



# COMMONWEALTH of VIRGINIA

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## MEMORANDUM

**To:** Stephen W. Calhoun  
Regulatory Coordinator  
Department of Housing and Community Development

**From:** Thomas W. Nesbitt  
Assistant Attorney General

**Date:** July 14, 2008

**Subject:** Statement of Authority for Statewide Fire Prevention Code Updates (13 VAC 5-51-81(P)(2)&(3))

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I have reviewed the Final version of the amendments to the Statewide Fire Prevention Code, 13 VAC 5-51-11 to -160:1, which was submitted to Virginia Regulatory Town Hall on July 10, 2008. In my view, as counsel to the Department of Housing & Community Development, the proposed amendments to 13 VAC 5-51-81(P)(2) & (3) are necessary to conform the SFPC to the statutory changes implemented by Chapter 499 of the 2008 Acts of Assembly, and no agency discretion is involved in making these changes. Therefore, in my opinion, the amendments to the SFPC that the Board has proposed are exempt from the requirements of the Administrative Process Act, pursuant to § 2.2-4006(A)(4)(a) of the *Code of Virginia*.