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Exempt Action Proposed Regulation Agency Background Document

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| Agency name | Board of Housing and Community Development |
| Virginia Administrative Code (VAC) citation(s) | 13VAC5-51 |
| Regulation title(s) | Statewide Fire Prevention Code (SFPC) |
| Action title | Update the SFPC |
| 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 Statewide Fire Prevention Code (SFPC) is a regulation governing the maintenance of the fire protection aspects of existing structures and operational functions relating to fire safety wherever located, including the regulation of the use of explosives and blasting and fireworks displays. The SFPC uses a nationally recognized model code produced by the International Code Council as the basis for the technical provisions of the regulation. Every three years, a new edition of the model code becomes available. At that time, the BHCD initiates a regulatory action to incorporate the newest edition of the model code 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 code 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 SFPC:

13VAC5-51

Several updates throughout the SFPC to change references to “applicable building code” to the specific chapter, NFPA or other standard.

13VAC5-51-130

Update definition for “Corrosive” to include specific pH values.
Add a definition for “permissible fireworks”.
Add a definition for “emergency supplemental hardware”

13VAC5-51-131

Change to restrict combustible storage under bridges and along roadways.

13VAC5-51-132

Add provisions and parameters to allow the use of emergency supplemental hardware.

13VAC5-51-135.5

Removes language that says security devices are subject to approval by the fire official; requires permit under the Uniform Statewide Building Code.

13VAC5-51-138.4

Updated the section for foam protection for rooftop heliports.

13VAC5-51-138.8

Several updates to reference the specific chapter and NFPA standard instead of using the blanket terminology “applicable building code.”
Add section for Type II systems in Dry cleaning operations and fire-fighting access for such.

13VAC5-51-140

Many changes to the sections for dispensing operations and dispensing devices to add provisions for disconnect switches and fuel shut off parameters
Added provisions for special containers and enclosures.
Added a section for Repair garages for lighter than air fuels (CNG, LNG, hydrogen).
Added provisions and updated the sections for spray booths, spray applications and the ventilation requirements for such.
Updated dip-tank operations sections and the volumetric limitations and provisions pertaining to each level of liquid capacity.

13VAC5-51-141

Updated the requirements for ethylene generator rooms and the air circulation requirements.

13VAC5-51-142.5

Updated the requirements for dust control, explosion venting and the storage and removal of waste from lumber yards and other woodworking facilities.

13VAC5-51-143.5

Added restrictions for nitrocellulose in mills.

13VAC5-51-144

Added back in a section for manual fuel shutoff valves.

13VAC5-51-144.2

Added “temporary special event structures” to scoping section and added size and square footage restrictions for tents and other membrane structures. Also added a list of documents required to be submitted with an operational permit for membrane structures.

13VAC5-51-144.4

Added requirements for a “high-piled storage operational plan”;

13VAC5-51-144.6

Added back in a section to locate buffing operations in a separate part of the building in which tire rebuilding occurs.

13VAC5-51-145

Added a new term “permissible fireworks” to Table 5003.1.1(1) and changed the quantities allowable for such.

13VAC5-51-146.5

Added sections for compressed gas storage and protections against dangers related to such.

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.”

Section 27-97 of the Code of Virginia empowers the Board to promulgate the SFPC. In adopting the SFPC the Code states that the, “Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations including, but not limited to, standards of the International Code Council, the National Fire Protection Association, and recognized organizations issuing standards for the protection of the public from the hazards of explosives and blasting agents. Such standards shall be based on the companion document to the model building code referenced by the Uniform Statewide Building Code.” The SFPC and USBC use 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 proper and safe maintenance of structures in Virginia as related to fire safety.
- 2) There were limited, specific, comments submitted during the Periodic Review/NOIRA comment period. The comments were not submitted as a result of the Notice of Periodic Review of Regulation or NOIRA but rather as a result of a regulatory concern that occurred during that timeframe. Staff responded to each comment with additional information about opportunities for public comment and the process for initiating code changes. The comments were also forwarded to the Board.
- 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.