date of the next scheduled monitoring visit;
10. For devices that use a breath sample, a photo of each person who has delivered an accepted breath test sample or missed a retest on the remote alcohol monitoring device;
11. A reference photo of the offender; and
12. All identified alcohol-related violations.

E. In addition, the service provider shall have available monthly reports detailing:

1. Device orientations during the period covered;

2. Calibrations performed during the period by date and offender name, detailing any unit replacements made during the monitoring period;

3. Datalogger information from all remote alcohol monitoring devices;

4. Attempts to alter, tamper, circumvent, bypass, or otherwise remove the device;

5. Device failure due to material defect or improper device set up; and

6. A summary of complaints received and corrective action taken.

F. The manufacturer or the manufacturer's service provider shall be responsible for purchasing and providing necessary computer hardware and software to convey all data and information requested by the commission if the equipment is not already present at the commission office or the ASAP.

G. Accurate reports shall be submitted to the ASAP in the format specified by the commission.

H. The service provider shall provide a copy of the most recent "ASAP Remote Alcohol Monitoring Agreement" to each offender at each offender's remote alcohol monitoring installation appointment and shall require the offender to read and sign the agreement.

## **24VAC35-70-120. General manufacturer requirements.**

Remote alcohol monitoring manufacturers that are approved to perform remote alcohol monitoring services in the Commonwealth of Virginia and their service providers shall:

1. Abide by all commission memorandums, directives, contract terms, and regulations pertaining to the statewide remote alcohol monitoring program unless prohibited by state law;

2. Resolve offender, court, Department of Motor Vehicles, ASAP, commission, and other stakeholder complaints as directed by the commission;

3. Provide orientation for all ASAP remote alcohol monitoring device authorizations within the time parameters set forth by the commission. In situations where a remote alcohol monitoring service facility becomes inoperable due to a large-scale weather event or other verified unforeseen circumstances, the manufacturer shall contact the commission within 24 hours with an action plan to mitigate the impact to customer service;

4. Resolve remote alcohol monitoring service facility compliance issues as directed by the commission;

5. Obtain approval from the commission before disseminating any offender training or advertising materials used in association with the Virginia remote alcohol monitoring program;



6. Make modifications to the company website of the manufacturer or the manufacturer's service provider that is used to review monthly calibration reports upon reasonable request by the commission. Reasonable requests include changes due to language that is confusing, misleading, offensive, or inaccurate; changes required due to updated technology; changes to comply with the Code of Virginia or the remote alcohol monitoring regulations; or changes due to workload changes or product enhancements;

7. Assume full liability for action taken or not taken by an ASAP or the commission due to failure by a manufacturer or a manufacturer's service provider to report an alcohol-related violation to the local ASAP as required by this chapter or due to inaccurate or misleading reporting, whether electronic or hard copy, provided by the manufacturer or the manufacturer's service provider;

8. Be accountable for Virginia offenders with remote alcohol monitoring devices set up for use by its company in another state and ensure that all Virginia remote alcohol monitoring processes, regulations, requests for proposal terms, contract terms, and commission requirements are met unless prohibited by state law;

9. Notify the commission within 15 days of disciplinary action received from a state where the manufacturer conducts or has conducted remote alcohol monitoring business. This notification shall include the reason for the disciplinary action. This requirement applies regardless of the existence of an appeal;

10. Provide information technology assistance and training upon reasonable request by the commission; and

11. Report all changes to the remote alcohol monitoring device software or firmware, whether temporary or permanent, to the commission within 30 days of release in the Commonwealth of Virginia.

**24VAC35-70-130. Service provider technician certification.**

A. Service provider technicians and state directors are required to possess a Virginia Remote Alcohol Monitoring Certification Letter to perform any remote alcohol monitoring services in the Commonwealth of Virginia. Newly hired service provider technicians or state directors, however, may perform remote alcohol monitoring services under the direct supervision of a certified technician or state director for training purposes for up to 90 days prior to obtaining a Virginia Remote Alcohol Monitoring Certification Letter. In order to apply for a certification letter, manufacturers shall submit a completed application to the commission for approval of newly hired service provider technicians and state directors. The completed application shall include submission of:

1. A completed applicant form provided by the commission;
2. A complete local and national criminal history check;

3. A complete driver's record; and

4. Documentation issued by the commission of successful completion of the Virginia Remote Alcohol Monitoring Device Certification Exam.

Failure to submit a completed application will result in disqualification from consideration for a Virginia Remote Alcohol Monitoring Certification Letter by the commission to perform remote alcohol monitoring services in the Commonwealth of Virginia.

B. Applicants shall be required to complete a Virginia Remote Alcohol Monitoring Certification Exam. Successful completion of the exam requires a score of 80% or higher. Applicants who fail to successfully complete the state certification exam on the first attempt shall be allowed a second opportunity to successfully complete the exam. Applicants who fail to successfully complete the state certification exam on the second attempt shall not be allowed to reapply to provide remote alcohol monitoring services for the Commonwealth of Virginia for six months from the date of the second failed exam. Service providers shall be required to pay an administrative fee, as provided in 24VAC35-70-60 B 4, to the commission for all second and subsequent attempts to successfully complete the state certification exam. Applicants who successfully pass the state certification exam will receive documentation of successful completion from the commission that shall be submitted with the application for the Virginia Remote Alcohol Monitoring Certification Letter to perform remote alcohol monitoring services in the Commonwealth of Virginia.

C. The commission may deny, revoke, suspend, or terminate a Virginia Remote Alcohol Monitoring Certification Letter for a service provider technician or state director for any of the following reasons:

1. Having been convicted of a felony;
2. Having been convicted of a misdemeanor potentially punishable by confinement;
3. Committing an unethical, deceptive, or dishonest act that negatively impacts the integrity of the remote alcohol monitoring program;
4. Failing to demonstrate sufficient knowledge or skill required to perform remote alcohol monitoring services in the Commonwealth of Virginia;
5. Material misstatement or omission in an application; or
6. Defrauding any offender, manufacturer, service provider, or other person or entity in the conduct of the licensee's business.

A service provider technician or state director whose Virginia Remote Alcohol Monitoring Certification Letter has been denied, revoked, suspended or terminated may request judicial review in accordance with the provisions of the Administrative

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Process Act (§ 2.2-400 et seq. of the Code of Virginia). In the event that the decision to suspend or revoke the Virginia Remote Alcohol Monitoring Certification Letter of a service provider's technician or state director is upheld, the service provider technician or state director shall not perform remote alcohol monitoring services in the Commonwealth of Virginia for the entire suspension period, or in the case of a revocation or termination, on a permanent basis. This prohibition includes any period during which the denial, suspension, revocation, or termination is being contested. The manufacturer is required to return the Virginia Remote Alcohol Monitoring Certification Letter to the commission within 15 days of the date that the certification was suspended, revoked, or terminated by the commission.

D. Once the completed application has been approved by the commission and all other qualifications have been met by the applicant, a Virginia Remote Alcohol Monitoring Certification Letter to perform remote alcohol monitoring services in the Commonwealth of Virginia shall be issued to the applicant by the commission. The certification letter shall contain the effective date of the letter and a certification number specific to the applicant. The certification letter will be valid for a time period specified by the commission unless otherwise suspended, revoked, or terminated, but for no longer than the manufacturer contract end date. In the event that an applicant is not approved for a Virginia Remote Alcohol Monitoring Certification Letter to perform remote alcohol monitoring services in the Commonwealth of Virginia, the commission will notify the manufacturer in writing within 10 days of the determination. The Virginia Remote Alcohol Monitoring Certification Letter is subject to review by the commission at its discretion during the course of the certification period.

E. An application to renew a Virginia Remote Alcohol Monitoring Certification Letter for a remote alcohol monitoring service provider technician or state director shall be submitted 30 days prior to the expiration date printed on the current certification letter. A service provider technician or state director who has had his state certification revoked or terminated shall be ineligible to reapply for a Virginia Remote Alcohol Monitoring Certification Letter unless otherwise approved by the commission.

F. Manufacturers are required to surrender Virginia Remote Alcohol Monitoring Certification Letters for service provider technicians and state directors who are no longer employed with their company. The surrendered certification letter shall be sent to the commission within 15 days of the date that the service provider technician or state director is no longer employed with the service provider or manufacturer.

G. In addition to the successful completion of the Virginia Remote Alcohol Monitoring Certification Exam required for application, the commission may order that a certified technician or state director already performing remote alcohol monitoring services in the Commonwealth of Virginia review

requirements and retake the state certification exam to demonstrate that the technician or state director possesses the knowledge required to perform remote alcohol monitoring services. An exam retake fee is not applicable in this circumstance.

## **24VAC35-70-140. Emergency declarations.**

The commission reserves the right to suspend service-related requirements of this chapter in applicable geographical areas when there exists a federal or state disaster or declaration of emergency.

VA.R. Doc. No. R20-6356; Filed February 5, 2021, 11:47 a.m.

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# GUIDANCE DOCUMENTS

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## PUBLIC COMMENT OPPORTUNITY

Pursuant to § 2.2-4002.1 of the Code of Virginia, a certified guidance document is subject to a 30-day public comment period after publication in the Virginia Register of Regulations and prior to the guidance document's effective date. During the public comment period, comments may be made through the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) or sent to the agency contact. Under subsection C of § 2.2-4002.1, the effective date of the guidance document may be delayed for an additional period. The guidance document may also be withdrawn.

The following guidance documents have been submitted for publication by the listed agencies for a public comment period. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to access it. Guidance documents are also available on the Virginia Regulatory Town Hall (<http://www.townhall.virginia.gov>) or from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, Richmond, Virginia 23219.

### VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

Title of Document: [Asbestos Initial Training Courses – Hybrid Delivery Procedures during COVID-19 Emergency.](#)

Public Comment Deadline: March 31, 2021.

Effective Date: April 1, 2021.

Agency Contact: Trisha L. Henshaw, Executive Director, Board for Asbestos, Lead, and Home Inspectors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8595, or email [alhi@dpor.virginia.gov](mailto:alhi@dpor.virginia.gov).

### BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

Titles of Documents: [Guidelines for Processing Applications for Licensure.](#)

[Policy on Active Practice.](#)

[Requirements to Hold Licensure in Virginia to Practice Speech-Language Pathology.](#)

Public Comment Deadline: March 31, 2021.

Effective Date: April 1, 2021.

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 347-4688, or email [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

### STATE BOARD OF EDUCATION

Title of Document: [Emergency Guidelines Locally-Awarded Verified Credits.](#)

Public Comment Deadline: March 31, 2021.

Effective Date: January 28, 2021.

Agency Contact: Leslie Sale, Director of Policy Department of Education, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 225-2092, or email [leslie.sale@doe.virginia.gov](mailto:leslie.sale@doe.virginia.gov).

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Title of Document: [Guidelines for School Facilities In Virginia's Public Schools.](#)

Public Comment Deadline: March 31, 2021.

Effective Date: April 1, 2021.

Agency Contact: A.K. (Vijay) Ramnarain, Director of Support Services, Department of Education, 101 North 14th Street, Richmond, VA 23219, telephone (804) 225-2037, or email [vijay.ramnarain@doe.virginia.gov](mailto:vijay.ramnarain@doe.virginia.gov).

### STATE BOARD OF HEALTH

Titles of Documents: [Designated Support Person Implementation.](#)

[Mandatory Reporting by Administrators of Home Care Organizations, Home Health Agencies, and Hospices.](#)

Public Comment Deadline: March 31, 2021.

Effective Date: April 1, 2021.

Agency Contact: Rebekah E. Allen, Senior Policy Analyst, Virginia Department of Health, 9960 Mayland Drive, Suite 401, Richmond, VA 23233, telephone (804) 367-2102, or email [regulatorycomment@vdh.virginia.gov](mailto:regulatorycomment@vdh.virginia.gov).

### SAFETY AND HEALTH CODES BOARD

Title of Document: [VOSH Procedures to comply with OSHA Enforcement Exemptions and Limitations under the Federal Appropriations Act, OSHA Instruction CPL 02-00-051 \(formerly CPL 2-0.51J\); Appendix "A" Revision.](#)

Public Comment Deadline: March 31, 2021.

Effective Date: April 1, 2021.

Agency Contact: Holly Trice, Attorney, Department of Labor and Industry, Main Street Centre, 600 East Main Street, Richmond, VA 23219, telephone (804) 786-2641, or email [holly.trice@doli.virginia.gov](mailto:holly.trice@doli.virginia.gov).

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# Guidance Documents

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## STATE WATER CONTROL BOARD

Titles of Documents: [Storage Tank Program Technical Manual, Volume 3: Responsible Persons](#). January 2021 Edition. LPR-SRR-2020-03.

[Storage Tank Program Technical Manual, Volume 6: Managing Petroleum Contaminated Media](#). December 2020 Edition. LPR-SSR-2020-04.

Public Comment Deadline: March 31, 2021.

Effective Date: April 1, 2021.

Agency Contact: James Barnett, State Lead Program Manager, Office of Spill Response and Remediation, Department of Environmental Quality, Central Office, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4289, or email [james.barnett@deq.virginia.gov](mailto:james.barnett@deq.virginia.gov).

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# GENERAL NOTICES

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## DEPARTMENT OF ENVIRONMENTAL QUALITY

### White Stripe Solar LLC Notice of Intent for Small Renewable Energy Project (Solar) - Goochland County

White Stripe Solar LLC has provided the Department of Environmental Quality a notice of intent to submit the necessary documentation for a permit by rule for a small renewable energy project (solar) in Goochland County. White Stripe Solar LLC will be located off King's Mountain Road just southwest of its intersection with Figsboro Road. Latitude and longitude coordinates are as follows: 36.736588, -79.87204. The estimated fenced-in project area will be 100 acres, and the maximum generating capacity of the project in alternating current will be 14 megawatts. The solar facility will consist of approximately 52,500 photovoltaic modules, which will be supported by five central inverters and transformers.

Contact Information: Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4378, FAX (804) 698-4178.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

### Draft CCC Plus Waiver Provider Manual Available for Review

The draft CCC Plus Waiver Chapter V is now available on the Department of Medical Assistance Services website at <https://www.dmas.virginia.gov/#/manualdraft> for public comment until March 11, 2021.

Contact Information: Emily McClellan, Regulatory Manager, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680.

### Draft EPSDT Supplement Provider Manual Available for Review

The draft Early and Periodic Screening, Diagnosis and Treatment Supplement B, Personal Care Services is now available on the Department of Medical Assistance Services website at <https://www.dmas.virginia.gov/#/manualdraft> for public comment until March 11, 2021.

Contact Information: Emily McClellan, Regulatory Manager, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680.

### Draft Local Education Agency Provider Manual Available for Review

The draft Local Education Agency Manual, Chapters II, IV, V, and VI is now available on the Department of Medical Assistance Services website at <https://www.dmas.virginia.gov/#/manualdraft> for public comment until March 7, 2021.

Contact Information: Emily McClellan, Regulatory Manager, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680.

## STATE WATER CONTROL BOARD

### Proposed Enforcement Action for Town of Cleveland

An enforcement action has been proposed for the Town of Cleveland for violations of the State Water Control Law at the Cleveland sewage treatment plant in Russell County. A description of the proposed action is available at the Department of Environmental Quality office listed or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). The staff contact person will accept comments by email or postal mail from March 2, 2021, through April 1, 2021.

Contact Information: Jonathan Chapman, Department of Environmental Quality, Southwest Regional Office, 355-A Deadmore Street, Abingdon, VA 24210, telephone (276) 525-2557, FAX (804) 698-4178, or email [jonathan.chapman@deq.virginia.gov](mailto:jonathan.chapman@deq.virginia.gov).

### Proposed Enforcement Action for FAM Construction LLC

An enforcement action has been proposed for FAM Construction LLC for violations of the State Water Control Law at the Transform 66 Project located along I-66 in Prince William County, Fairfax County and Fairfax City. A description of the proposed action is available at the Department of Environmental Quality office listed or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). The staff contact person will accept comments by email or postal mail from March 2, 2021, through April 1, 2021.

Contact Information: Jim Datko, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3870, FAX (804) 698-4178, or email [james.datko@deq.virginia.gov](mailto:james.datko@deq.virginia.gov).

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# Errata

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## **Proposed Enforcement Action for LCVA Holdings LLC**

An enforcement action has been proposed for LCVA Holdings LLC for violations of the State Water Control Law and regulations at the Chantilly Place sewage treatment plant (STP) facility located in Chantilly. The State Water Control Board proposes to issue a consent order to resolve violations associated with the Chantilly Place STP. A description of the proposed action is available from the contact person listed or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). The contact person will accept comment from March 2, 2021, through April 1, 2021, by email or postal mail.

Contact Information: Benjamin Holland, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3812, FAX (804) 698-4178, or email [benjamin.holland@deq.virginia.gov](mailto:benjamin.holland@deq.virginia.gov).

## **Proposed Enforcement Action for Rappahannock Plantation LLC**

An enforcement action has been proposed for Rappahannock Plantation LLC for violations of the State Water Control Law at the Plantation Woods development located in Spotsylvania County. A description of the proposed action is available at the Department of Environmental Quality office listed or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). The staff contact person will accept comments by email or postal mail from March 2, 2021, through April 1, 2021.

Contact Information: Jim Datko, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, or email [james.datko@deq.virginia.gov](mailto:james.datko@deq.virginia.gov).

## **VIRGINIA CODE COMMISSION**

### **Notice to State Agencies**

**Contact Information:** *Mailing Address:* Virginia Code Commission, Pocahontas Building, 900 East Main Street, 8th Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *Email:* [varegs@dls.virginia.gov](mailto:varegs@dls.virginia.gov).

**Meeting Notices:** Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <https://commonwealthcalendar.virginia.gov>.

**Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed:** A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at <http://register.dls.virginia.gov/documents/cumultab.pdf>.

**Filing Material for Publication in the *Virginia Register of Regulations*:** Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works 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.

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# ERRATA

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## STATE WATER CONTROL BOARD

Title of Regulation: **9VAC25-115. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Seafood Processing Facilities.**

Publication: 37:12 VA.R. 1169-1204 February 1, 2021.

Correction to Final Regulation:

Page 1194, 9VAC25-115-50, Part II, subsection C, third paragraph, line 8, after "~~this section~~" strike "."

VA.R. Doc. No. R19-5819; Filed February 4, 2021, 10:05 a.m.

## STATE BOARD OF HEALTH

Title of Regulation: **12VAC5-481. Virginia Radiation Protection Regulations.**

Publication: 32:24 VA.R. 3264-3265 July 25, 2016.

Correction to Final Regulation:

EDITOR'S NOTE: The final regulation was published in Volume 32, Issue 24 of the Virginia Register as a summary only pursuant to § 2.2-4031 of the Code of Virginia with a link to the full text at [http://register.dls.virginia.gov/documents/agency\\_resources/12VAC5-481.pdf](http://register.dls.virginia.gov/documents/agency_resources/12VAC5-481.pdf). The references in this errata are to the full text document.

Page 177 of 273, 12VAC5-481-2001, subdivision 1, after "state requirements;" insert "or"

Page 177 of 273, 12VAC5-481-2001, subdivision 3, after "by the NRC;" replace "or" with "~~or~~ and"

VA.R. Doc. No. R16-3585; Filed February 2, 2021, 11:23 a.m.

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Title of Regulation: **12VAC5-600. Waterworks Operation Fee.**

Publication: 37:13 VA.R. 1354 February 15, 2021.

Correction to Agency Notice:

Page 1354, paragraph 2 regarding the public comment period, line 2, change "March 8" to "March 17"

Filed February 15, 2021, 4:01 p.m.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: **12VAC30-80. Methods and Standards for Establishing Payment Rate; Other Types of Care.**

Publication: 37:9 VA.R. 962-971 December 21, 2020.

Correction to Final Regulation:

Page 969, 12VAC30-80-30 A 21, first column, line 4, after "Early and Periodic Screening, Diagnosis, and Treatment" add "(EPSDT), and respite services covered under EPSDT"

Page 969, 12VAC30-80-30 A 21, second column, line 3, change "2019" to "2020"

VA.R. Doc. No. R20-6454; Filed February 18, 2021, 3:51 p.m.

## BOARD OF PHARMACY

Title of Regulation: **18VAC110-60. Regulations Governing Pharmaceutical Processors.**

Publication: 37:12 VA.R. 1322-1328 February 1, 2021.

Correction to Fast-Track Regulation:

Page 1328, 18VAC110-60-20 E, underline subsection E in its entirety.

VA.R. Doc. No. R21-6173; Filed February 12, 2021, 1:00 p.m.

