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Exempt Action Proposed Regulation Agency Background Document

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| Agency name | Board of Housing and Community Development (BHCD) |
| Virginia Administrative Code (VAC) citation(s) | 13 VAC5-91 |
| Regulation title(s) | Industrialized Building Safety Regulations (IBSR) |
| Action title | Update the IBSR |
| Date this document prepared | December 2019 |

While a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Brief Summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Industrialized Building Safety Regulations (IBSR) govern the in-factory construction of industrialized buildings, which are also known as modular buildings. The regulations provide the same standards for construction as those buildings constructed on-site and regulated by the Virginia Uniform Statewide Building Code (13VAC5-63). Both regulations utilize nationally recognized model building codes and standards to provide the technical requirements for the actual construction of the regulated buildings. Every three years, new editions of the model codes become available. At that time, the BHCD initiates a regulatory action to incorporate the newest editions of the model codes into the regulation as well as accepting proposals for changes to the regulation from affected client groups and the public. The Department of Housing and Community Development staff maintains mailing lists for workgroups involving different subject areas of regulation and conducts workgroup meetings attended by clients group participants to develop consensus recommendations, when possible, concerning proposals which have been submitted. The Department uses an online program incorporating the provisions of the regulation and the model codes and standards to facilitate the submittal of proposals. A public hearing is held

during the workgroup meeting stage of the process and a comment period established. Once workgroup meetings are completed, the BHCD has a series of meetings to consider each proposal and those proposals approved are incorporated into the proposed regulation. After the publishing of the proposed regulation, the BHCD establishes a comment period for additional proposals to be submitted and to comment on the proposed regulation and an additional public hearing is held. The BHCD then meets to consider proposals and public comments to develop a final regulation to complete the regulatory process.

The following are a summary of the substantive changes to the IBSR:

13VAC5-91-10 Adds a definition for “Closed Panel Construction” being a method of construction where the off-site assembly does not allow a portion of the component to be inspected without disassembly or damage to the component.

13VAC5-91-20 Adds a compliance path for intermodal freight containers, moving containers and storage containers as building modules or components.

Mandate and Impetus

Please identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, board decision, etc.). “Mandate” is defined as “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

The promulgation of the IBSR is required per section 36-73 of the Code of Virginia. Further, Section 36-73 indicates that provisions of the IBSR should have due regard for, “generally accepted standards as recommended by nationally recognized organizations...”. The IBSR uses nationally recognized model building codes and standards produced by the International Code Council (ICC) and other standard-writing groups as the basis for the technical provisions of the regulation. Every three years, new editions of the model codes become available. At that time, the BHCD initiates a regulatory action to incorporate the newest editions of the model codes into the regulation as well as accepting proposals for changes to the regulation from affected client groups and the public.

Periodic Review Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA, please indicate whether the regulatory change meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.

In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

The regulation is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses, and is clearly written and easily understandable.

- 1) The regulation ensures the safe construction of Industrialized Buildings.
- 2) There were no specific comments received regarding the periodic review or small business impact.
- 3) The regulation is based on national model codes and standards.
- 4) The regulation does not appear to overlap with state or federal law or regulation.
- 5) The regulation was last evaluated and updated in 2018.

Public Participation

Please include a statement that in addition to any other comments on the regulatory change, the agency is seeking comments on the costs and benefits of the regulatory change and the impacts of the regulated community. Also, indicate whether a public hearing will be held to receive comments.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Written comments must include the name and address of the commenter. Comments may also be submitted by mail, email or fax to Kyle Flanders, 600 E Main St, St 300, Richmond, VA 23219, 804-786-6761 (o) 804-371-7090 (f) email kyle.flanders@dhcd.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.