



Glenn Youngkin
Governor

Caren Merrick
Secretary of
Commerce and Trade

COMMONWEALTH of VIRGINIA

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Bryan W. Horn
Director

October 2023

Memorandum

To: Board of Housing and Community Development Members

From: Agritourism Event Structure Technical Advisory Committee

RE: Findings and Recommendations

Background

[SB1305](#) (2023), as approved by the General Assembly and signed by the Governor, directed the Agritourism Event Structure Technical Advisory Committee (the Committee) to continue its efforts first established by [SB400](#) (2022). The legislation implemented three new requirements for farm buildings and structures that are open to the general public for agritourism activities ([§ 36-99.B.](#)). Additionally, the new legislation required the Committee to meet at least four times during 2023 to continue considering the following issues of concern regarding fire safety and the welfare of the general public at agritourism facilities:

- (i) *minimum safety standards for any building or structure utilizing the agritourism exemption, including the need to provide fire suppression, proper ingress and egress from buildings in case of emergency, and requirements relating to access roads;*
- (ii) *issues relating to standards that appropriately address facilities of all sizes and types; and*
- (iii) *the potential need for an administrative organization for inspection, enforcement, and evaluation of any new laws or regulations.*

In addition to the requirements imposed by SB1305, the Board of Housing and Community Development (the Board) directed the Committee to also consider certain terms and definitions that need additional clarity. Furthermore, SB1305 directed the Committee to report its findings and recommendations to the Board by November 1, 2023. The Committee met four times during 2023 and a summary of each meeting is attached.



Minimum Safety Standards

As previously stated, SB1305 implemented three new requirements for farm buildings and structures that are open to the general public for agritourism activities ([§ 36-99.B.](#)). The new requirements went into effect July 1, 2023, and are as follows:

1. *Portable fire extinguishers for the purpose of fire suppression;*
2. *A simple written plan in case of an emergency, but shall not be construed to be interpreted as a fire evacuation plan under the Uniform Statewide Building Code or any local requirements; and*
3. *A sign posted in a conspicuous place upon entry to the farm building or structure that states that "This building is EXEMPT from the Uniform Statewide Building Code. Be alert to exits in the event of a fire or other emergencies." Such sign shall be placed in a clearly visible location near the entrance to such farm building or structure. The notice shall consist of a sign no smaller than 24 inches by 36 inches with clearly legible black letters, with each letter to be a minimum of one inch in height.*

Committee members reported that affected facilities attempting to comply with the new requirements do not know how to do so because the requirement to have a portable fire extinguisher and have a simple written emergency plan do not provide enough detail as currently stated in State Code. The Committee agreed the third new requirement regarding the posting of a sign stating the facility's exemption from the Uniform Statewide Building Code (USBC) is currently detailed and specific enough for a facility to comply.

Considering the July 1, 2023, effective date, committee members expressed concern regarding the lack of specificity in complying with the new requirements imposed by §36-99.B and discussed best practices for compliance with the new requirements. In doing so, the Committee and stakeholders developed best practices in the form of non-binding guidance for facilities seeking to comply with the new requirements. The best practices are offered as a resource in the absence of other federal, state, or local requirements imposed on facilities subject to §36-99.B and pertaining to portable fire extinguishers and simple written emergency plans. The detailed best practices may be found in the accompanying memo to the Board.

Facilities of all Sizes and Types

The Committee discussed the need for different tiers of safety requirements dependent upon the size and capacity of a facility. When considering minimum safety requirements, the Committee noted that the safety requirements for a smaller operation may vary drastically from that of a larger operation and could potentially place a greater burden upon a smaller operation. Additionally, the Committee noted that minimum safety standards deemed necessary may vary regionally based on the environment and resources available. Committee members also discussed how the minimum safety standards deemed necessary may vary for a facility's regular weekday operations, weekend operations, or for a special event.

Another aspect of the issue discussed was the fact that there is not currently a mechanism for determining the occupancy limits for these affected facilities. As these facilities are exempt from



the Uniform Statewide Building Code (USBC), there is not currently a process by which a facility could receive a certificate of occupancy from a local building official. Some committee members shared examples of localities requiring these facilities to obtain a special or temporary permit in certain situations. It was noted that these permits are often based on the type of activity to occur or the expected attendance of an event.

Administrative Organization for Inspection, Enforcement, and Evaluation

Currently, farm buildings and structures (as defined by [§36-97](#)) are exempt from complying with the Uniform Statewide Building Code (USBC). As such, the administrative apparatus associated with the enforcement of the USBC would not apply to farm buildings and structures that are open to the general public for agritourism activities (as defined by [§3.2-6400](#)).

The Committee discussed that there is currently no identified administrative organization to inspect and enforce the new requirements imposed by [§36-99.B](#), as well as any new laws or regulations that may affect farm buildings and structures that are open to the general public for agritourism activities. The Committee discussed different enforcement mechanisms, including the Statewide Fire Prevention Code (SFPC) which includes fire safety provisions associated with ongoing operations and maintenance of facilities. Additionally, the SFPC includes administrative provisions related to inspection and enforcement, including an appeal process. Methods for including the new requirements imposed by [SB1305](#) (§36-99.B, 1-3) within the administrative apparatus of the SFPC were offered, however, all options would require legislative and/or regulatory action.

No consensus was reached as to the most effective administrative apparatus for inspecting, enforcing, and evaluating the new requirements imposed by §36-99.B. Additional discussion would be required.

Other Topics Discussed

Terms and Definitions- As directed by the Board at its May 8, 2023, meeting, the Committee considered the issue of certain terms and definitions, specifically the term “primarily” as used in the definition of “farm building and structure” in [§36-97](#) of the Virginia State Code. The Committee discussed how the uncertainty in this term has led to varying application across localities of the farm building and structure exemption from the Uniform Statewide Building Code (USBC). The inconsistent interpretations have subsequently created uncertainty in the application of the new requirements imposed by [§36-99.B.](#), because the new requirements only apply to certain types of farm buildings and structures that are exempt from the USBC.

Legislative Language- Committee members noted that there is only a farm building and structure exemption from the USBC, not an agritourism exemption as stated in the second enactment clause of SB1305.

Applicability- The Committee discussed the fact that enforcement of the USBC only applies to



the construction of new facilities, not preexisting facilities. As such, if the requirements imposed by §36-99.B. were to be administered in a manner similar to the USBC, the new requirements would only apply to the construction of new facilities. However, as previously stated, farm buildings and structures (as defined by §36-97) are exempt from complying with the USBC.

Recommendations to the Board

The Committee recommends publishing to the Department of Housing and Community Development (DHCD) website the accompanying memo of offered best practices in the form of non-binding guidance for facilities seeking to comply with the new requirements for farm buildings and structures that are open to the general public for agritourism activities ([§ 36-99.B.](#)). Committee members have agreed to provide notice to relevant stakeholders regarding the publishing of this best practices memo. The Committee recommends the Board takes no additional action.





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COMMONWEALTH of VIRGINIA

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

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Director

October 2023

Memorandum

To: Board of Housing and Community Development Members

From: Agritourism Event Structure Technical Advisory Committee

RE: Best Practices for New Safety Measures

Background

[SB1305](#) (2023), as approved by the General Assembly and signed by the Governor, directed the Agritourism Event Structure Technical Advisory Committee to continue its efforts first established by [SB400](#) (2022). The legislation requires the Committee to meet at least four times during 2023 to continue considering issues of concern regarding fire safety and the welfare of the general public at agritourism facilities. Additionally, the new legislation implemented three new requirements for farm buildings and structures that are open to the general public for agritourism activities ([§ 36-99.B.](#)). The new requirements went into effect July 1, 2023, and are as follows:

1. *Portable fire extinguishers for the purpose of fire suppression;*
2. *A simple written plan in case of an emergency, but shall not be construed to be interpreted as a fire evacuation plan under the Uniform Statewide Building Code or any local requirements; and*
3. *A sign posted in a conspicuous place upon entry to the farm building or structure that states that "This building is EXEMPT from the Uniform Statewide Building Code. Be alert to exits in the event of a fire or other emergencies." Such sign shall be placed in a clearly visible location near the entrance to such farm building or structure. The notice shall consist of a sign no smaller than 24 inches by 36 inches with clearly legible black letters, with each letter to be a minimum of one inch in height.*

During the Committee's meeting on June 14, 2023, committee members reported that affected facilities attempting to comply with the new requirements do not know how to do so because the requirement to have a portable fire extinguisher and have a simple written emergency plan do not provide enough detail as currently stated in State Code. The Committee agreed the third new requirement regarding the posting of a sign stating the facility's exemption from the Uniform



Statewide Building Code (USBC) is currently detailed and specific enough for a facility to comply. Considering the impending July 1 effective date, committee members expressed concern regarding the lack of specificity in complying with the new requirements and began discussing best practices for compliance with the new requirements.

The following best practices were developed by the Committee and stakeholders to provide non-binding guidance for facilities seeking to comply with the new requirements imposed by §36-99.B. While the committee has generally agreed on the contents of the best practices, it has not taken formal action to adopt or endorse the best practices. These recommended best practices are offered in the absence of other federal, state, or local requirements imposed on facilities subject to §36-99.B and pertaining to portable fire extinguishers and simple written emergency plans.

Best Practices

In the absence of federal, state, or local requirements pertaining to the measures specified in §36-99.B.1 and 36-99.B.2 of the Code of Virginia, the Agritourism Event Structure Technical Advisory Committee (the Committee) offers the following best practices for fulfilling the requirements related to portable fire extinguishers and a simple written emergency plan as stated in §36-99.B.1. and 36-99.B.2. These best practices are non-binding in nature and are to be used as guidance to ensure fire safety and the welfare of the general public at agritourism facilities.

36-99.B.1. Portable fire extinguishers for the purpose of fire suppression

The Committee suggests several resources for facilities to reference in order to comply with the requirement to have “portable fire extinguishers for the purpose of fire suppression.” Compliance with this requirement may include the following elements:

Fire Extinguishers For Class A Fire Hazards

	Ordinary (Moderate) Hazard Occupancy
Minimum-rated single extinguisher	2-A
Maximum floor area per unit of A	1,500 sqft.
Maximum floor area for extinguisher	11,250 sqft.
Maximum distance of travel to extinguisher	75 ft.

Conspicuous Location- Portable fire extinguishers may be located in conspicuous locations where they will have ready access and be immediately available for use. These locations may be along normal paths of travel, unless the hazard posed indicates the need for placement away from normal paths of travel.

Unobstructed and Unobscured- Portable fire extinguishers may not be obstructed or obscured from view. In rooms or areas in which visual obstruction cannot be completely avoided, means may be provided to indicate the locations of extinguishers.



Hangers and Brackets- Hand-held portable fire extinguishers, not housed in cabinets, may be installed on the hangers or brackets supplied. Hangers or brackets may be securely anchored to the mounting surface in accordance with the manufacturer's installation instructions.

Cabinets- Cabinets used to house portable fire extinguishers may not be locked.

Extinguisher Installation- Portable fire extinguishers having a gross weight not exceeding 40 pounds (18 kg) may be installed so that their tops are not more than 5 feet (1524 mm) above the floor. Hand-held portable fire extinguishers having a gross weight exceeding 40 pounds (18 kg) may be installed so that their tops are not more than 3.5 feet (1067 mm) above the floor. The clearance between the floor and the bottom of installed hand-held portable fire extinguishers may be not less than 4 inches (102 mm).

Wheeled Units- Wheeled fire extinguishers may be conspicuously located in a designated location.

Maintenance- Portable fire extinguishers should be inspected at least annually and maintained in compliance with the manufacturer's recommendations.

36-99.B.2 A simple written plan in case of an emergency, but shall not be construed to be interpreted as a fire evacuation plan under the Uniform Statewide Building Code or any local requirements

The Committee suggests several resources as best practices for complying with “a simple written plan in case of an emergency.” The plan may include the following elements:

Virginia Farm Emergency Plan- published by the Virginia Cooperative Extension ([here](#))

- Contact information for the following:
 - Facility’s ownership and/or management
 - Emergency services
 - Specific phone numbers for the operation of the facility
 - Farm operations primary and secondary contacts
- Directions to the facility from all major highways/roads, including a map of the property with major landmarks highlighted
- Facility site information including:
 - Physical address
 - GPS coordinates
 - Chemical storage address
 - E911 Addresses
- Frequent walkthroughs and operational checks
- Records updated annually
- Employee information including:
 - CPR and First Aid training certifications
 - Medical requirements



Fire Evacuation Plans- fire evacuation plans may include the following:

- Emergency egress or escape routes and whether evacuation of the building is to be complete by selected floors or areas only or with a defend-in-place response.
- Procedures for employees who must remain to operate critical equipment before evacuating.
- Procedures for the use of elevators to evacuate the building where occupant evacuation elevators are provided.
- Procedures for assisted rescue for persons unable to use the general means of egress unassisted.
- Procedures for accounting for employees and occupants after evacuation has been completed.
- Identification and assignment of personnel responsible for rescue or emergency medical aid.
- The preferred and any alternative means of notifying occupants of a fire or emergency.
- The preferred and any alternative means of reporting fires and other emergencies to the fire department or designated emergency response organization.
- Identification and assignment of personnel who can be contacted for further information or explanation of duties under the plan.
- A description of the emergency voice/alarm communication system alert tone and preprogrammed voice messages, where provided.

Fire Safety Plans- fire safety plans may include the following:

- The procedure for reporting a fire or other emergency.
- The life safety strategy including the following:
 - Procedures for notifying occupants, including areas with a private mode alarm system.
 - Procedures for occupants under a defend-in-place response.
 - Procedures for evacuating occupants, including those who need evacuation assistance.
- Site plans indicating the following:
 - The occupancy assembly point.
 - The locations of fire hydrants.
 - The normal routes of fire department vehicle access.
- Floor plans identifying the locations of the following:
 - Exits.
 - Primary evacuation routes.
 - Secondary evacuation routes.
 - Accessible egress routes.
 - Areas of refuge.
 - Exterior areas for assisted rescue.
 - Refuge areas associated with smoke barriers and horizontal exits.
 - Manual fire alarm boxes.



- Portable fire extinguishers.
- Occupant-use hose stations.
- Fire alarm annunciators and controls.
- A list of major fire hazards associated with the normal use and occupancy of the premises, including maintenance and housekeeping procedures.
- Identification and assignment of personnel responsible for maintenance of systems and equipment installed to prevent or control fires.
- Identification and assignment of personnel responsible for maintenance, housekeeping and controlling fuel hazard sources.





Virginia Farm Emergency Plan

Authored by Livvy Priesser, Unit Coordinator and Extension Agent, Agriculture and Natural Resources, Isle of Wight County, Virginia Cooperative Extension

What is a Farm Emergency Plan and why should you create one?

The purpose of a Farm Emergency Plan is to help agricultural operations proactively prepare for management of unexpected hazardous situations. A thorough and current Farm Emergency Plan can help minimize first responder response times and assist with site location accuracy during an emergency. Farm Emergency Plans should be utilized as well communicated training tools for operational employees, family members, etc. If done properly, a Farm Emergency Plan could be one of the most effective and invaluable tools to have around.

The Bureau of Labor Statistics found that agriculture activities are among the 34 deadliest jobs in the United States. Farming is a hazardous job and in 2019, Virginia reported three fatalities throughout the state due to farm incidents according to Virginia Farm Bureau. Our program team has put together resources to help encourage farm safety and wellness for all farm families by compiling a Farm Emergency Plan to help farmers ensure they are prepared in the event of an on-farm emergency.

Where should you store your plan?

Once you have thoroughly completed a Farm Emergency Plan, it is important that all necessary parties are provided convenient access. The plan should be stored in multiple locations and be available in various formats if possible. Suggested places include in the tractor(s), combine(s), truck(s), pesticide storage shed, office, and/or any other central location where employees congregate. Laminating or keeping the plan in a binder/folder will help with the durability of the plan. It is important to share this information with employees, family members, and local first responders (police, EMS, and fire). If the operation is multilingual, all should be covered in the plan. Lastly, the plan should be updated annually and reviewed with new employees.

Who should have access to it?

All farm employees and family members should have access to this plan. This plan should be kept in several different locations for easy access. We also suggest sharing this plan with your local first responders as well.

The following is a template:

Farm Name: _____

Date Completed: _____

About the Farm

Farm Employers	Name	Phone Number	Email
Owner/Manager			
Vice President/Manager			
Other Workers			

If you have an emergency, call 911. If 911 does not work, please contact:

Departments	Contact Numbers
Local Fire Department	
Local Emergency Medical Services	
Sheriff	
Animal Control	
Virginia State Police	(800) 674-2000
Local Hospital	
Local or Family Doctor	
Veterinarian (Small and Large Animal)	
Local VDACS Pesticide Investigator	
Virginia Agriculture and Consumer Services (VDACS)	(804) 786-3501
VDACS Pesticide Division	(804) 786-3798
Virginia Poison Control	(800) 222-1222
National Response Center	(800) 424- 8802
National Suicide Prevention Line	(800) 273-8255

Directions to the farm from all major highways/roads

Include a map of your farm with fields or land worked highlighting major landmarks. Inc.

Specific Numbers for your operation

Departments	Contact Numbers
Fire Department/Chief	
EMS/EMS Coordinator	
Gas Company	
Electric Company	
Farm Mechanic	
Chemical Dealer	
Equipment Dealer	
Local Virginia Cooperative Extension Agent	
Loan Officer	
Insurance Agent	
Farm Service Agency	
Family Doctor	
Family Therapist	
Other	
Other	

Farm Operation - Primary Contact Information

Name	
Address	
Daytime Phone Number	
Nighttime Phone Number	
Email	
Other?	

Farm Operation- Secondary Contact Information

Name	
Address	
Daytime Phone Number	
Nighttime Phone Number	
Email	
Other?	

Farm Site

Farm Physical Address	
Farm GPS Coordinates	
Chemical Storage Address	
Other	

What else should I know or include in my emergency plan?

- **Operation Layout**

Please include a map or layout of the operation in the plan. Include all land owned, rented, or worked with all the main highways marked. If you operate a U-pick or agritourism operation, it would be helpful to share these layouts with local first responders (fire, EMS, and police). Please mark all major landmarks on the map such as ponds, chemical storage, septic/wastewater, powerlines, grain bins/silos, first aid kits, fire extinguishers, and any other needed emergency documentation.

- **E911 Addresses**

Include all E911 addresses of your farm and rented land within your plan.

- **Walkthroughs**

It is always good to do frequent operational checks and document if/when deficiencies are addressed.

- **Updating Records**

Make sure the plan is updated annually! Update all numbers to reflect any changes in businesses, veterinarians, etc. Also, update locations of farm land or rented land to reflect safe entrances, etc.

- **CPR and First Aid**

If any employee is trained in CPR or first aid, please add that to your plan.

- **Medical Requirements**

If any employee has specific medical requirements, please address that as well (latex, asthma, food or medicine allergies, etc.).

- **Customize**

This farm emergency plan is very basic, so please customize to your operation and your needs.

For questions about how to use or update your farm emergency plan, please contact Livvy Preisser at livvy16@vt.edu or 757-365-6261.

Funding provided by the “Reducing Human & Financial Risk for Beginning, Military Veteran, & Historically Underserved Farmers through Farm Stress, Wellness, & Safety Education” project of the Southern Extension Risk Management Education Center in partnership with the Virginia Beginning Farmer and Rancher Coalition and AgrAbility Virginia Program.



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October 23, 2023

Re: Agritourism Event Structure Technical Advisory Committee Best Practices Memo and Final Report

Dear Board of Housing and Community Development Members,

The Virginia Agribusiness Council (VAC) is a non-profit member organization committed to representing the agriculture and forest industries in the Commonwealth with a unified voice through effective government relations. Our membership spans family and commercial farms, agribusiness companies, agriculture lenders, industry associations, and multiple other industry participants. VAC has long supported agritourism activities on farms and forest land for the purpose of economic development, recreation, entertainment, and education.

Agritourism is a \$2.2 billion business in Virginia. Whether it's U-Pick operations for berries or apples, a cut-your-own Christmas tree farm, or hosting events in a farm winery, agritourism gives producers an opportunity to generate additional income and an avenue for direct marketing to consumers.

As stakeholders in the Commonwealth's agritourism industry, VAC has participated in the Agritourism Event Structure Technical Advisory Committee (AgTAC) initially established by SB 400 and continued with SB 1305. We are pleased to support and give our approval of the Best Practices Memo and 2023 Final Report. These documents accurately represent the AgTAC's discussions and how the Committee fulfilled the directive from the Virginia General Assembly. We appreciate the Board's assistance in communicating this information to agritourism event operators and the public via the Department of Housing and Community Development's website.

VAC has made plans to provide education and outreach to VAC members and the agritourism community in the following ways:

- Provide an update to VAC members during the 2024 State Policy Meeting which will be held November 9th, 2023;
- Utilize the in-person Annual Meeting on November 20th, 2023 to provide an update to attendees on the outcome of the AgTAC and next steps;
- Link to the Best Practices Memo and 2023 Report on our website and provide content on VAC's social media platforms; and
- Create signage that meets the specifications of section §36-99 of the Code of Virginia.

We appreciate the work of the AgTAC members, the Department of Housing and Community Development staff, and the Office of the Attorney General. We are grateful to the Board of Housing and Community Development for your partnership.

Sincerely,



Cliff Williamson, Executive Director
Virginia Agribusiness Council



COMMONWEALTH of VIRGINIA

Virginia Fire Services Board

Keith Johnson
CHAIRMAN
VA FIRE CHIEFS ASSOCIATION

Abbey Johnston
VICE-CHAIRMAN,
VA STATE FIREFIGHTERS
ASSOC.

Walter T. Bailey
VA FIRE SERVICES COUNCIL

Bettie Reeves-Nobles
GENERAL PUBLIC

Scott Garber
LOCAL FIRE MARSHAL

Ernie Little
VA FIRE PREVENTION
ASSOCIATION

Dennis D. Linaburg
VA CHPT INTERNATIONAL
ASSOC. OF ARSON
INVESTIGATORS

Jess Rodzinka
VA PROFESSIONAL
FIREFIGHTERS' ASSOCIATION

Jerome Williams
CERTIFIED FIRE SERVICE
INSTRUCTOR

Steven Sites
VA MUNICIPAL LEAGUE

James A. Calvert
INDUSTRY – SARA TITLÉ III &
OSHA

Ben Reedy
INSURANCE INDUSTRY

Donald L. Hart
ASSOCIATION OF COUNTIES

Joh Miller
VA DEPART OF FORESTRY

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Virginia Fire Services Board
c/o Virginia Department of Fire Programs
1005 Technology Park Drive
Glen Allen, VA 23059-4500
Phone: 804/ 371-0220
Fax: 804/ 371-3408

November 3, 2023

Board of Housing and Community Development
Chairman Louie Berbert
600 East Main Street, Suite 300
Richmond, VA 23219

Dear Chairman Berbert:

I write to you as the Chair of the Virginia Fire Services Board and Board member of the Board of Housing and Community Development (BHCD). At the October 16, 2023, meeting of the Board of Housing and Community Development, Department of Housing and Community Development (DHCD) staff provided an oral report to the Board of the findings and recommendations of the Agritourism Event Structure Technical Advisory Committee (AgTAC). The report consisted of an overview of the information contained in the *2023 Findings and Recommendations* and *Best Practices for New Safety Measures*. On October 19, 2023, BHCD members received the *2023 Findings and Recommendations* and *Best Practices for New Safety Measures* (memorandums attached) that was developed by the AgTAC.

As the Chair of the Virginia Fire Services Board, I write to provide profound disappointment and concern with the October 2023 Findings and Recommendations of the AgTAC regarding the outcome of legislation which mandated the BHCD to promulgate regulations related to agritourism event buildings and provide guidance to the board of housing for topics on fire safety and the welfare of the general public.

As the BHCD, DHCD, and our state legislators are aware, currently farm buildings and structures (as defined by §36-97) are exempt from complying with the Uniform Statewide Building Code (USBC). As such, the administrative apparatus associated with the enforcement of the USBC would not apply to farm buildings and structures that are open to the general public for agritourism activities. We also know that SB1305 (2023) and SB400 (2022) as signed by the Governor, directed the establishment and reenactment of the AgTAC. These were just the latest efforts in a long and arduous multi-year process to investigate and improve on the lack of or exclusion of safety regulations in agritourism buildings that are open to the public for reasons of public assembly.

Beginning in 2018, the *Virginia Agritourism & Building Codes: Stakeholder Group* convened on multiple occasions where they “agreed that Virginia’s agritourism industry incorporates multiple types of operations and there are some differences in how building codes are enforced throughout the Commonwealth. They published that the ultimate goal is to ensure a safe environment for everyone and to engage all agritourism operations in this review”.

In the 2018 review issued by the *Virginia Agritourism & Building Codes*, prepared by Martha A. Walker, Ph.D and Megan M. Seibel, Ph.D. of the Virginia Tech / Virginia Cooperative Extension, in Collaboration with the Agritourism & Building Codes Stakeholder Group, the group suggested building safety attributes that were identified based on the comments gathered during the review process and from the experiences of agritourism entrepreneurs and building officials. Suggestions included:

- *An automatic fire alarm system throughout the structure with pull stations located at the emergency exits. This system is not required to have off site monitoring capabilities.*
- *Emergency lights at exits and provide emergency lighting.*
- *Panic hardware on all hinged exit doors.*
- *At least one accessible* restroom with hand washing facilities.*
- *Some type of potable water for patron use.*
- *An accessible route for emergency vehicles to access the structure.*
- *Portable fire extinguishers as defined by the Virginia Uniform Statewide Building Code.*
- *Occupancy load of more than 49 people but no more than 300 persons.*

While the suggestions above were not acted upon, the latest 2023 legislative action (SB1305) required the AgTAC to meet at least four times during 2023 to continue considering the issues of concerns regarding fire safety and the welfare of the general public at agritourism facilities. It is disappointing and deeply concerning that the AgTAC recommended publishing to the DHCD website, a memorandum offering best practices in the form of non-binding guidance for facilities seeking to comply with the new requirements for farm buildings and structures that are open to the general public for agritourism activities. Perhaps most disturbing and fully against the concerns raised by the fire service in that “the Committee recommends the Board takes no additional action”.

This memorandum regarding *Best Practices for New Safety Measures* provides inadequate and somewhat dismissive fire safety requirements for farm buildings and structures that are open to the general public for agritourism activities. The new requirements include:

- *Portable fire extinguishers for the purpose of fire suppression.*
- *A simple written plan in case of an emergency but shall not be construed to be interpreted as a fire evacuation plan under the Uniform Statewide Building Code or any local requirements.*

- *A sign posted in a conspicuous place upon entry to the farm building or structure that states that "This building is EXEMPT from the Uniform Statewide Building Code. Be alert to exits in the event of a fire or other emergencies." Such sign shall be placed in a clearly visible location near the entrance to such farm building or structure. The notice shall consist of a sign no smaller than 24 inches by 36 inches with clearly legible black letters, with each letter to be a minimum of one inch in height.*

I challenge anyone with the foremost interest of life safety for the public and first responders to explain how the presence of a sign that states "This building is EXEMPT from the Uniform Statewide Building Code. Be alert to exits in the event of a fire or other emergencies" will enhance life safety and keep anyone safe.

My request is simple, reconvene the AgTAC indefinitely until meaningful and enforceable fire and life safety requirements can be enacted in agritourism structures that are open to the public before serious injuries and/or death occur to the citizens and visitors to agritourism structures in the Commonwealth of Virginia.

I look forward to the opportunity for members of the Virginia Fire Services Board to meet to discuss any questions you have regarding the concerns raised in this letter. Please place life safety as a priority in the Commonwealth of Virginia.

Sincerely,



Keith H. Johnson
Virginia Fire Services Board, Chairman

Attachments: Memorandum – Findings and Recommendations (October 2023)
Memorandum – Best Practices for New Safety Measures (October 2023)

cc: Sonny Daniels, Assistant Secretary of Public Safety and Homeland Security
Brad Creasy, Executive Director, Department of Fire Programs
Bryan Horn, Director, Department of Housing and Community Development
Spencer Willett, Government Affairs Manager, Department of Fire Programs
Virginia Fire Services Board Members
Chris Barry, Fire Marshal, Loudoun County Fire and Rescue, VFSB Representative

Meeting Summary
Agritourism Event Structure Technical Advisory Committee
June 14, 2023
10:00 am
Virginia Housing Center
Glen Allen, VA

Committee Members Present

- Chris Barry, VA Fire Services Board
- Joe Lerch, VA Association of Counties
- Shawn Maddox, VA Fire Prevention Association
- Martha Moore, VA Farm Bureau
- Jimmy Moss, VA Building Code Officials Association

Other Attendees

- Justin Bell, Office of the Attorney General
- Jeff Brown, Dept. of Housing and Community Development
- Brad Copenhaver, VA Agribusiness Council (Representative)
- Cindy Davis, Dept. of Housing and Community Development
- Sean Farrell, Board of Housing and Community Development
- Kyle Flanders, Dept. of Housing and Community Development
- Katelyn Jordan, VA Farm Bureau (Representative)
- Anne Leigh Kerr, VA Wineries Association
- Chase Sawyer, Dept. of Housing and Community Development
- Brett Vassey, VA Craft Brewers Guild (Representative)

Key Takeaways

- Stakeholders would like additional guidance regarding how to comply with the three new requirements imposed by SB1305 (§36-99.B, 1-3)
- There remains uncertainty in which agricultural buildings and structures must comply with the new safety requirements
- It is unclear the enforcement mechanism for the new requirements; they will be effective starting July 1, 2023

Note: Please note the summary and notes included do not include a specific endorsement or opinion of the committee or any one committee member.

Summary

Department of Housing and Community Development (DHCD) staff provided an overview of [SB1305](#), legislation that continues the 2022 efforts of the Agritourism Event Structure Technical Advisory Committee as established by [SB400](#) (2022). The new legislation implemented three minimum safety requirements for farm buildings and structures that are open to the general public for agritourism activities. The legislation also requires the Committee to meet at least four times during 2023 to continue considering issues of concern regarding fire safety and the welfare of the general public at agritourism facilities. The Committee is to report its findings and

recommendations to the Board of Housing and Community Development (the Board) by November 1, 2023.

As directed by the Board at its May 8, 2023, meeting, the Committee first considered the issue of unclear terms and definitions, specifically the term “primarily” as used in the definition of “farm building and structure” in [§ 36-97](#) of the Virginia State Code. The Committee discussed how the uncertainty in this term has led to inconsistent application of the exemption across localities. Furthermore, the Committee discussed uncertainty in the legislative language and noted it is difficult to discern which facilities must comply with the new minimum safety requirements. Additionally, several committee members emphasized the fact that there is only a farm building and structure exemption from the Uniform Statewide Building Code (USBC), not an agritourism exemption as stated in the second enactment clause of SB1305.

The Committee discussed some issues that exist with the three new minimum safety requirements that were created by SB1305, chiefly the lack of specificity in complying with the requirements. Committee members reported that affected entities attempting to comply with the requirements do not know how to do so because the requirement to have a portable fire extinguisher and have a simple written emergency plan do not provide enough detail. Additionally, there were questions as to what entity/organization will be enforcing these new minimum safety requirements and what are the consequences to a facility for noncompliance.

Additional questions regarding the enforcement of the new minimum safety standards were discussed. Currently, State Code does not indicate who is authorized to enforce these requirements. It was noted that USBC requirements are typically construction related requirements that are not inspected on an ongoing basis. It was suggested that local fire services may be a better option for enforcement rather than local building officials given the ongoing nature of the requirements. It was suggested that if fire services were to enforce these requirements, the requirements should be moved to a more appropriate State Code section.

With the understanding the new minimum safety requirements are effective as of July 1, 2023, the Committee agreed that its next meeting should focus on identifying specific methods by which a facility could comply with these requirements. It was suggested that the Committee could start by reviewing relevant sections of the Statewide Fire Prevention Code (SFPC).

Future Considerations

- Methods for compliance with new minimum safety requirements
- Additional minimum safety requirements
- Safety standards for facilities of all sizes and types
- Mechanisms for inspection and enforcement
- Application of the farm buildings and structures exemption

Meeting Summary
Agritourism Event Structure Technical Advisory Committee
July 25, 2023
10:00 am
Virtual Meeting

Committee Members Present

- Chris Barry, VA Fire Services Board
- Heidi Hertz, VA Agribusiness Council
- Jimmy Moss, VA Building Code Officials Association
- Janell Zurschmeide, Craft Beverage Manufacturer

Other Attendees

- Justin Bell, Office of the Attorney General
- Jeff Brown, Dept. of Housing and Community Development
- Cindy Davis, Dept. of Housing and Community Development
- Sean Farrell, Board of Housing and Community Development
- Kyle Flanders, Dept. of Housing and Community Development
- George Hodson, VA Wineries Association (Representative)
- Katelyn Jordan, VA Farm Bureau (Representative)
- Chase Sawyer, Dept. of Housing and Community Development
- Marybeth Williams, VA Wineries Association (Representative)

Key Takeaways

- Stakeholders generally agreed upon proposed best practices for compliance with the new safety requirements imposed by SB1305 (§36-99.B, 1-3) that became effective July 1, 2023
- The Committee's proposed best practices are non-binding in nature, and the enforcement mechanism for the new safety requirements is still unclear

Note: Please note the summary and notes included do not include a specific endorsement or opinion of the committee or any one committee member.

Summary

Department of Housing and Community Development (DHCD) staff provided a summary of the Committee's previous meeting on June 14, 2023, and acknowledged this meeting would continue the discussion regarding compliance with the new safety requirements imposed by [SB1305 \(§36-99.B, 1-3\)](#) that became effective July 1, 2023. DHCD staff outlined the process by which the Committee is able to report its findings and recommendations to the Board of Housing and Community Development (the Board), as required by SB1305, in the form of agreed upon non-binding best practices.

The Committee's discussion mainly focused on the first and second new safety requirements regarding portable fire extinguishers and a simple written emergency plan. The Committee agreed the third new safety requirement regarding the posting of a sign stating the facility's exemption from the Uniform Statewide Building Code (USBC) is currently detailed and specific

enough for a facility to comply. Following the Committee's request at its June 14 meeting, relevant sections of the Statewide Fire Prevention Code (SFPC) were distributed for consideration as a compliance standard for the portable fire extinguisher and simple written emergency plan requirements.

Committee members stated that although facilities may be exempt from the USBC, there are other entities that may regulate a facility's operations, such as the Virginia Department of Health (VDH), Virginia Department of Agriculture and Consumer Services (VDACS), US Occupational Safety and Health Administration (OSHA), or other locality requirements. Some committee members shared examples of localities requiring a special or temporary permit for certain activities occurring in these facilities. It was discussed that some of the requirements imposed by these other entities may already contain provisions associated with portable fire extinguishers and a simple written emergency plan. Committee members expressed difficulty with sometimes having to comply with conflicting requirements imposed by different entities.

The Committee reviewed a guidance document published by the Virginia Cooperative Extension (VCE) titled [Virginia Farm Emergency Plan](#). The document provides a general outline of suggested safety measures agricultural operations can take to prepare for emergency situations. The Committee agreed that this document, in addition to subsections [404.2.1](#) (fire evacuation plans) and [404.2.2](#) (fire safety plans) of the SFPC, creates a reasonable baseline for items to include in a simple written emergency plan to address a facility's regular operations.

The Committee reviewed Section 906 (Portable Fire Extinguishers) of the SFPC. The Committee agreed that [Table 906.3\(1\)](#) (Fire Extinguishers for Class A Fire Hazards), in addition to subsections [906.5](#) (conspicuous location), [906.6](#) (unobstructed and unobscured), [906.7](#) (hangers and brackets), [906.8](#) (cabinets), [906.9](#) (extinguisher installation), and [906.10](#) (wheeled units), provide reasonable standards related to portable fire extinguishers.

Prior to the Committee's next meeting, DHCD staff will prepare for the Committee's review a report to the Board outlining non-binding best practices for compliance with §36-99.B, 1-3. These non-binding best practices would be encouraged in the absence of other federal, state, or local requirements imposed on a facility subject to §36-99.B and pertaining to portable fire extinguishers and simple written emergency plans.

Future Considerations

- Application of the farm buildings and structures exemption
- Mechanisms for inspection and enforcement
- Safety standards for facilities of all sizes and types
- Additional minimum safety requirements

Meeting Summary
Agritourism Event Structure Technical Advisory Committee
August 9, 2023
10:00 am
Virginia Housing Center
Glen Allen, VA

Committee Members Present

- Chris Barry, VA Fire Services Board
- Skip Causey, VA Wineries Association
- Heidi Hertz, VA Agribusiness Council
- Joe Lerch, VA Association of Counties
- Shawn Maddox, VA Fire Prevention Association
- Jimmy Moss, VA Building Code Officials Association

Other Attendees

- Chase Barnett, VA Craft Brewers Guild (Representative)
- Justin Bell, Office of the Attorney General
- Cindy Davis, Dept. of Housing and Community Development
- Sean Farrell, Board of Housing and Community Development
- Kyle Flanders, Dept. of Housing and Community Development
- Katelyn Jordan, VA Farm Bureau (Representative)
- Anne Leigh Kerr, VA Wineries Association
- Trisha Lindsey, Dept. of Housing and Community Development
- Chase Sawyer, Dept. of Housing and Community Development

Key Takeaways

- Stakeholders reviewed and agreed upon offered best practices for compliance with the new safety requirements imposed by SB1305 (§36-99.B, 1-3)
- Administrative provisions to inspect and enforce the new minimum safety requirements were discussed, however, all options would require legislative and/or regulatory action

Note: Please note the summary and notes included do not include a specific endorsement or opinion of the committee or any one committee member.

Summary

Department of Housing and Community Development (DHCD) staff provided a summary of the Committee's previous 2023 meetings (June 14 and July 25) and presented a draft of the Committee's offered best practices for the new safety requirements imposed by [SB1305 \(§36-99.B, 1-3\)](#) that became effective July 1, 2023. The draft document was based on stakeholder input during the July 25, 2023, meeting. Following discussion, Committee members offered revisions to the draft document in the form of clarifying language. As noted in the draft document, the Committee's offered best practices are non-binding in nature and are to be used as suggested resources for affected facilities.

In addition to reviewing the best practices draft document, the Committee discussed the need for an administrative organization to inspect and enforce the new minimum safety requirements imposed by [§36-99.B](#), as well as any new laws or regulations that may affect farm buildings and structures that are open to the general public for agritourism activities. Currently, farm buildings and structures (as defined by [§36-97](#)) are exempt from complying with the Uniform Statewide Building Code (USBC). As such, the administrative apparatus associated with the enforcement of the USBC would not apply to farm buildings and structures that are open to the general public for agritourism activities (as defined by [§3.2-6400](#)).

Furthermore, it was noted that enforcement of the USBC would only apply to the construction of new facilities and not preexisting facilities. It was suggested that an alternative enforcement mechanism could be the Statewide Fire Prevention Code (SFPC) which includes fire safety provisions associated with ongoing operations and maintenance of facilities. Additionally, the SFPC includes administrative provisions related to inspection and enforcement, including an appeal process. Methods for including the new safety requirements imposed by SB1305 (§36-99.B, 1-3) within the administrative apparatus of the SFPC were offered, however, all options would require legislative and/or regulatory action. No consensus was reached as to whether the SFPC would be the best enforcement mechanism.

Future Considerations

- Additional discussion regarding previously considered issues:
 - Mechanisms for inspection and enforcement
 - Safety standards for facilities of all sizes and types
 - Additional minimum safety requirements
 - Application of the farm buildings and structures exemption
- Final review of best practices memo
- Review of findings and recommendations memo to Board

Meeting Summary
Agritourism Event Structure Technical Advisory Committee
October 4, 2023
10:00 am
Virginia Housing Center
Glen Allen, VA

Committee Members Present

- Chris Barry, VA Fire Services Board
- Skip Causey, VA Wineries Association
- Heidi Hertz, VA Agribusiness Council
- Joe Lerch, VA Association of Counties
- Janell Zurschmeide, Craft Beverage Manufacturer

Other Attendees

- Justin Bell, Office of the Attorney General
- Anthony Creech, VA Department of Health
- Cindy Davis, Dept. of Housing and Community Development
- Nancy Diersen, VA Department of Health
- Sean Farrell, Board of Housing and Community Development
- Kyle Flanders, Dept. of Housing and Community Development
- Katelyn Jordan, VA Farm Bureau (Representative)
- Anne Leigh Kerr, VA Wineries Association
- Chase Sawyer, Dept. of Housing and Community Development

Key Takeaways

- Committee members reviewed and agreed upon offered best practices for compliance with the new requirements imposed by SB1305 (§36-99.B, 1-3)
- Committee members reviewed and approved the document containing the Committee's findings and recommendations to the BHCD

Note: Please note the summary and notes included do not include a specific endorsement or opinion of the committee or any one committee member.

Summary

Department of Housing and Community Development (DHCD) staff provided a summary of the Committee's previous 2023 meetings (June 14, July 25, and August 9) and presented an updated draft of the Committee's offered best practices for the new requirements imposed by [SB1305 \(§36-99.B, 1-3\)](#). The updated draft was based on feedback from the Committee at its August 9 meeting. Following review of the draft document, the Committee suggested a minor edit. As noted in the document, the Committee's offered best practices are non-binding in nature and are to be used as suggested resources for affected facilities.

Additionally, DHCD staff presented a draft of the Committee's findings and recommendations to be presented to the Board of Housing and Community Development (BHCD) pursuant to the

second enactment clause of [SB1305](#). Following discussion, committee members offered revisions to the draft document to provide greater clarity and context to the topics discussed during the 2023 meetings. The Committee generally agreed that the document accurately reflected the findings and recommendations of the Committee. A motion was made and seconded to approve the document with the amendments agreed upon during the meeting. The motion passed unanimously. Committee members were offered the opportunity to provide additional comments on behalf of their represented organizations for inclusion in the final report to the BHCD.

Future Considerations

- The Committee recommends publishing the final 2023 documents to the DHCD website so that relevant stakeholders may be informed of the Committee's findings and suggested best practices resources.
- There are no additional planned meetings of the Committee, but it is formed and can convene as needed.