



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	Board of Housing and Community Development
VAC Chapter Number:	13 VAC 5-51-11 et seq.
Regulation Title:	Virginia Statewide Fire Prevention Code
Action Title:	Proposed
Date:	9/25/02

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The substantive amendments to this regulation proposed by the Board of Housing and Community Development (Board) are as follows:

To update the referenced 1996 Building Officials and Code Administrators International, Inc. (BOCA) fire prevention model codes and standards to the 2000 editions of the International Code Council (ICC) in the Virginia Statewide Fire Prevention Code (SFPC) (13 VAC 5-51-10 et seq.).

To add a provision that in accordance with sanctions prescribed by the Virginia Certification Standards (13 VAC 5-21-10 et seq.) the fire official and assistants may be held responsible for failure to discharge any duty required by law or by the SFPC.

To add a requirement that the fire official must notify the DHCD within 60 days of the employment or contract of assistants for enforcement of the SFPC.

To change the time allowed for a person employed by or under contract to an enforcing agency for enforcing the SFPC shall be certified in the appropriate subject area in accordance with the Virginia Certification Standards (13 VAC 5-21-10 et seq.) from three years to one and a half years.

To add a requirement that fire apparatus access roads may be provided and maintained in accordance with adopted local ordinances that establish fire apparatus access road requirements and such requirements shall be identified to the owner or his agent prior to the building official's approval of the building permit.

To amend the fees for permits issued by the State Fire Marshal's office for the storage, use, sale or manufacture of explosives or blasting agents, and for the display of fireworks on state-owned property as follows:

1. From \$50 per year per site to possess, store and dispose of explosives and blasting agents to \$100 per year per magazine to store explosives and blasting agents.
2. From \$75 per year per city or county to use explosives and blasting agents to \$150 per year per city or county to use explosives and blasting agents.
3. From no fee for the manufacture and sale of fireworks, explosives and blasting agents (a) to \$150 per year to sell explosives and blasting agents, (b) to \$200 per year to manufacture explosives, blasting agents and fireworks, (c) to \$200 per event for fireworks, pyrotechnics or proximate audience displays conducted indoor of any state-owned buildings and (d) to \$100 per event for fireworks, pyrotechnics or proximate audience displays conducted out-of-doors on any state-owned property.

To add a fee of \$150 for obtaining or renewing a background clearance card from DHCD.

To delete a requirement that the applicant pay all additional fees charged by other agencies for fingerprinting and for obtaining a national criminal history record check through the Central Criminal Records Exchange to the Federal Bureau of Investigation.

To amend the fee for obtaining or renewing a blaster certificate from DHCD from \$30 to \$150.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

There is no federal source of legal authority to promulgate the regulation.

The statutory authority for the Board of Housing and Community Development to promulgate the regulations is found in the General Assembly's mandate to the Board in § 27-97 of the Code of Virginia, which empowers the Board to adopt and promulgate a Statewide Fire Prevention Code which shall be cooperatively developed with the Fire Services Board.

§ 27-97. Adoption of Fire Prevention Code.

The Board of Housing and Community Development is hereby empowered to adopt and promulgate a Statewide Fire Prevention Code which shall be cooperatively developed with the Fire Services Board pursuant to procedures agreed to by the two Boards. The Fire Prevention Code shall prescribe regulations to be complied with for the protection of life and property from the hazards of fire or explosion and for the handling, storage, sale and use of fireworks, explosives or blasting agents, and shall provide for the administration and enforcement of such regulations. The Fire Prevention Code shall require manufacturers of fireworks or explosives, as defined in the Code, to register and report information concerning their manufacturing facilities and methods of operation within the Commonwealth in accordance with regulations adopted by the Board. In addition to conducting criminal background checks pursuant to § 27-97.2, the Board shall also establish regulations for obtaining permits for the manufacturing, storage, handling, use, or sales of fireworks or explosives. In the enforcement of such regulations, the enforcing agency may issue annual permits for such activities to any state regulated public utility. Such permits shall not apply to the storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1.

The Fire Prevention Code shall prohibit any person, firm, or corporation from transporting, manufacturing, storing, selling, offering for sale, exposing for sale, or buying, using, igniting, or exploding any fireworks except for those persons, firms, or corporations that manufacture, store, market and distribute fireworks for the sole purpose of fireworks displays permitted by an enforcement agency or by any locality.

The Fire Prevention Code shall supersede fire prevention regulations heretofore adopted by local governments or other political subdivisions. Local governments are hereby empowered to adopt fire prevention regulations that are more restrictive or more extensive in scope than the Fire Prevention Code provided such regulations do not affect the manner of construction, or materials to be used in the erection, alteration, repair, or use of a building or structure, including the

voluntary installation of smoke alarms and regulation and inspections thereof in commercial buildings where such smoke alarms are not required under the provisions of the Code.

In formulating the Fire Prevention Code, the Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations including, but not limited to, standards of the Southern Building Code Congress, the Building Officials and Code Administrators International, Inc., 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 Fire Prevention Code shall require that buildings constructed prior to 1973 be maintained in accordance with state fire and public building regulations in effect prior to March 31, 1986, and that any building which is (i) more than seventy-five feet or more than six stories high and (ii) used, in whole or in part, as a dormitory to house students by any public or private institution of higher education shall be required to comply with the provisions of § 36-99.3. The Fire Prevention Code shall also require annual fire drills in all buildings having floors used for human occupancy located more than seventy-five feet above the lowest level of fire department vehicle access. The drills shall be conducted by building staff personnel or the owner of the building in accordance with a plan approved by the appropriate fire official and shall not affect other current occupants. The Board may modify, amend or repeal any Code provisions as the public interest requires. Any such Code changes shall be developed in cooperation with the Fire Services Board pursuant to procedures agreed to by the two Boards.

(1986, c. 429; 1988, cc. 199, 340; 1989, cc. 90, 420; 1990, c. 69; 1991, c. 53; 1994, c. 275; 1997, c. 584; 2000, cc. 951, 1065; 2002, c. 856.)

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+27-97>

The Office of the Attorney General has certified that the Board of Housing and Community Development has the statutory authority to promulgate the proposed amendments.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The rationale for the substantive changes to this regulation being proposed by the Board is as follows:

To update the referenced 1996 Building Officials and Code Administrators International, Inc. (BOCA) construction model codes and standards to the 2000 editions of the International Code Council (ICC).

To add a provision that in accordance with sanctions prescribed by the Virginia Certification Standards (13 VAC 5-21-10 et seq.) the fire official and assistants may be held responsible for failure to discharge any duty required by law or by the SFPC.

To add a requirement that the fire official must notify the DHCD within 60 days of the employment or contract of assistants for enforcement of the SFPC.

To change the time allowed for a person employed by or under contract to an enforcing agency for enforcing the SFPC shall be certified in the appropriate subject area in accordance with the Virginia Certification Standards (13 VAC 5-21-10 et seq.) from three years to one and a half years.

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Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

The key provisions of the regulation that changes the current status of law are the following:

To update the referenced 1996 Building Officials and Code Administrators International, Inc. (BOCA) construction model codes and standards to the 2000 editions of the International Code Council (ICC).

To add a provision that in accordance with sanctions prescribed by the Virginia Certification Standards (13 VAC 5-21-10 et seq.) the fire official and assistants may be held responsible for failure to discharge any duty required by law or by the SFPC.

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Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The primary advantage for the public of implementing the new regulation will be the updating of referenced model codes and standards up to the latest editions, which should be less burdensome and intrusive. The agency sees no disadvantages for the public or the Commonwealth.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

The minimum included identity of anticipated fiscal impacts for the proposed regulation as are being proposed are as follows:

- (a) The projected cost increase to the state to implement and enforce the proposed regulation is zero.
 - (i) The fund source / fund detail is not applicable.
 - (ii) The budget activity with a cross-reference to program and subprogram is not applicable.
 - (iii) The delineation of one-time versus on-going expenditures is not applicable.
- (b) The projected cost of the regulation on localities may be zero.
- (c) A description of the individuals, businesses or other entities that are likely to be affected by the regulation is unknown.
- (d) The agency's best estimate of the number of such entities that will be affected is unknown.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

All of the substantive changes to this regulation being proposed by the Board are the following:

To update the referenced 1996 Building Officials and Code Administrators International, Inc. (BOCA) construction model codes and standards to the 2000 editions of the International Code Council (ICC).

To add a provision that in accordance with sanctions prescribed by the Virginia Certification Standards (13 VAC 5-21-10 et seq.) the fire official and assistants may be held responsible for failure to discharge any duty required by law or by the SFPC.

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Alternatives

Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

During the proposed adoption phase of this regulatory action the Board asks various groups to review the provisions of this regulation and offer comments and suggestions for specific alternatives.

The Board decided to adopt as proposed regulations, most of the suggestions submitted to the Board for improvement, in order to provide a public review of the format, arrangement and the amendments. The rationale of this procedure forms the basis of the process used by the Board to select the least burdensome and intrusive alternatives that meets the essential purpose of this regulatory action.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

The agency received no public comment during the NOIRA comment period.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

Based on the Board’s thorough examination of this regulation and relevant public comments received on the draft proposed regulation, the Board has determined that the proposed regulation is clearly written and easily understandable by the individuals and entities affected.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

The Board will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. Such a review will take place no later than three years after the final regulation becomes effective. And the specific and measurable regulatory goals will be:

1. A regulation that represents the least burdensome or intrusive alternative that meets the essential purpose required of that regulation, and

2. A regulation that is clearly written and easily understandable by the individuals and entities affected.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

N/A