



Final Regulation Agency Background Document

Agency name	Board of Housing and Community Development
Virginia Administrative Code (VAC) citation	<u>13</u> VAC <u>5</u> - <u>63</u>
Regulation title	Virginia Uniform Statewide Building Code (USBC)
Action title	Final Regulation
Document preparation date	August 8 - 12, 2005

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The changes from the proposed regulation to the final regulation are in response to public comment received at a March 17, 2005 public hearing and through submittals received in two comment periods (February 7, 2005 through April 7, 2005 and May 2 through June 2, 2005). The second comment period provided an opportunity for interested parties to review all proposals received during the first comment period. Therefore comments during the second comment period were limited to only those proposals received during the first comment period. Any proposals which received comment during the second comment period for which the Board of Housing and Community Development had taken preliminary action were brought back to the Board for consideration of the additional comments.

The changes from the proposed regulation to the final regulation essentially represent decisions by the Board of Housing and Community Development to utilize the latest nationally recognized standards as the basis for the USBC with those changes necessary to the national standards based on the needs of the citizens of the Commonwealth and those organizations and entities affected by and involved in building regulatory schemes in the Commonwealth and on a national basis.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On July 26, 2005, the Board of Housing and Community Development adopted final regulations entitled the "Virginia Uniform Statewide Building Code" (2003 edition) (13 VAC 5-63).

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The statutory authority to promulgate final changes to this regulation is contained in § 36-98 of the Code of Virginia. The promulgating agency is the Board of Housing and Community Development. State law requires the Board to keep the regulation up to date and in sync with the latest nationally recognized modes codes and standards.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The final changes to this regulation are necessary to achieve the balance between assuring the protection of the health, safety and welfare of the citizens of the Commonwealth while permitting buildings to be constructed at the least possible cost consistent with nationally recognized standards. The rationale and justification for the final changes to the regulation is that the Board of Housing and Community Development has afforded the opportunity for those affected persons and parties to weigh-in on the use of the newest nationally recognized model codes and standards and through the use of client-group committees and work-sessions, the Board has achieved much consensus in determining the minimum necessary deviations from the use of the model codes and standards to constitute the final regulations.

The goal and problem that the final changes to this regulation are intending to solve is the same as the general reason the regulatory action is essential to protect the health, safety and welfare of the citizens of the Commonwealth. Without determining the correct level of regulation in the construction of buildings, there is the potential for not regulating necessary conditions, or over-regulating conditions determined to be less necessary of regulation.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

The substantive changes between the proposed regulation and the final regulation may be summarized as follows:

USBC – Part I, Construction. The substantive changes the Board of Housing and Community Development approved for the final regulation setting the standards for the construction of buildings are based on evidence and reasoning provided by the proponents of code change proposals, by interest groups and by the Board’s committees to slightly deviate from the requirements of the nationally recognized model codes and standards used for the construction of buildings. In some cases, the use of newer national standards were approved for the final regulations as the national code writing process has made some newer standards available at this time. In other cases, the Board has approved slight deviations from the requirements in the nationally recognized standards based on historical requirements or justification submitted by the proponents.

USBC – Part II, Rehabilitation. The substantive changes to the Virginia Rehabilitation Code approved for the final regulation are based on the recommendations of the Board’s Rehabilitation Code Ad Hoc Committee, a group representing all interests in the rehabilitation of existing buildings. This group evaluated the International Code Council’s International Existing Building Code, a model code specifically developed to establish cost-effective methodologies for the rehabilitation of existing buildings. The group was made up of design professionals (architects and engineers), property management and development representatives and the code enforcement community and others.

USBC – Part III, Maintenance. The substantive changes approved for the final regulation are generally to fine tune the requirements of the code for the maintenance of buildings and to respond to the direct concerns of client group such as the Virginia Building and Code Officials Association, Virginia First Cities Coalition and the Virginia Apartment Management Association. The final regulations include a reference to a new state law authorizing localities to have rental inspection programs, changes to the qualifications requirements for code officials and technical assistants based on recommendations of the Virginia Building Code Academy Advisory Committee and provisions dealing with infestation of insects and rodents and water runoff and discharge from roofs.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If there are no disadvantages to the public or the Commonwealth, please indicate.

The primary advantages to the public of the changes to the proposed regulation in the final regulation are that buildings will be permitted to be constructed with the least possible cost consistent with nationally recognized standards with assurance that the public will be properly protected in the use of such buildings. Advantages to businesses are that buildings may be constructed without undue costs which fosters economic growth and community revitalization. There are no advantages to the Department of Housing and Community Development or to the Commonwealth resulting from this action and there are no disadvantages to the public or to the Commonwealth resulting from this action.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

Section number (DHCD note: model code numbering is in parentheses)	Requirement at proposed stage	What has changed	Rationale for change
PART I – CONSTRUCTION			
13 VAC 5-63-10A (Section 101.1)	The term “USBC” was used exclusively for Part I Construction.	Text was added recognizing that the term is generally used to represent Part I, but depending on the context, may mean the whole regulation, or Part II or III.	Legal counsel recommended this change due to the use of the term in the rental inspection provisions (§ 104.1.1) where the term means the whole regulation.
13 VAC 5-63-10B (Section 101.2)	The note in this section contained a reference to the International Code Council (ICC)’s Electrical Code (ICCEC).	The reference to the ICCEC was removed and a direct reference was added to the National Fire Protection Association (NFPA)’s National Electrical Code (NEC) to correlate with the change to § 2701.1.	ICC will not be using the ICCEC in future editions of the I-Codes due to a dispute with NFPA and for other reasons. Therefore, as has been the practice in past editions of the USBC, a direct reference to the NEC will be used.
13 VAC 5-63-10G (Section 101.7)	The phrase “to a lesser or greater extent” was used to qualify when the administrative provisions supersede provisions in the model codes.	The phrase “and impose differing requirements” replaces the phrase “to a lesser or greater extent” in the section addressing when the administrative provisions supersede provisions in the model codes.	The new language is used to clarify how the administrative provisions relate to provisions in the model codes.
*13 VAC 5-63-20D (Section 102.3)	The exemption for cable TV and telecommunications wiring was dependent on the ownership of the wiring.	Language has been added to limit the application of the exemption to wiring and equipment extending to ownership status under federal and state law.	The affected parties (cable companies, telecommunication companies, building managers associations and the building officials and an attorney for the telecommunications companies) agreed to the new language to clarify when the USBC applies. The agency’s legal counsel was also involved in the final language.
13 VAC 5-63-30B (Section 103.2)	The effective date of the final regulations was to be filled in and the language used to permit construction to continue under the	The effective date is inserted and clarifying language has been added to clearly permit construction under the previous edition of the	The “substantially complete” language was vague and the State Building Code Technical Review Board had to issue an interpretation clarifying its application. The

	previous edition had a qualifying statement that construction documents had to be substantially complete.	code for a one-year period.	affected parties (home builders, general contractors, design professionals and building officials) responded by agreeing to remove the subjective language.
13 VAC 5-63-30C (Section 103.3)	The provision addressing change of occupancy (change in the nature of use of a building) was unclear concerning whether modifications were required to be issued when compliance with the code was impractical.	The mandatory language was deleted and replaced by language clarifying that modifications should be considered when compliance with the code is impractical.	Even though the modification provision (Section 106.3) already used the word “may” and Section 103.3 stated “as provided for in Section 106.3,” thus making the conflict only a perceived conflict, the new language was added to alleviate confusion.
*13 VAC 5-63-30E (Section 103.5)	In alterations to existing buildings, materials and equipment were permitted to be replaced with similar or greater capacity materials and equipment.	The phrase “or greater capacity” is deleted limiting the use of replacement materials and equipment to only similar kind or capacity.	Permitting the use of greater capacity materials or equipment can cause hazardous situations, such as a greater capacity electrical service which may lead to the overloading of existing wiring.
*13 VAC 5-63-30F (Section 103.6)	The use of the Part II of the USBC (the Rehabilitation Code) was permitted as an acceptable alternative to compliance with the USBC - Part I (the Construction Code).	Language was added to correlate with changes to the Rehabilitation Code in § 103.1 (of Part II of the USBC) to exclude its applicability to Group I (institutional buildings) undergoing a change of occupancy. Also language was added to use the definition of rehabilitation provided in the International Existing Building Code (IEBC).	As the IEBC is a new model code, it was determined that its application to the conversion of existing buildings to Group I (institutional buildings) such as hospitals, nursing homes and adult care residences should be limited since the institutional group requires the most restriction type of construction and safeguards to protect the occupants.
13 VAC 5-63-30G (Section 103.7)	A reference for when the use of the International Fire Code (IFC) for retrofit requirements could be used contained a reference to specific sections of the IFC, but stated it was including, but not limited to those sections..	The reference to the specific sections of the IFC is deleted.	To correlate with the language in the Statewide Fire Prevention Code (in § 103.3); which did not list the specific sections and to prevent the code from being misread to permit the use of other provisions of the IFC which require upgrading or retrofit of existing buildings.
13 VAC 5-63-30I (Section 103.8.1)	Criteria for non-required fire	The final regulation contains a specific	This change is in conjunction with a change to the Virginia

	protection systems addressed their installation but not their discontinuance.	provision addressing the reduction in function of non-required fire protection systems.	Statewide Fire Prevention Code (13 VAC 5-51) (§ 901.4.2) and a change to Part III of the USBC (the Virginia Maintenance Code) (§ 103.2.1) and establishes necessary criteria for the reduction in functioning or partial elimination of a non-required fire protection system without creating a hazard or false sense of security.
13 VAC 5-63-30J (Section 103.9)	That when changing the fuel source (e.g. natural gas to heating oil) of heating equipment in an existing building, a certification is required that the existing chimney will work with the new fuel type.	The scope of the section is expanded slightly to include replacement of fuel-burning appliances or new installation, irrespective of whether the fuel-source is being changed.	The Virginia Building and Code Officials Association (VBCOA) successfully proposed changes in the 2006 International codes addressing the replacement and installation of fuel-burning appliances. Therefore that new language is used to replace the existing language in the USBC.
13 VAC 5-63-30K (Section 103.10)	Due to the wording in § 101.7, requirements in the model codes concerning inspections and certificates for flood insurance purposes were superseded by the general inspection and certificate provisions of the USBC.	A new provision is added to the section which recognizes certain administrative provisions of the model codes to be valid. The new provision specifically permits the use of the flood proofing inspection and certificate requirements in the model codes.	To clarify that specific flood-proofing requirements in the model codes may be used. This insures that the USBC is consistent with the federal government's National Flood Insurance Program.
13 VAC 5-63-30N (Section 103.13)	The USBC did not address the construction of state-owned tunnels and bridges.	Provisions based on a new state law have been added for roadway tunnels and bridges.	Chapter 341 of the 2005 Acts of Assembly established certain USBC-related requirements for state-owned tunnels and bridges. This change aligns the USBC with those requirements.
13 VAC 5-63-40B (Section 104.1.1)	The rental inspection law (§ 36-105.1.1 of the Code of Virginia) was copied verbatim into the USBC.	The penalty language was changed to regulatory language instead of statutory language.	In the review of the final regulations, the agency's legal counsel pointed out that copying the legislative language into the regulation creates a conflict as the legislative language contains a reference to the regulation. These editorial changes

			correct the problem.
13 VAC 5-63-50B (Section 105.1.1)	The provision setting out suggested qualifications for the hiring of building officials by the local governments was fairly general.	Specific criteria was added to establish better qualification standards for building officials.	The Building Code Academy Advisory Committee (BCAAC) recommended these changes as this provision is also used in the Virginia Certification Standards for determining the qualifications necessary to obtain a certificate of competence as a building official.
13 VAC 5-63-50D (Section 105.1.3)	An orientation course for new non-certified building officials was required.	The orientation course is no longer required.	The Virginia Building Code Academy has increased the number of core modules it offers every year and the number of participants at each module has increased. Therefore, the material offered in the orientation course is now provided through the core modules which are readily available for new non-certified building officials.
13 VAC 5-63-50F (Section 105.2)	The USBC contained conflicting language in this section when compared to the definition of a technical assistant in § 202.	The language was changed to “permitted to utilize” and the definition of “technical assistant” in § 202 was changed to address specific criteria involving the use of contract inspectors.	The Building Code Academy Advisory Committee (BCAAC) recommended this change to clarify what a technical assistant is to correlate with the Virginia Certification Standards in setting the criteria for the certification of inspectors.
13 VAC 5-63-50G (Section 105.2.1)	The provision setting out suggested qualifications for technical assistants was fairly general.	Specific criteria was added to establish better qualification standards for technical assistants.	The Building Code Academy Advisory Committee (BCAAC) recommended these changes as this provision is also used in the Virginia Certification Standards for determining the qualifications necessary to obtain a certificate of competence as a technical assistant.
*13 VAC 5-63-50H (Section 105.2.2)	The time frame for a new technical assistant to obtain a certificate of competence was three years. Certificates are obtained in accordance with the Virginia Certification	The time frame for the certification of technical assistants is now eighteen months after being hired.	This change was from the BCAAC, which is a legislatively-created committee consisting of a broad representation of those involved in and affected by the building and fire regulations of the Department. All parties agreed that it would not

	Standards (VCS).		create a burden to require new technical assistants to obtain a certification within eighteen months of being hired.
13 VAC 5-63-50J (Section 105.3)	The reference to state law for conflicts of interests stated it was the minimum standard.	The word "minimum" was deleted.	In the review of the final regulations, the agency's legal counsel pointed out that the state law for conflict of interests is the only standard in Virginia therefore the use of the term "minimum" was inappropriate.
*13 VAC 5-63-60E (Section 106.3.2)	No reference was provided for the use of a nationally recognized performance code.	A new provision is added recognizing the use of a nationally recognized performance code.	This change was recommended by the Rehabilitation Code Ad Hoc Committee for inclusion in both Part II of the USBC (the Virginia Rehabilitation Code) and in Part I of the USBC (the Virginia Construction Code), as now at least one such nationally recognized performance code is available through ICC.
13 VAC 5-63-70D (Section 107.2)	Commas separated the provision.	The commas have been deleted.	Legal counsel recommended this change for the proper phrasing of the text.
13 VAC 5-63-80B Item 4 (Section 108.2(4))	Subjective language was used to determine the number of persons permitted in a tent.	The use of the term "occupant load" provides a clearer determination of the numbers of persons permitted in a tent.	Although the original language was taken from the model codes, the use of the occupant load criteria will be less confusing.
13 VAC 5-63-80B Item 5 (Section 108.2(5))	Privacy walls which are not retaining walls (do not hold back any dirt) where not addressed.	Language is added to be consistent with common practice among the local building departments to not issue permits for small fences and privacy walls.	Such walls have been exempt in past editions of the USBC, but the wording in the International Codes was not as clear, so specific language is necessary.
13 VAC 5-63-80B Item 6 (Section 108.2(6))	The limitation for this exemption from having to obtain a permit for a retaining wall was based on the height of the wall from the bottom of the footing to the top of the wall.	The new language is based on the height of any unbalanced fill behind the wall.	The new language sets essentially the same threshold for when a permit is needed, only it is much easier to apply.
13 VAC 5-63-80B Item 8.2 (Section 108.2(8.2))	Provided a permit exemption for the replacement of roof shingles or siding in areas with wind speeds less than 100	Criteria on how the wind speed is to be measured was added.	The exemption was difficult to apply without a reference to the criteria for determining wind speeds.

	mph.		
*13 VAC 5-63-80B Item 10 (Section 108.2(10))	There was no specific exemption for not obtaining a permit for the replacement of small LP-gas tanks for the LP gas supplier.	An exemption was added.	There was confusion over whether LP-gas suppliers are considered public utilities and therefore whether the tanks they own would be exempt from the code under § 102.3(1). However, most of the participants in the LP-gas Ad Hoc Committee believed they didn't qualify as public utilities but should have a permit exemption for replacement tanks, as common practice is not to require such permits.
13 VAC 5-63-80C (Section 108.3)	The code required a list of the corporate officers on permit applications where the owner was a corporation.	Language was added to permit the building official to determine the extent to which corporate officer names would be required.	As the names of corporate officers may constantly change and may in many cases be out-of-state persons, there needs to be some flexibility in determining how much information is necessary for issuing a permit.
*13 VAC 5-63-110B (Section 111.2)	Special inspectors (outside inspectors inspecting certain critical aspects of commercial buildings, such as the formwork for concrete and metal fabrication) were required to be either a registered design professional (RDP) or have a certification under the ASTM E329 standard.	Now the special inspectors must work under the supervision of an RDP and must have the E329 certification, or be otherwise qualified, as determined by the building official.	Under the previous language, concerns were raised that RDP's were signing off on special inspections or actually doing the special inspections without having the ASTM E329 certification. The new language still permits an RDP to conduct the inspections provided they are properly qualified.
13 VAC 5-63-120C (Section 112.3)	The provision addressing the use of nationally recognized testing laboratories (such as Underwriter's Laboratories or UL) was somewhat unclear.	The final regulation provides that approval from a testing laboratory is valid as long as the item or equipment is used within the scope of the listing provided by the laboratory and installed in accordance with that listing.	Clarifying language to assure that the provision is not applied incorrectly.
13 VAC 5-63-120D (Section 112.3.1)	Conflicts between the requirements of the USBC and the conditions of a listing under a	Specific language is added to use the more restrictive of either a code requirement or the manufacturer's listing	Historically, the code has been applied where its provisions are more restrictive than a manufacturer's listing. This

	<p>manufacturer's installation instructions were addressed only generally in § 112.3.</p>	<p>when conflicts between the two occur.</p>	<p>change addresses the more unusual situation where a manufacturer's requirements are more restrictive than the code. There was a similar provision in the 2000 USBC, (§ 101.6.2) which are not carried over to the proposed regulation for the 2003 USBC.</p>
<p>13 VAC 5-63-130 B, C, D & G (Sections 113.1.1, 113.1.2, 113.1.3 and 113.4)</p>	<p>The existing provision did not clearly require the local building department to conduct inspections, but rather put the duty of having an inspection done on the owner.</p>	<p>The final regulation clearly requires the local building department to perform inspections unless a third party (outside) inspector is used. The remaining changes are just a realignment of the requirements in a more logical order.</p>	<p>The existing provision was in the 1996 USBC, however, that code also contained another provision requiring the building department to conduct the minimum inspections. The other provision was inadvertently deleted in the September 15, 2000 amendments to the 1996 code and was not reinserted in the 2000 USBC. This change reestablishes the missing requirement.</p>
<p>*13 VAC 5-63-130K (Section 113.7.1)</p>	<p>The proposed regulation permitted the use of third party inspectors but did not require a third party inspector policy to be in place.</p>	<p>The final regulation requires each building department to have a written policy for the use of third party inspectors.</p>	<p>This is a first step in the Board's continuing study of the criteria for the approval of third party inspectors. The Board will continue to study this issue to determine whether the USBC should establish the criteria for the approval of third party inspectors.</p>
<p>13 VAC 5-63-160A (Section 116.1)</p>	<p>Literally read, the proposed regulation (and past USBC's) required the issuance of a certificate of occupancy for the small storage sheds used in residential settings, although it is common practice to just issue a final inspection.</p>	<p>The final regulation contains a specific exemption from the certificate of occupancy requirements for small sheds or other residential accessory buildings.</p>	<p>This change just aligns the code with common practice.</p>
<p>13 VAC 5-63-160C (Section 116.2)</p>	<p>No requirement for the approval of a modification under the code to be referenced on the certificate of occupancy.</p>	<p>The final regulation requires that if modifications have been granted, then there must be a notation on the certificate of occupancy indicating so.</p>	<p>While the modification section (§ 106.3) requires the modification approval to be kept in the permanent records, this change would alert anyone receiving a certificate of occupancy that a modification had been</p>

			granted.
13 VAC 5-63-180E (Section 118.5)	There were two provisions addressing emergency repairs and demolition of buildings under construction which become unsafe. The two provisions had overlapping requirements.	The final regulation consolidates the two sections into one while clarifying the language.	This change is the companion change submitted for Part III of the USBC (the Virginia Maintenance Code) for similar provisions in that code and is intended to consolidate and clarify the provisions.
13 VAC 5-63-190G (Section 119.7)	When appeals were heard by the local government appeals board, the code had a requirement that the resolution of the local board be given or sent to the parties.	The final regulation provides that the local appeal board's resolution must be sent to the parties by certified mail.	Legal counsel recommended this change for the proper notification of local board's decisions.
13 VAC 5-63-200 Night club (Section 202)	The proposed regulation did not have a definition of a "night club."	The final regulation contains a definition of a "night club."	The new definition is to be used in conjunction with a new requirement in § 907.2.1.1 for a communication system in night clubs with an occupant load of 300 or more persons.
13 VAC 5-63-200 Technical assistant (Section 202)	The definition of a technical assistant included a person under contract with a local building department but did not specify the time period for the contract.	The final regulation clarifies that the term is intended to apply to persons having an extended contract with the local building department.	This change is in conjunction with the change to § 105.2 for the use of technical assistants under the code as proposed by the Building Code Academy Advisory Committee (BCAAC) and is intended to clarify when someone is functioning as a technical assistant and therefore would need to be certified as such.
13 VAC 5-63-200 Building and structure (Section 202)	The definition of building and structure did not include any language concerning state-owned tunnels and bridges. The definition of building did not clarify the conditions under which two portions of a building are considered to be separate buildings.	The final regulation addresses state-owned tunnels and bridges in the definitions of building and structure and clarifies that portions of buildings separated by fire walls are considered to be separate buildings.	The reference to tunnels and bridges is to correlate the final regulation with a change to state law in § 36-98.1 of the Code of Virginia. The clarifying language for separate buildings is simply a pointer to § 503.1 of the International Building Code (IBC) where identical language is used.
13 VAC 5-63-210A (Section 302.3.2)	The methodology for applying the height measurement limitations in the IBC	The final regulation modifies the IBC language to clarify that when there are fire areas above other	The Virginia Building and Code Officials Association (VBCOA)'s building code committee is pursuing this

	did not specifically include the floors in between floors of different fire areas.	fire areas in a building, then the stories of the lower fire areas must be included in the height measurement of the higher fire area.	change at the national level and has support of the ICC building code committee. It is more of a clarification that a substantive change.
*13 VAC 5-63-210 B & C (Sections 307.9 and 307.9.1)	The storage of black powder and small arms primers (typically for Civil War reenactment groups and muzzle-loading gun hunting) in Group M occupancies (retail stores and exhibition halls) was permitted only in very limited quantities.	The final regulation permits greater amounts of black powder and small arms primers to be stored and sold by providing additional safeguards.	This change is in conjunction with changes made to the Virginia Statewide Fire Prevention Code (13 VAC 5-51) addressing the operational precautions for permitting an increased amount of black powder and small arms primers at trade shows and retail establishments and were developed by the Smokeless Powder Ad Hoc Committee established by the Board.
13 VAC 5-63-210H (Section 310.3.1)	The proposed regulation was unclear on how to regulate an aspect of construction of a home when not covered by the International Residential Code (IRC), such as a residential elevator.	The final regulation refers to the International Building Code (IBC) for any aspects of construction of a home not covered by the IRC.	The change comports with common practice to use the IBC when the IRC is silent; however, in the past editions of the USBC, there has not been a specific provision permitting the use of the IBC in such circumstances.
*13 VAC 5-63-210K Item 1 (Section R301.2.1)	Wind speed considerations for the design of new residential buildings was established by a table for each city, county or town and wind speed considerations for special wind regions (mountain tops and gorges) was established by each jurisdiction having such an area.	The final regulation re-establishes the IRC's requirements for wind speeds based on map values established by engineering standards. In special wind regions, the final regulation sets the wind speed based on the elevation of the area in question.	The table used in the previous USBC was problematic in that some jurisdictions fall into more than one wind speed. When a map is used, interpolation is permitted, thereby yielding a more accurate representation of the true site conditions. This change had the consensus of the building officials and home builders associations.
13 VAC 5-63-210 Items 2 & 3 (Sections R302.1 and R302.2)	The proposed regulation did not require walls or openings in walls in residential construction to be protected if more than three feet from a property line.	The final regulation requires walls less than five feet from a property line to have a fire-resistance rating and permits no more than 25 percent openings in such walls.	This requirement was approved by the Board of Housing and Community Development and made effective on September 9, 2004 as an amendment to the 2000 USBC. The provision had been suspended in the 2000

			USBC due to a petition submitted after the final regulation was published. The proposed 2003 USBC was developed prior to September 9, 2004, before this provision was finalized. This action simply puts the already approved regulation in the final 2003 USBC.
*13 VAC 5-63-210 Items 4 & 5 (Sections R303.8 and R303.8.1)	Heating is only required to be provided in new residential construction where the rental agreement stipulates heat will be provided.	All new residential construction must be provided with a heating system except for seasonal homes occupied for less than 90 days per year.	The national residential codes have been requiring heating systems in new residential construction since the 1992 edition; however the USBC provision has only required it in rental property to assure compliance with the Virginia Landlord Tenant Act. This proposal would align the USBC with the national codes. The exception was requested by the Virginia Home Builders Association for seasonal homes.
13 VAC 5-63-210 Item 7 (Section R306.5)	There was a general reference to water supply sources and sewage disposal systems governed by the Virginia Department of Health.	The final regulation provides a more specific reference to the role of the Virginia Department of Health in the approval of water supply sources and sewage disposal.	This agency has a Memorandum of Agreement with the Department of Health setting out the line of demarcation where the USBC governs and where the Health Department governs plumbing systems. Typically, the USBC governs all plumbing inside the building and the Health Department regulates the outside sources of water supply and sewage disposal unless there is a municipal system.
13 VAC 5-63-210 Item 8 (Section R310.1)	Basements with habitable space (for living, etc) were required to have at least one emergency opening (door or window). The code was not clear on what a finished basement is or on whether the emergency opening could lead out to a deck or porch.	The final regulation requires the emergency opening in all basements except those only housing mechanical equipment and less than 200 square feet. The final regulation also clarifies that the emergency opening can lead out to a deck or porch and clarifies that the construction documents (plans) must indicate	The purpose of this clarifying language is to alleviate the uncertainty concerning when the emergency openings must be provided.

		where the sleeping rooms will be.	
13 VAC 5-63-210 Items 10 & 11 (Sections R311.4.3 and R311.4.3.1)	The model code language was used which was somewhat confusing concerning whether a landing is required adjacent to a door and whether a step down is permitted.	The final regulation amends the model code language to clarify the rules for landings adjacent to residential doors.	This new language is being pursued by the Virginia Building and Code Officials Association at the national level for the 2006 codes and is being implemented now in the USBC to alleviate confusion over how to design exterior stairs and porchs.
13 VAC 5-63-210 Item 14 (Section R311.5.5)	The USBC used the model code language which permitted a slope on the treads of stairs not to exceed 2 percent.	The final regulation adds the words "level or" before the word "sloped" to make it clear that stairs treads may be level as well as having slopes up to 2 percent.	Even though an argument can be made that being level is the same as having a slope of less than 2 percent (slope equals zero), this clarifying language was added to assure there is no misinterpretation of the provision.
13 VAC 5-63-210 Item 15 (Section R314.2.6)	The USBC used the model code language which limited the width of foam plastic trim to 4 inches.	The final regulation permits the width of foam plastic trim to be up to 8 inches.	The 4-inch requirement was based on the average width of foam trim being produced when this requirement was implemented. Now, foam plastic trim is also being made to look like the older, wider, Victorian style crown mouldings and baseboards. This change is just to recognize that industry standards have changed. There is no significant increased fuel loading due to the slight increase in width of the trim.
13 VAC 5-63-210 Item 16 (Section R319.1)	The USBC used the model code language in the proposed regulation which referenced the older standards for the use of pressure-treated wood.	The final regulation references newer standards for the manufacturing of pressure-treated wood.	The newer standards are now being used due to the EPA's crackdown on the use of arsenic in the older formulations. The standards have already been approved for the 2006 codes, therefore they are being added now to the USBC.
13 VAC 5-63-210 Item 26 (Section R401.4)	The proposed regulation contained a requirement that localities identified as having 20 percent or greater expansive (shrink/swell) soil had to have soil test policies in place.	The final regulation uses the model code (2003 IRC) language which has essentially equivalent safeguards.	In the mid-1990's when the USBC requirements were added for expansive soil, the model code provisions did not adequately address the necessary foundation design criteria where these soils are found. Now, with the availability of better soil maps and with the changes

			which have been made to the model codes, adequate safeguards are in place to deal with expansive soils and the USBC modifications to the model codes may be largely removed.
13 VAC 5-63-210 Items 28, 29 and 30 (Section R502.2.1.1, Table R502.2.1.1 and Section R502.2.1.1.1)	The model code (2003 IRC) language was used for deck attachment and was general in nature.	The final regulation adds a prescriptive method for attaching the deck ledger boards to the band board in residential construction.	The final language is based on a study conducted at Virginia Polytechnic Institute and the language is being submitted at the national level for the model codes. This prescriptive language matches common practice in the construction of decks.
13 VAC 5-63-210 Item 33 (Figure R602.10.5)	The model code (2003 IRC – Figure R602.10.5) was used for the requirements for braced wall panel (plywood walls) attachment to the framing.	In the final regulation, minor modifications are made to the figure for clarity in the attachment methods.	This change has been approved at the national level and will be in the 2006 IRC.
13 VAC 5-63-210 Item 34 (Section M1501.3)	The proposed regulation used the 2003 IRC provision which permitted the use of a booster fan in a dryer vent.	The final regulation deletes the language authorizing the use of booster fans in dryer vents.	While the booster fan provision was approved for the 2003 IRC at the national level, it was later discovered that no companies are listing booster fans for use in dryer vents. Therefore, the provision was taken out of the IRC in the next code change cycle and is also being deleted from the USBC.
13 VAC 5-63-210 Item 35 (Section M1801.1.1)	That when changing the fuel source (e.g. natural gas to heating oil) of heating equipment in an existing building, a certification is required that the existing chimney will work with the new fuel type.	The scope of the section is expanded slightly to include replacement of fuel-burning appliances or new installation, irrespective of whether the fuel-source is being changed.	This language is also in § 103.9 of the USBC. It is repeated here since it is a requirement for residential construction involving the mechanical provisions of the IRC.
13 VAC 5-63-210 Item 36 (Section M2201.7)	The proposed regulation required all piping to be removed when a heating oil tank in residential construction is abandoned or removed.	The final regulation requires all exterior above grade piping to be removed when abandoning or removing a residential heating oil tank.	The Virginia Plumbing and Mechanical Inspectors Association (VPMIA) and the Virginia Building and Code Officials Association (VBCOA) submitted a code change at the national level for the IRC concerning this

			issue and it was approved for the 2006 IRC. This change matches that national language.
13 VAC 5-63-210 Item 37 (Section P2602.1)	The proposed regulation deleted a provision of the model code (IRC) which conflicted with an administrative provision (§ 103.11).	The final regulation provides reference to the role of the Virginia Department of Health in the approval of water supply sources and sewage disposal.	This provision is identical to § R306.5, which is a USBC amendment to the IRC. Since the language addresses plumbing systems, it has been added to this part of the IRC as well as in § R306.5.
13 VAC 5-63-210 Item 38 (Section P2903.5)	Water hammer arrestors (devices to provide an air cushion in plumbing systems) were required adjacent to any quick-closing valve in the plumbing system.	The final regulation added the words “unless otherwise approved” to the provision to provide flexibility in determining where water hammer arrestors are needed.	In low pressure plumbing systems (well water vs. a municipal water) water hammer is not as much of a problem. Also small quick-closing valves (such as in a dishwasher) may not cause water hammer when activated.
13 VAC 5-63-210 Deleted Item 26 (Section P3114.1)	The use of air admittance valves (sometimes called auto-vents) on the main plumbing stack was prohibited as the national standard was not yet available.	The USBC modification to the IRC which prohibited the use of the stack air admittance valves by excluding the language permitting its use was removed, thereby using the 2003 IRC language, which permits the stack air admittance valves.	The nationally recognized standard (ASSE 1050) for stack air admittance valves was approved at the national level, therefore the prohibition against its use could be removed.
13 VAC 5-63-210 Item 39 (Table P3201.7)	Plumbing standpipes for washing machines were permitted to be as small as 1 and 1/2 inch diameter pipe.	The minimum diameter is increased to 2 inches.	The Virginia Plumbing and Mechanical Inspectors Association (VPMIA) submitted a change in the development of the 2000 codes to retain the minimum shower drain size and the washing machine standpipe size from the old CABO Code, even though the 2000 IRC required a larger size. Subsequent to finalizing the 2000 codes, VPMIA claimed it only commented on the shower pipe and not the washing machine standpipe. The reasoning at the national level for the increase in the minimum size is that high volume washing machines are more of a trend now.
13 VAC 5-63-210 Item 40 (Section	That when changing the fuel source (e.g. natural gas to heating	The scope of the section is expanded slightly to include replacement of	This language is also in § 103.9 of the USBC and in § M1801.1.1 of the mechanical

G2425.1.1)	oil) of heating equipment in an existing building, a certification is required that the existing chimney will work with the new fuel type.	fuel-burning appliances or new installation, irrespective of whether the fuel-source is being changed.	provisions of the IRC. It is repeated here since it is a requirement for residential construction involving fuel gas.
13 VAC 5-63-210 Item 42 (IRC Chapter 43)	The older versions of standards for pressure-treated wood were referenced.	The newer standards for pressure-treated wood are referenced.	This section correlates to § R319.1 which requires the use of the newer standards. This section is just used to list the referenced standards used in the code.
13 VAC 5-63-220A (Section 404.4)	A smoke control system would be required for all atriums (open areas between floors).	The final regulation provides an exception for an atrium that connects only two stories.	The definition of an atrium in the 2003 International Building Code (IBC) was changed to include two story openings. The purpose of the change was for other reasons, but an inadvertent result was to require the smoke control systems. This change provides an exception for the two story atriums to kept the requirements the same as in past codes.
*13 VAC 5-63-220B (Section 407.8)	Doors in nursing homes could not be locked unless there was a keypad next to the door for emergency exiting.	Doors are permitted to be locked under very limited circumstances and with additional safeguards.	This change was developed cooperatively by the healthcare industry and the fire officials to address areas in nursing homes housing residents with alzheimer's and dementia.
13 VAC 5-63-225 (Section 507.2)	Assembly occupancies (theaters, restaurants, etc) could not be part of an unlimited area building (typically a shopping mall) without being constructed as a separate building.	The final regulation permits assembly occupancies to be within an unlimited area building provided the assembly occupancy meets certain restrictions (doors to the outside and less than the maximum height and area specified for the type of construction).	The restriction of assembly occupancies in unlimited area buildings is unique to the International Building Code (IBC). It was not in the older BOCA Code, which was the model code used prior to the IBC. This change re-establishes the allowance which was in the BOCA Code with limitations. The change to the IBC is being pursued at the national level by VBCOA.
13 VAC 5-63-230E (Section 715.4.4)	Small security openings in doors in correctional institutions was permitted if protected by a sprinkler system.	The final regulation has the same requirement.	The changes are editorial and grammatical. The proponent was concerned that the proposed wording indicated that such security glazing would be considered

			to be fire protection rated glazing, which is a different type of glazing.
13 VAC 5-63-230F (Section 716.5.3.1)	Smoke dampers were required at any penetration of a shaft (a vertical opening in a building) by a heating or cooling duct.	Smoke dampers may be omitted under certain limited conditions.	The exceptions for when smoke dampers are required were contained in the 2000 USBC as amendments to the 2000 IBC based on the earlier BOCA Code. Staff inadvertently did not carry them over into the proposed 2003 USBC.
13 VAC 5-63-240B (Section 903.2.1.3)	Sprinkler systems were required in all Group A occupancies where the fire area (the area within fire-rated walls) is designed for more than 300 persons.	An exception for churches was added to permit the small rural church to be built without a sprinkler system as the water supply would typically not be available.	This change was already in the 2000 USBC as an amendment to the sprinkler requirements of the IBC. Staff inadvertently did not carry it over into the proposed 2003 USBC.
*13 VAC 5-63-240D (Section 903.3.1.2.2)	Sprinkler systems were not required in the attic of wood-framed apartment buildings of four stories or less in height provided the attic was compartmentalized.	The final regulation requires the attic to be sprinklered in such wood-framed apartment buildings which are designed and marketed for senior citizens.	This change is the recommendation of an ad hoc committee established by the Board of Housing and Community Development to address legislation (Chapter 584 of the 2004 Session of the General Assembly).
*13 VAC 5-63-240G (Section 907.2.1.1)	The activation of a fire alarm in Group A occupancies (auditoriums, theaters, large night clubs etc) of over 1000 occupants must also activate a voice alarm directing people to the exits.	The final regulation extends these requirements to all night clubs having an occupant load of 300 or more.	This change is the recommendation of the Governor's Public Assembly Fire and Life Safety Task Force. Patrons of night clubs typically need additional assistance in exiting in an emergency due to the nature of the occupancy. The agency is pursuing this change at the national level.
*13 VAC 5-63-240H (Section 907.2.9)	A manual fire alarm (the red pull stations) was not required in the construction of new small apartment buildings.	The final regulation requires just one manual fire alarm at an approved location.	This change is in reaction to a number of exterior fires where a fire alarm box would have been beneficial. The cost is minimal.
13 VAC 5-63-245 A through E (Sections 1004.1, 1004.1.2, etc.)	The occupant load in new buildings could be stipulated to be less than that determined by the area of the building, if justified.	The occupant load is established based on the area of the building and deviations from the design occupant load would have to be approved through the USBC modification process.	The prior provision created confusion and non-uniformity in establishing the occupant load in buildings. The final regulation uses the newest approved language from the IBC, which will be in the 2006 IBC.

<p>*13 VAC 5-63-245G (Section 1008.1.8.3)</p>	<p>Small assembly occupancies as well as business, retail and factory occupancies are permitted to have the front door locked from the inside when the building is unoccupied.</p>	<p>The final regulation does not permit the small assembly occupancies from locking the main door from the inside even when the building is occupied.</p>	<p>This change is the recommendation of the Governor's Public Assembly Fire and Life Safety Task Force. The task force members believed that if the locks were present in these types of occupancies, they might be used in inappropriate circumstances.</p>
<p>13 VAC 5-63-245L (Section 1009.3)</p>	<p>Interior stairways in small daycare occupancies (Group R-3) and within the dwelling unit (a loft unit) in an apartment building (Group R-2) were subject to a different standard for stair dimensions than other residential occupancies.</p>	<p>The final regulation permits the use of the residential dimensions for stair treads and risers in these buildings.</p>	<p>The USBC has historically modified the stair dimension criteria in the International Residential Code (IRC) slightly (from 7.5 to 8.25 inch riser height and 10 to 9 inch tread width). When the Group R-3 classification was created in the International Building Code (IBC) the stairway dimensions were taken from the IRC without the USBC amendments. This change inserts the USBC amendments for consistency.</p>
<p>*13 VAC 5-63-260D (Section 1207.1)</p>	<p>Special airport noise standards, when enforced by localities pursuant to § 15.2-2295, applied only to residential occupancies.</p>	<p>The final regulation extends the airport noise standards to commercial buildings if located adjacent to a master air base.</p>	<p>The change is to implement Chapter 509 of the 2005 Acts of Assembly.</p>
<p>13 VAC 5-63-265 (Section 1301.1.2)</p>	<p>Commercial buildings were required to conform to either the 2003 International Energy Conservation Code (IECC) or the 2001 ASHRAE energy conservation standard.</p>	<p>The final regulation substitutes the 2004 edition of the ASHRAE standard for the 2001 edition.</p>	<p>As the 2004 ASHRAE standard is now available and contains the latest requirements for lighting, it has been incorporated into the USBC as an acceptable alternative to compliance with the IECC.</p>
<p>13 VAC 5-63-270A (Section 1609.3)</p>	<p>Wind speed considerations for the design of new commercial buildings was established by a table for each city, county or town and wind speed considerations for special wind regions (mountain tops and gorges) was established by each</p>	<p>The final regulation re-establishes the International Building Code (IBC)'s requirements for wind speeds based on map values established by engineering standards. In special wind regions, the final regulation sets the wind speed based on the elevation of the area in question.</p>	<p>The table used in the previous USBC was problematic in that some jurisdictions fall into more than one wind speed. When a map is used, interpolation is permitted, thereby yielding a more accurate representation of the true site conditions. This change had the consensus of the building officials and home builders associations. This</p>

	jurisdiction having such an area.		change correlates with the changes for residential buildings in § R301.2.1.
13 VAC 5-63-270 C and D (Sections 1615.1 and 1616.3)	The seismic requirements (for earthquake design) in the 2003 International Building Code (IBC) are used for new commercial buildings.	Minor modifications are made to the seismic requirements to use newer maps (Figures 22-1 and 22-2 of ASCE 7) and new requirements for seismic design.	The changes in the final regulations are based on newer maps which will form the basis for the 2006 IBC and the addition of an exception recognizing the use of flexible diaphragm designed buildings. The new maps permit buildings to be assigned to a lower seismic risk category. The changes are consistent with the requirements of the current USBC.
13 VAC 5-63-300 A through C (Sections 2701.1, 2701.1.1 and 2701.1.2)	Used the provisions of the International Code Council's Electrical Code (ICCEC) for administrative provisions and a reference to the National Electrical Code (NEC).	References the NEC directly through the International Building Code (IBC) and does not use the ICCEC.	While the ICCEC is still in use in the 2003 I-Codes, ICC intends to phase it out due to disputes with the National Fire Protection Association (NFPA), the writers of the NEC. Therefore, as in based editions of the USBC, the NEC will be referenced directly. This change correlates to the change in § 101.2.
13 VAC 5-63-310E Items 1 through 4 (Sections 510.1, 510.2, 510.4 and 510.7 of the IMC)	A fire protection system (typically sprinklers) was required in commercial ventilation exhaust hoods and ductwork including those used in laboratories.	Special requirements were added for laboratory exhaust hoods and ducts to provide alternative methods of protection without requiring the fire protection system.	This change was approved at the national level and is in the 2004 Supplement to the I-Codes.
13 VAC 5-63-310E Items 5, 7 & 9 (Sections 604.3, 1204.1 and Chapter 15 of the IMC)	The International Mechanical Code (IMC) stipulated specific criteria for duct and pipe coverings and insulation.	A nationally recognized standard is referenced for test criteria for duct and pipe coverings and insulation.	This change was approved at the national level and is in the 2004 Supplement to the I-Codes. The requirements are essentially the same.
13 VAC 5-63-310E Item 6 (Section 801.1.1 of the IMC)	That when changing the fuel source (e.g. natural gas to heating oil) of heating equipment in an existing building, a certification is required that the existing chimney will work with the new	The scope of the section is expanded slightly to include replacement of fuel-burning appliances or new installation, irrespective of whether the fuel-source is being changed.	This language is also in §§ 103.9 and M1801.1.1 (IRC) of the USBC. It is repeated here since it is a requirement for commercial construction involving the provisions of the International Mechanical Code.

	fuel type.		
13 VAC 5-63-310E Item 8 (Section 1301.5 of the IMC)	The proposed regulation required all piping to be removed when a heating oil tank in residential construction is abandoned or removed.	The final regulation requires all exterior above grade piping to be removed when abandoning or removing a heating oil tank in commercial construction. An identical provision for residential construction is contained in § M2201.7 (as a USBC amendment to the IRC)	The Virginia Plumbing and Mechanical Inspectors Association (VPMIA) and the Virginia Building and Code Officials Association (VBCOA) submitted a code change at the national level for the IRC concerning this issue and it was approved for the 2006 International Mechanical Code (IMC) This change matches that national language.
13 VAC 5-63-310F Item 2 (Section 404.8.3 of the IFGC)	Under USBC amendments to the provisions of the International Fuel Gas Code (IFGC), joints in exterior iron gas piping could not be painted until tested and approved.	Changes the provision to require joints in all types of fuel gas piping in all locations to be tested and approved prior to painting or coating.	VPMIA states that the code change proposal putting this requirement into the 2000 USBC was intended to include the fittings of all types of gas piping in all locations. It is typically done anyway.
13 VAC 5-63-310F Item 3 (Section 501.1.1 of the IFGC)	That when changing the fuel source (e.g. natural gas to heating oil) of heating equipment in an existing building, a certification is required that the existing chimney will work with the new fuel type.	The scope of the section is expanded slightly to include replacement of fuel-burning appliances or new installation, irrespective of whether the fuel-source is being changed.	This language is also in §§ 103.9, M1801.1.1 (IRC), and 801.1.1 (IMC) of the USBC. It is repeated here since it is a requirement for commercial construction involving the provisions of the IFGC.
13 VAC 5-63-330A and 13 VAC 5-63-360 (Section 3001.2 and Chapter 35)	The nationally recognized standard for elevators was the 2000 edition of ASME A17.1 as referenced in this section and Chapter 35.	The final regulation references the 2000 ASME A17.1 standard with the 1a (2002) and the 1b (2003) addenda.	The Board's Elevator Ad Hoc Committee recommended this change to keep the USBC updated to the latest elevator standards available. There are no significant differences between the standards.
13 VAC 5-63-330B (Section 3002.4)	The star of life symbol was required to be on the inside of the hoistway door frame for elevators in buildings four or more stories in height.	In the final regulation, it is clarified that the symbol is to be placed on the designated and alternate landing floors.	The Board's Elevator Ad Hoc Committee recommended this change for clarify. The existing provision could be read to require the star of life on all floors, however, it is typically located on only the main and alternate landing floors.
13 VAC 5-63-350D (Section 3405.1)	Replacement glass in buildings built prior to the first edition of the USBC was required	The provision has been expanded to also address replacement glass in buildings built after the	The initial wording was to match a provision in state law (§ 36-99.2) which only addresses pre-USBC

	meet standards for new buildings.	initial edition of the USBC.	buildings. The alteration provisions (§ 103.5) address post-USBC buildings. Since § 103.5 could be read to permit glass to be replaced with a similar kind of glass, even if new standards are more restrictive, this provision was added to eliminate confusion.
13 VAC 5-63-350H (Section 3410.2.1)	Under the Compliance Alternatives option in the IBC where a change of occupancy is being evaluated, the code does not specifically address what is required for the plumbing, mechanical and electrical systems.	In the final regulation, the rule is modified to specifically address the plumbing, electrical and mechanical systems and require compliance with the change of occupancy requirements in the main body of the code (§ 103.3).	Most applicants utilizing the Compliance Alternatives option under the USBC voluntarily upgrade the plumbing, mechanical and electrical systems due to usage demands. This provision assures a minimum level of compliance, but does not require the systems to be replaced.
13 VAC 5-63-350X (Section 3411.15)	New buildings are required to have a sign with the occupant load in every assembly area.	The final regulation would require assembly areas in existing buildings to have the occupant load posted.	This is a recommendation of the Governor’s Public Assembly Fire and Life Safety Task Force. The posting of occupant load signs in assembly areas has been in the code since its inception in 1973 and was in the earlier codes enforced in localities, so there would be very few buildings not already having signs.
13 VAC 5-63-360 (Chapter 35 of the IBC)	Only one referenced standard in the IBC was changed or added (ASTM E329-02) by the USBC amendments.	New referenced standards have been added to correlate with USBC amendments to IBC §§ 1615.1, 3001.2, Chapter 11 (Accessibility) and 2701.1.	This change is in conjunction with the changes to §§ 1615.1, 3001.2, 1101.2 and 2701.1.
PART II – REHABILITATION			
13 VAC 5-63-400E (Section 101.5)	The use of the phrase “of the International Building Code under which the building was constructed” when used in the International Existing Building Code (IEBC) was unclear.	The phrase is defined to mean the USBC or other code under a building was constructed.	Part II of the USBC is identified in § 101.1 as the Virginia Rehabilitation Code. For the purpose of this table, it will be referred to as the “Rehab Code” or “this code.” All changes to this code were proposed by the Board’s Rehab Code Ad Hoc Committee or “Rehab Committee.” This change is

			a correlation change.
*13 VAC 5-63-420A (Section 103.1)	The relationship between general and specific requirements in the IEBC was not clear and the Rehab Code could be used for change of occupancy of all Group I buildings.	A provision was added clarifying that specific provisions of the IEBC govern over general provisions. An exception was added to limit the use of the Rehab Code to exclude change of occupancy in Group I-2 (nursing homes) and Group I-3 (jails).	The Rehab Committee determined that the IEBC did not provide adequate safeguards when a building was converted from a non-institutional use to a Group I-2 or Group I-3 use, which are the most restrictive groups in the code. Therefore, while the provision of the IEBC continue to be adjusted, the committee believed these two uses should be excluded.
13 VAC 5-63-420B (Section 103.1.1)	The use of a performance code was not specifically recognized.	A provision was added recognizing the use of a performance code.	The Rehab Committee recommended this change for inclusion in both Part I of the USBC (the Virginia Construction Code, § 106.3.2) and in the Rehab Code, as now at least one such nationally recognized performance code is available through ICC.
13 VAC 5-63-420C (Section 103.1.2)	The code did not specifically address pre-construction meetings.	A provision was added to require the code official to meet with the owner upon request to consider the application of the code to a specific project.	The Rehab Committee believed that most code officials would accommodate a pre-construction meeting, however, the committee determined it would be beneficial to have a provision specific addressing it.
13 VAC 5-63-430B (Definition of Existing Building)	The IEBC definition was used which did not clearly address a building constructed in parts.	An expanded definition was added to clarify when a building is an existing building.	The language chosen is based on historic USBC language which was not contained in the IEBC.
13 VAC 5-63-432 (Chapter 4)	The list of plumbing materials and supplies permitted to be replaced was in the IEBC in negative form (e.g. what's not permitted).	The provision was changed grammatically to permit plumbing materials and supplies to be repaired with like materials and then a list of exceptions was added.	There is no substantive difference between the proposed and final regulation.
*13 VAC 5-63-434 (Chapter 6)	The provisions for level two alterations (less than 50% of a building) provided very minimum standards for renovation.	The final regulations add clarifications (§§ 604.2.1, 604.2.2, 604.2.4, 605.2 and 605.3.1.1) and slightly more restrictive requirements to require sprinklers if the water supply is to the building instead of to the floor (§ 604.2.3) and to require a	The cost impact of these recommendations by the Rehab Committee is very minimal in the scheme of a renovation as alternatives are available.

		central sprinkler alarm instead of a local alarm (§ 604.2.5).	
*13 VAC 5-63-436 (Chapter 7)	The provisions for level three alterations (50% or more of the building being altered) provided minimum standards for rehabilitation.	The final regulations do not provide the level two exceptions for a sprinkler system (704.1), require all rubbish and linen chutes to have sprinkler protection (§ 704.1.2) and requires fire alarm and detection systems when required for new construction (§§ 704.2 and 705.1).	The Rehab Committee determined that slightly more reliance on sprinkler systems and fire alarm and detection systems is appropriate for level three alterations.
*13 VAC 5-63-437 (Chapter 8)	The provisions for change of occupancy were unclear when change of occupancy occurs with or without alterations.	The final regulation clarifies requirements for change of occupancy without a change in classification (§§ 801.1, 804.1, 805.1 and 806.1) and clarifies that fire protection system and egress requirements for new construction apply to change of occupancy with a change in classification (§§ 812.1.1, 812.1.2 and 812.2.1). An addition minor change is a prescriptive requirement for existing corridor walls of wood lath construction (§ 812.4.1.1).	The Rehab Committee determined that slightly more reliance on sprinkler systems, fire alarm and detection systems and new means of egress (exiting) requirements is appropriate for changes of occupancy with a change in classification.
13 VAC 5-63-438 (Chapter 10)	The proposed regulation contained an extensive reporting requirement for historic buildings.	The final regulation uses language consistent with the historic building provision in part one of the USBC, which permits a report from an architect or engineer to be considered by the building official.	The Rehab Committee submitted this change to correlate the Virginia Construction Code with the Rehab Code.
13 VAC 5-63-440B (Section 1201.2.1)	Under the Compliance Alternatives option in the IEBC, where a change of occupancy is being evaluated, the code does not specifically address what is required for the plumbing, mechanical and electrical systems.	In the final regulation, the IEBC is modified to specifically address the plumbing, electrical and mechanical systems and require compliance with the change of occupancy requirements in the Virginia Construction Code (§ 103.3).	Most applicants who would utilize the Compliance Alternatives option under the Rehab Code would voluntarily upgrade the plumbing, mechanical and electrical systems due to usage demands. This provision assures a minimum level of compliance, but does not require the systems to be replaced. This change correlates with the change to § 3410.2.1 of the Virginia

			Construction Code.
PART III – MAINTENANCE			
13 VAC 5-63-470B (Section 103.2)	The proposed regulation contained a provision which was somewhat unclear.	The final regulation clearly establishes that existing buildings must be maintained in accordance with the Virginia Maintenance Code and the code under which the building was built, when applicable.	The change is to clarify the existing provision.
13 VAC 5-63-470C (Section 103.2.1)	The Maintenance Code did not specifically address the discontinuance of fire protection systems.	The final regulation contains a specific provision addressing the reduction in function of non-required fire protection systems.	This change is in conjunction with a change to the Virginia Statewide Fire Prevention Code (13 VAC 5-51) (§ 901.4.2) and a change to Part I of the USBC (the Virginia Construction Code) (§ 103.8.1) and establishes necessary criteria for the reduction in functioning or partial elimination of a non-required fire protection system without creating a hazard or false sense of security.
13 VAC 5-63-480B (Section 104.1.1)	The Maintenance Code did not address rental inspection programs.	The final regulation adds a reference to the rental inspection provisions which were added to the Virginia Construction Code pursuant to a change in state law.	This provision is for correlation purposes.
13 VAC 5-63-480 E through H (Sections 104.4 104.4.1, 104.4.2 and 104.4.3)	Provisions for certification and training of code official and technical assistants (inspectors) was not clear.	The final regulation contains the same changes as in the Virginia Construction Code.	This changes were the recommendation of the Virginia Building Code Academy Advisory Committee (BCAAC) and are to standardize the training and certification requirements.
13 VAC 5-63-480J (Section 104.4.5)	The proposed regulation was in conflict with state law.	The final regulation comports with state law.	This change was also made in the Virginia Construction Code and was recommended by the agency's legal counsel.
13 VAC 5-63-480K (Section 104.4.6)	Contained an incorrect reference to the State Library record retention document.	The final regulation corrects the reference.	To correlate with the Virginia Construction Code.
*13 VAC 5-63-480 Q through S	Required the issuance of a notice	The final regulation establishes a correction	To provide greater flexibility in the enforcement of the

(Sections 104.5.4, 104.5.4.1 and 104.5.4.2)	of violation when violations were discovered.	notice and provides the code official with the discretion of whether to issue a notice of violation upon discovery depending on the severity of the violation.	Maintenance Code.
*13 VAC 5-63-490A (Section 105.1)	Provided that a building could be ordered to be demolished if it was in danger of collapse.	Slightly broadened the provision to order demolition if a building constitutes a hazard needing to be demolished.	Historically, provisions in the Maintenance Code have provided the code officials with the flexibility to determine when it is necessary to demolish a building.
13 VAC 5-63-490D (Section 105.3.1)	The proposed regulation used the term “older” without clarifying its meaning.	The final regulation uses the phrase “constructed prior to the initial edition of the USBC.”	Grammatical clarification.
13 VAC 5-63-490J (Section 105.9)	There were two provisions addressing emergency repairs and demolition of unsafe buildings. The two provisions had overlapping requirements.	The final regulation consolidates the two sections into one while clarifying the language.	This change is the companion change submitted for Part I of the USBC (the Virginia Construction Code, § 118.5) for similar provisions in that code and is intended to consolidate and clarify the provisions.
13 VAC 5-63-500G (Section 106.7)	The proposed regulation did not specify the method of the issuance of an order in an appeal.	The final regulation specifies certified mail to have a record of the order.	Based on advice from the agency legal counsel. Correlating changes were made in the Construction Code and the Statewide Fire Prevention Code.
13 VAC 5-63-520G (Section 304.7)	The proposed regulation used the wording in the International Property Maintenance Code (IPMC) which prohibited roof draining from creating a public nuisance.	The final regulation changes the IPMC provision to only address the effect of roof drainage on a building.	The IPMC provision was outside of the scope of the USBC as set out in state law. Public nuisances not affecting a building are not regulated under the USBC.
13 VAC 5-63-520I (Section 304.18)	The proposed regulation incorporated a provision of the IPMC requiring privacy locks.	The final regulation deletes the provision (and its subsections).	The scope of the Maintenance Code is only to maintain those building features required when a building was constructed. The provision being deleted is a retrofitting provision (requiring something that may not have been there originally).
13 VAC 5-63-520L (Section 308.1)	The proposed regulation deleted a IPMC provision	The final regulation re-establishes the IPMC provision, but limits its	The change is to recognize that the code does apply to rodent and insect

	addressing insect and rodent infestation.	application to only when a building is affected.	infestations if they can be shown to affect a building (e.g. termites). Health hazards alone are typically outside of the scope of the code.
13 VAC 5-63-530D (Section 507.1)	The proposed regulation addressed drainage from roofs creating a public nuisance.	The final regulation limits the application of the drainage provision to adversely affecting a building.	To correlate with the change to § 304.7.
*13 VAC 5-63-540D (Section 602.2.1)	The proposed regulation requires heat, but does not stipulate the source.	The final regulation prohibits the use of unvented room heaters as the sole source of heat.	It is doubtful that the use of unvented room heaters could meet the temperature criteria when heat is required anyway, however, as a precaution, the code prohibits the use of these room heaters in place of a central system.
13 VAC 5-63-540G and 13 VAC 5-63-550 (Section 606.3 and Chapter 8)	The proposed regulation referenced an older standard for the maintenance of elevators.	The final regulation uses the latest standard available.	There are no substantive differences between the standards.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response and final regulation section number
Apartment and Office Building Association (AOBA)	To add language to draw the point of demarcation between being exempt and being regulated in the installation of cable TV and communications wiring.	AOBA worked with the Virginia Building and Code Officials Association (VBCOA) and language was agreed upon. The Board implemented the change. The Board's code change number for this change was C-102.3 and the correlation in the final regulation is 13 VAC 5-63-20D (§ 102.3).
City of Hampton building department	To delete "or greater capacity" from the code in the provision for alterations.	The change was approved as a consensus change. The code change number was C-103.5 and the final regulation is at 13 VAC 5-63-30E (§ 103.5).
Fairfax County building department and the Rehabilitation Code	To add a definition of rehabilitation in the Virginia Construction Code and to modify the section for the use of the Virginia Rehabilitation Code (Rehab Code) to	The changes were approved as consensus changes. The code changes numbers were C-101.1 and R-101.5. The final regulation is at 13

Ad Hoc Committee	correlate with the changes in the Rehab Code to exclude Group I-2 and I-3 uses upon change of occupancy.	VAC 5-63-30F (§ 103.6).
Building Code Academy Advisory Committee (BCAAC)	To require technical assistants (building inspectors) to obtain a state certification within eighteen months rather than three years.	There was no opposition to this change and it came from the Board's legislatively created training advisory committee. The change (code change number C-105.2.2) was approved and inserted in the final regulation at 13 VAC 5-63-50H (§ 105.2.2).
Rehabilitation Code Ad Hoc Committee	To add a provision recognizing the use of a performance code as an acceptable alternative to compliance with the main body of the code and to provide documentation requirements.	The change was implemented as a consensus change. The code change number is R-101.5 and the final regulation is at 13 VAC 5-63-60E (§ 106.3.2).
Virginia Propane Gas Association (VPGA) and the Propane Gas Ad Hoc Committee	To add an exemption from the permit requirements for the replacement of small LP-gas tanks and regulators by an LP-gas distributor.	Approved as a consensus change. Code change number C-108.2(10). Final regulation at 13 VAC 5-63-80B (§ 108.2(10)).
Fairfax County building department	To require special inspectors (for steel, concrete and other special construction) to be certified in accordance with a national standard unless the building official approves otherwise.	Approved as a consensus change. Code change number C-111.2 and the final regulation is at 13 VAC 5-63-110B (§ 111.2).
City of Williamsburg building department and Randy Griffith, a third party inspector	To require local building departments to have a policy for third party inspections, or to require the approval of third party inspectors if having an appropriate certification.	Approved the Williamsburg proposal and rejected Griffith's proposal as not permitting enough flexibility in determining the qualifications of third party inspectors. The code change number is C-113.7.1 and the final regulation is 13 VAC 5-63-130K (§ 113.7.1).
Black Powder Ad Hoc Committee	To approve greater amounts of storage of black powder and small arms primers in trade shows and retail establishments with adequate safeguards.	Approved as a consensus change. Code change numbers F-314.5 and C-307.9.1. Final regulation is at 13 VAC 5-63-210 B and C (§§ 307.9 and 307.9.1).
Virginia Building and Code Officials Association (VBCOA)	To return to the use of a wind speed map in the model codes (IRC and IBC) rather than a table setting out the wind speed for each locality.	Approved as a consensus change. Code change number C-1609. Final regulation is at 13 VAC 5-63-210K and 13 VAC 5-63-270A (§§ R301.2.1 and 1609.3).
Home Builders Association of Virginia (HBAV) and Virginia Plumbing and Mechanical Inspectors Association (VPMIA)	To require heating in residential construction except for seasonal homes.	Both changes approved as consensus. Code change numbers C-310.6(R303.8a) and C-310.6(R303.8b). The final regulation is at 13 VAC 5-63-210, Items 4 and 5 (§§ R303.8 and R303.8.1).
American Healthcare in consultation with Fire Chiefs Association	To permit exit doors in nursing homes housing Alzheimer's and dementia residents to be locked under certain circumstances and with adequate	Approved as consensus change. Code change number C-407.8. In final regulation at 13 VAC 5-63-220B (§ 407.8).

	safeguards.	
SB 183 (2004) Work Group	To add a requirement that attics be sprinklered in new multifamily buildings four stories or less in height and marketed for senior citizens; in response to legislation.	Approved as consensus change. Code change number C-903.3.1.2.2. In final regulation at 13 VAC 5-63-240D (§ 903.3.1.2.2).
Governor's Public Assembly Fire and Life Safety Task Force	To require night clubs having an occupant load of 300 or more persons to have a voice alarm system.	Approved task force recommendation. Code change number C-907.2.1. In final regulation at 13 VAC 5-63-240G (§ 907.2.1.1).
Fairfax County building department	To require a manual pull station fire alarm in new apartment buildings four stories or less in height.	Approved with no opposition due to minimal cost. Code change number C-907.2.9a. In final regulation at 13 VAC 5-63-240H (§ 907.2.9).
Governor's Public Assembly Fire and Life Safety Task Force	Prohibit the locking of the front door in Group A (assembly occupancies) when the building is unoccupied.	Approved with no opposition. Code change number C-1008.1.8.3. In final regulation at 13 VAC 5-63-245G (§ 1008.1.8.3).
City of Virginia Beach building department	To authorize sound standards for commercial buildings near a Master Jet Base.	Approved with no opposition. Code change number C-1206.5. In final regulation at 13 VAC 5-63-260D (§ 1207.1).
Rehabilitation Code Ad Hoc Committee	Provide slightly more restrictive standards for the rehabilitation of buildings under the Virginia Rehabilitation Code by modifying the International Existing Building Code (IEBC) to limit its application to Group I (institutional) buildings and to require additional fire safety measures when there is a change in occupancy.	Approved as a consensus change. Code change number R-101.5 (including subsequent committee recommendations). In final regulation at 13 VAC 5-63-420A, 13 VAC 5-63-434, 13 VAC 5-63-436 and 13 VAC 5-63-437 (§§ 103.1, Chapters 6, 7 and 8 of the IEBC).
Virginia Building and Code Officials Association (VBCOA)'s Property Maintenance Committee	To permit the code official to issue a notice of violation under the maintenance code when circumstances warrant without issuing a notice of defective maintenance first.	Approved without opposition. Code change number M-104.5.4. In final regulation at 13 VAC 5-63-480 Q – S (§§ 104.5.4, 104.5.4.1 and 104.5.4.2).
VBCOA's Property Maintenance Committee	To permit a code official to determine whether a building needs to be demolished based on the hazard present and not necessarily on its structural condition.	Approved without opposition. Code change number M-105.1. In final regulation at 13 VAC 5-63-490A (§ 105.1).
VBCOA's Property Maintenance Committee	To prohibit the use of unvented room heaters as the sole source of heat in existing residential occupancies.	Approved without opposition. Code change number M-602.2.1. In final regulation at 13 VAC 5-63-540D (§ 606.2.1).

The comments outlined above are for the substantial changes between the proposed regulations and the final regulations identified with an asterisk in the section of this document entitled “Changes made since the proposed stage.” All comments received have been provided for review and are contained in the Board of Housing and Community Development’s Codes and Standards Committee’s Workbooks 1 – 5.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Section number in 2000 USBC	Section number in 2003 USBC	Requirement (in 2000 USBC)	Proposed change and rationale (2003 USBC requirement)
2000 IRC Section R309.2	2003 IRC Section R309.2	Where there is a habitable room above a garage in house construction, the ceiling of the garage must be protected with 1/2 inch gypsum board or equivalent.	Where there is a habitable room above a garage in house construction, the ceiling of the garage must be protected with 5/8 inch Type X (fire resistant) gypsum board or equivalent. Rationale: The model code writing body determined that fire can spread more readily through the ceiling of a garage than through its walls, therefore additional protection is needed at the ceiling level.
2000 IBC Table 601	2003 IBC Table 601	Fire-retardant-treated wood may be used in roof construction in buildings two stories or less in height.	Fire-retardant-treated wood may be used in roof construction in buildings two stories or less in height and in buildings of Type II construction (smaller noncombustible buildings) of any height and in Type I construction (larger noncombustible buildings) where the vertical distance from the upper floor to the roof is 20 feet or more. Rationale: The model code writing body recognized the safety record of fire-retardant-treated wood as an alternative to noncombustible framing (steel and concrete) in these limited applications to provide safe installations at the least possible cost.
N/A	2003 IBC Section 3109.5 and 2003 IRC Section AG106	None.	Both model codes have added a requirement for the use of anti-vortex drain covers or the use of other approved methods for preventing the entrapment of persons at drains in swimming pools. Rationale: Safety is provided for the users of swimming pools at a modest cost.
2000 IBC Section 704.3	N/A	Exterior walls of buildings adjacent to a open courtyard are required to be designed with fire-ratings in certain arrangements.	The requirements for fire-ratings of certain exterior walls adjacent to open courtyards has been eliminated. Rationale: The model code writing body deleted this provision because it was determined there is no need to protect a building from its own parts.
2000 IBC Section 711.3.2	2003 IBC Section 712.3.2	Electrical boxes in fire-rated walls were required to be separated by at least 24	An allowance for electrical boxes to be side by side or on both sides of a fire-rated wall without a horizontal

		inches horizontally.	separation was added provided a putty pad-type fire-resistant pad is wrapped around the outlet boxes. Rationale: These products have had fire tests performed on them and have been shown to protect the outlets from the spread of fire.
2000 IBC Section 1108.7	2003 IBC Section 1109.7	Platform (wheelchair) lifts are permitted to be substituted for a ramp on an accessible route only under certain limited conditions.	In addition to those areas where already permitted, platform lifts are now permitted to be used in lieu of a ramp or elevator to raised areas in courtrooms and for exterior accessible routes where site constraints make the use of a ramp infeasible. Rationale: The Federal Architectural and Transportation Compliance Board in consideration of new ADA guidelines determined that platform lifts could be used in additional areas to provide accessibility for persons with disabilities.
2000 IBC Section 2406.1	2003 IBC Section 2406.1	Wired glass products are permitted to be used as safety glazing in all occupancies in fire rated doors.	Wired glass products are prohibited for use in Group E (educational) occupancies. Rationale: The model code writing body accepted information by consumers and the glass industry indicating that wired glass poses a safety hazard in school buildings.

The changes listed above are only those identified at the proposed stage of this action. Changes between the proposed regulation and the final regulation are identified in the section of this document entitled "Changes made since the proposed stage."

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

The nature of this regulation is such that the agency does not identify any impact on the institution of the family or on family stability.