



Exempt Action Final Regulation Agency Background Document

Agency name	Board of Housing and Community Development
Virginia Administrative Code (VAC) citation	<u>13 VAC 5-31</u>
Regulation title	Virginia Amusement Device Regulations
Action title	Amend and Update Virginia Amusement Device Regulations
Final agency action date	July 26, 2010
Document preparation date	August 12, 2010

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The Virginia Amusement Device Regulations (VADR) are regulations governing the construction and operation of amusement devices, which are by statutory definition devices or structures open to the public by which persons are conveyed or moved in an unusual manner for diversion and passenger tramways. The regulations are very closely related to the Virginia Uniform Statewide Building Code (13 VAC 5-63) (the "USBC") as, also by statutory arrangement, the USBC applies to amusement devices to the extent that they are not superseded by the VADR. The VADR utilizes nationally recognized standards to provide the technical requirements for the construction and operation of amusement devices. The standards are produced by the American Society for Testing and Materials (ASTM). To coincide with the updating of its other building and fire regulations, the Board of Housing and Community Development initiates a regulatory action under the VADR to consider any changes necessary to correlate with the Department's other building and fire regulations and to consider any available newer ASTM standards. After the publishing of the proposed regulations, the board establishes a comment period for the acceptance of code change proposals to modify the standards or any provisions of the entire regulation. Code change proposals are assimilated into a compilation document containing a staff evaluation of each proposal and the compilation document is reviewed by client groups during a second comment period and additional

comment on each proposal is accepted. A public hearing is also held. The board then considers all comments on all proposals and develops a final regulation to complete the regulatory process.

The changes comprising the final regulation are divided into two categories: (a) those changes necessary to match changes in state law where no agency discretion is involved under the exemption in the Virginia Administrative Process Act (VAPA) at § 2.2-4006(A)(4)(a) of the Code of Virginia, and (b) those changes based upon proposals or public comment received by the Board during the public comment period after the publishing of the proposed regulation under the exemption in the VAPA at § 2.2-4006(A)(12) of the Code of Virginia. The changes comprising the final regulation are described below:

Changes Under the Exemption in the VAPA at § 2.2-4006(A)(4)(a) of the Code of Virginia to match changes in state law where no agency discretion is involved.

13 VAC 5-31-75: State law was amended by Chapter 66 of the 2010 Acts of Assembly to require the local building departments to assess a fee levy on permits issued under the VADR to support training programs of the Virginia Building Code Academy as an extension of the existing levy requirements for permits issued under the USBC. Changes to this section in the final regulation are to implement the legislation.

Changes Under the Exemption in the VAPA at § 2.2-4006(A)(12) of the Code of Virginia based on proposals or public comment received by the Board of Housing and Community Development.

13 VAC 5-31-40: The reference standard section is updated to include two newly available ASTM standards for amusement devices.

13 VAC 5-31-85: The Department of Housing and Community Development is added to the notification requirements when a serious accident occurs involving an amusement device, to permit the Department to maintain records of such accidents.

13 VAC 5-31-280 and 290 (New Part IX of the regulation): Requirements for new permanent park rides to provide for accessibility for persons with disabilities are added to be consistent with Federal guidelines issued by the Architectural and Transportation Barriers Compliance Board. The changes are necessary to enable the Department to apply for certification of the state building code by the U.S. Department of Justice as being equivalent to the Americans with Disabilities Act.

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, 2010, the Board of Housing and Community Development approved final regulations for the Virginia Industrialized Building Safety Regulations.

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

The final regulations do not have an impact on the institution of the family and family stability.