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Exempt Action: Proposed Regulation Agency Background Document

Agency name	Board of Housing and Community Development (BHCD)
Virginia Administrative Code (VAC) Chapter citation(s)	13VAC5-63
VAC Chapter title(s)	Uniform Statewide Building Code (USBC)
Action title	Update the USBC
Date this document prepared	January 5, 2023

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

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 Uniform Statewide Building Code (USBC) is a regulation governing the construction, maintenance and rehabilitation of new and existing building and structures. The USBC 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 stakeholders 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 stakeholders and the public 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 and holds an additional public hearing. 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 USBC:

13VAC5-63-20

Requires children's play structures installed inside buildings to be subject to the children's play structures section in Chapter 4 of the Virginia Construction Code (VCC).

Clarifies that playground equipment typically found in a backyard, at a school, in a public park, etc., are not USBC regulated structures.

13VAC5-63-30

Updates the edition year to 2021.

13VAC5-63-70

Updates the VCC with the current law by stating that, except for the levy collected pursuant to Section 107.2, fees levied pursuant to this section shall be used only to support the functions of the local building department.

13VAC5-63-80

Deletes the qualifier for pools to not exceed 5,000 gallons to be exempt from permitting since there is no combination of sizes under this exemption that would allow a pool to be greater than 5,000 gallons.

Allows for jurisdictions to not be forced to accept applications by mail when an online permit application option exists.

13VAC5-63-100

Provides a mechanism to allow for the proactive cancellation or discontinuance of building permits by the permit holder or the owner.

13VAC5-63-180

Cleans up the Unsafe Buildings or Structures section of the VCC and removes confusion between buildings that are a threat to public safety and unsafe buildings or structures.

13VAC5-63-200

Correlates definitions in the International Building Code (IBC) with the National Flood Insurance Program (NFIP).

13VAC5-63-210

Provides clarification to the scoping provisions of the Virginia Residential Code.

Updates the code provisions with the appropriate licensing authority for Family Day Homes (Oversight transferred from the Department of Social Services to the Department of Education).

Several changes to the Virginia Residential Code (VRC):

Correlates definitions in the IRC with the NFIP.

Clarifies the access requirements where photovoltaic systems are installed on roofs.

Removes the habitable attic technical provisions from the definition of Habitable Attic and places the requirements in the body of the code, with the intent of maintaining the existing Virginia technical amendments.

Exempts accessory dwelling units from the sound transmission requirements between dwelling units.

Deletes the GFCI protection requirements for outside outlets serving HVAC systems.

Restricts the installation of electric resistance heating and of heat pumps that are designed to activate resistance back-up when outdoor temperatures are above 40°F.

Updates the code provisions related to duct testing to be consistent with the 2021 International Energy Conservation Code (IECC).

Requires new heating and cooling equipment that are part of a residential alteration to be sized in accordance with the IECC.

Requires refrigeration cooling equipment to comply with applicable UL standards.

Mandates a UL listing for any equipment using A2L refrigerant and field installed items to be installed per the manufacturer's installation instructions.

Allows the use of one-step solvent cement, green in color, which has already been approved in the 2024 International Plumbing Code (IPC).

13VAC5-63-220

Removes a broken link to Section 1002.2 in the VCC.

Provides the connection between the VCC and the International Fire Code (IFC) for Plant Processing or Extraction Facilities (IFC Chapter 39).

Clarifies that Energy Storage Systems must comply with the applicable IFC requirements.

13VAC5-63-230

Makes it clear that fire walls create separate buildings for application of Chapter 9 of the VCC and other provisions beyond allowable height and area.

Deletes an exception that states party walls and fire walls on lot lines dividing certain buildings for ownership purposes are not required.

13VAC5-63-240

Deletes the new IBC occupant load threshold for requiring an automatic sprinkler Group E fire area, maintaining the state amended fire area threshold.

Removes the antiquated language of "radiating cable" used by the In-Building Emergency Communication provisions and replaces it with the term "cabling".

Provides a reference to the IFC for the technical provisions and installation requirements for In-Building Emergency Communication systems.

13VAC5-63-245

Separates I-1 and I-3 occupancies in the Corridor Fire-Resistance Rating Table and provides specific ratings for each occupancy based on the presence of a sprinkler system.

Corrects an incorrect reference in the VCC from Section 1019.3, Item 4, to 712.1.13.

Removes an invalid reference to deleted elevator hoistway provisions.

Adds "public buildings" to the list of uses/occupancies already allowed to be provided with emergency supplemental hardware.

13VAC5-63-250

Revises the exception for emergency supplemental hardware with better syntax.

13VAC5-63-264

Removes the Virginia amendments to solar heat gain coefficients.

Corrects existing language to prohibit the use of dampers where grease ducts serving a Type 1 hood are installed.

Requires new heating and cooling equipment that are part of a commercial alteration to be sized in accordance with the Virginia Energy Conservation Code provisions for new construction.

Adds a new Appendix to be used as an alternative to the building thermal envelope provisions of the IECC for Groups F, S, and U.

Restricts the installation of electric resistance heating and of heat pumps that are designed to activate resistance back-up when outdoor temperatures are above 40°F.

Updates the code provisions related to duct testing to be consistent with the 2021 IECC.

Requires new heating and cooling equipment that are part of a residential alteration to be sized in accordance with the IECC.

13VAC5-63-270

Incorporates provisions and design parameters for buildings in tornado prone regions.

13VAC5-63-300

Deletes the GFCI protection requirements for outside outlets serving HVAC systems.

13VAC5-63-310

Corrects an error related to ventilation rates for general doctor and dentist offices.

Removes refrigeration fittings from table 1101.2, as they are already regulated in Section 1107.5; and adds the appropriate referenced standards for refrigeration equipment.

Incorporates new reference standards for Group A2L, A2, A3, and B1 refrigerants.

Provides provisions for the changing of refrigerant from one safety class to another.

Updates the refrigerant table with new refrigerants added to ASHRAE Standard 34.

Requires high probability systems used for human comfort to use Group A1 or A2L refrigerant and restricts group A3 and B3 refrigerants to laboratories and industrial occupancies.

Revises the section title from "Flammable refrigerants" to specific classes of refrigerant: "Class 2 and 3 refrigerants".

Correlates the machinery room requirements in the International Mechanical Code with the 2019 edition of ASHRAE 15.

Deletes the ventilation system activation provisions for machinery rooms using Group A2L refrigerant.

Updates the UL 60335-2-89 standard to the most recent version which was published in October of 2021.

Expands the list of acceptable pressure test ports beyond a simple tee fitting by recognizing integral test ports in devices that meet the intent of the code.

13VAC5-63-320

Allows the use of one-step solvent cement, green in color, which has already been approved in the 2024 IPC.

Allows food waste grinders to connect to grease interceptors if the discharge passes through a solid interceptor first.

13VAC5-63-330

Correlates the VA exceptions with the IBC requirements for fire service access elevators and occupant evacuation elevators.

Fixes several broken links to the requirements for elevator lobbies, in other parts of the code, by reinstating Section 3006.

Maintains the VA amendment which limits the applicability of occupant evacuation elevator (OEE) requirements to buildings over 420 feet in building height.

13VAC5-63-340

Clean up of Chapter 33, Fire Safety During Construction, to relocate construction provisions from the Statewide Fire Prevention Code (SFPC) and correlate better with the SFPC and Virginia Existing Building Code (VEBC).

13VAC5-63-410

Clarifies when to bypass the VEBC and when to use the VEBC when an I-2 or I-3 occupancy is involved.

Correlates the repair or replacement of smoke alarms in the VEBC with the Virginia Residential Code.

13VAC5-63-420

Requires elevation certificates to be prepared by a certified land surveyor or registered professional engineer licensed in Virginia.

13VAC5-63-430

Removes accessibility as a trigger to determine change of occupancy since there are no change of occupancy driven accessibility requirements.

13VAC5-63-431

Provides a pointer to the VRC requirements for operational constraints of emergency escape and rescue openings.

13VAC5-63-432.5

Clarifies how to apply the accessibility provisions to existing toilet facilities and drinking fountains.

13VAC5-63-433

Adds a new referenced standard for assessing, designing, and repairing structural concrete: ACI 562.

13VAC5-63-433.3

Deletes Section 603.6 (plumbing requirements triggered by alteration work) to remove the potential for conflicts with the exception to Section 710.1 (plumbing requirements triggered by work associated with a change of occupancy).

13VAC5-63-433.3

Continuation of the clean-up editorial work that has been done each code development cycle to Chapter 14.

Removes the exception to Section 707.2 (Exterior wall rating for change of occupancy classification to a higher hazard category) of the VEBC as it would never be applicable.

13VAC5-63-438

Deletes the sanitary facility requirements during construction to be congruent with the Virginia Plumbing Code.

Clean up of the construction safeguards provisions to better correlate with the VCC and SFPC.

13VAC5-63-450

Revises the short title of the Virginia Maintenance Code (VMC) to the Virginia Property Maintenance Code (VPMC) to resolve the historical and practical issue of confusion with the Virginia Mechanical Code (VMC).

13VAC5-63-470

Clarifies that a tenant's responsibility is limited and protected under the Virginia Residential Landlord and Tenant Act.

Simplifies the unsafe building provisions.

13VAC5-63-530

Deletes construction and construction inspection provisions as they are not within the scope of the Virginia Maintenance Code.

13VAC5-63-540

Clarifies the applicability of Appendix N of ASME A17.1.

13VAC5-63-545

Deletes invalid provisions in Section 703.2 and 703.7 and revises 703.3 and 703.8 to remove invalid retrofit provisions.

Revises Section 704.1.1 to reference the applicable building code regarding how existing fire protection systems are to be maintained; deletes the alteration provisions of 704.1.

Removes the inspection, testing and maintenance of fire protection systems since they are already in the SFPC.

Removes provisions that fall under the jurisdiction of the fire official and belong in the SFPC.

Removes invalid retrofit provisions in the International Property Maintenance Code.

Mandate and Impetus

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, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “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 USBC is required per section 36-98 of the Code of Virginia. Further, Section 36-99 indicates that modifications and provisions of the USBC should have due regard for, “generally accepted standards as recommended by nationally recognized organizations”. The USBC 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 stakeholder groups and the public.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

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> . 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.