



Economic Impact Analysis Virginia Department of Planning and Budget

13 VAC 5-51 – Virginia Statewide Fire Prevention Code Board of Housing and Community Development November 12, 2002

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The General Assembly mandates in §27-97 of the Code of Virginia that the Virginia Board of Housing and Community Development (BHCD) adopt and promulgate a Statewide Fire Prevention Code (SFPC), developed cooperatively with the Fire Services Board.

The proposed regulation (1) updates 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), (2) increases the fees for permits issued by the State Fire Marshal for the storage, use, sale, or manufacture of explosives and blasting agents and for the display of fireworks on state-owned property, (3) adds a fee of \$150 for obtaining or renewing a background clearance card from the Department of Housing and Community Development (DHCD), (4) increases the fee for obtaining or renewing a blaster certificate from DHCD from \$30 to \$150, (5) establishes a minimum corporate surety bond or public liability insurance policy of \$500,000 to be filed by the applicant with the local jurisdiction before a permit for the storage, use, sale, or manufacture of explosives and blasting agents is issued, (6)

shortens the time allowed for fire officials and persons employed by or under contract to an enforcing agency to get certified in the appropriate subject area, (7) requires fire officials to notify the DHCD within 60 days of the employment of assistants to enforce the SFPC, (8) requires that local officials identify any fire apparatus access road requirements prior to the issuance of a building permit, and (9) requires fire hydrant systems to be located and installed according to written standards of the locality.

The proposed regulation also adds definitions, deletes unnecessary language, and makes clarifications to the existing regulation (including that fire officials and technical assistants will face sanctions as described in the Virginia Certification Standards when they fail to discharge their duties).

Estimated Economic Impact

(1) The proposed regulation updates the referenced 1996 BOCA fire prevention model codes and standards to the 2000 editions of the ICC. The economic impact of updating model codes and standards is not likely to be significant. Approximately 80-85% of the BOCA codes and standards were absorbed into the ICC and the new model codes and standards are not expected to significantly alter fire prevention practices in Virginia.

(2) The State Fire Marshal's Office is responsible for issuing permits relating to the storage, use, sale, and manufacture of explosives, blasting agents, and fireworks in localities that do not enforce the SFPC (the responsibility to issue permits lies with local fire officials when the locality has elected to enforce the SFPC). The proposed regulation amends the fees charged by the State Fire Marshal's Office: (a) permit fees for the use of explosives and blasting agents are increased from \$75 to \$150 per year per city or county, (b) permit fees for the storage of explosives and blasting agents are increased from \$50 per year per site to \$100 per year per magazine (the change from issuing permits per site to issuing them per magazine is not likely to have much impact as very few sites currently contain more than one magazine), (c) a permit fee of \$150 per year is now required to sell explosives and blasting agents, (d) a permit fee of \$200 per year is required to manufacture explosives, blasting agents, and fireworks, (e) a permit fee is now required for fireworks, pyrotechnics, or proximate audience displays on state-owned property – \$100 per event for outdoor displays and \$200 per event for indoor displays.

The fees charged by the State Fire Marshal's Office have not changed since the program was started in 1988. According to DHCD, the new fee schedule proposed is meant to defray the increase in costs in the intervening 14 years of reviewing applications, inspecting facilities, issuing permits, providing technical support, and investigating complaints. The increased scrutiny at the state and local level of the storage, use, sale, and manufacture of explosives, blasting agents, and fireworks since the terrorist attacks of September 11, 2001 has further increased these costs. The new fees and the increase in existing fees are based on DHCD's estimate of the minimum time and expense incurred in inspecting and issuing permits each year.

In fiscal year 2002, DHCD issued (a) 274 permits for the use of explosives and blasting agents, (b) 248 permits for the storage of explosives and blasting agents, (c) 0 permits to sell explosives and blasting agents, (d) 2-3 permits to manufacture explosives, blasting agents, and fireworks, and (e) 5-6 letters of approval for fireworks, pyrotechnics, or proximate audience displays on state-owned property. At the current number of permits, DHCD revenues would increase by approximately \$35,000. The net economic impact will depend on whether the improved safety and security is greater or less than the additional cost of getting these permits. Little or no data exists on injuries and deaths related to the issuance of permits for the storage, use, sale, and manufacture of explosives, blasting agents, and fireworks. In addition, it is not known to what extent these additional funds will improve safety in the Commonwealth. Consequently, no specific estimate if the net economic impact of this change is possible at this time.

(3) The General Assembly amended §27-97 of the Code of Virginia by adding a section numbered 27-97.2 by Chapter 951 of the Acts of Assembly for 2000 stipulating that anyone other than a certified blaster seeking to get a permit for the handling, storage, use, sale, or manufacture of explosives and blasting agents be subject to a background investigation, to include a national criminal history record check. Since the policy was put in place 18-24 months ago, applicants are only required to pay fees charged by other state agencies and the Federal Bureau of Investigation for fingerprinting and obtaining a national criminal history record check when obtaining or renewing a background clearance card.

The proposed regulation now requires applicants to pay an additional \$150 to DHCD for the issuance or renewal of a background clearance card. The fee is based on DHCD's estimate of

additional resources and staff time required to administer the collection of fingerprints and personal information required for the background clearance and to issue the cards. In fiscal year 2002, 56 background clearance cards were issued, each valid for three years. Assuming the same number of background clearance cards are issued in a year, the fee would result in \$8,400 in additional revenues to DHCD. The net economic impact will depend on whether the additional revenue will result in more effective and timely issuance and renewal of the background clearance cards and whether the improved efficiency is worth more or less than the additional cost of getting background clearance cards.

(4) The proposed regulation increases the fee charged for the issuance or renewal of a blaster certificate from \$30 to \$150 (certification is valid for three years). To be issued a blaster certificate by DHCD, applicants have to submit proof of the successful completion of required examinations and required work experience and have to go through a background check. The background check requirement was added by Chapter 951 of the Acts of Assembly for 2000. In the 2-4 weeks minimum time it takes to get the background clearance, DHCD has been issuing temporary blaster certification cards (valid for three months). Regular blaster certification cards are issued or the temporary cards are revoked depending on the results of the background check.

The \$30 blaster certification fee was established in 1988 and the increase in the fee reflects (i) DHCD's increased cost of administering the program in the intervening 14 years and (ii) the increased complexity of the permit issuance process and the additional resources and staff time required to collect fingerprints and personal information for the background check and for the issuance of temporary cards. The \$150 fee being proposed is similar to that being charged by neighboring states (West Virginia and Pennsylvania charge \$50 to issue a blaster certification card valid for one year).

In fiscal year 2002, 900 blaster certificates were issued and renewed by DHCD. The fee increase is not likely to have a significant impact on the number of individuals seeking to be certified as blasters as the additional cost is likely to be small fraction of the total construction costs. Assuming the same number of blaster certificates are issued and renewed in a year, the increase in fees would result in additional revenues of \$108,000 to DHCD. The net economic impact will depend on whether the additional revenue will result in more effective and timely

issuance and renewal of blaster certificates and whether the improved efficiency is worth more or less than the additional cost of getting certified as a blaster.

(5) The proposed regulation establishes a minimum amount of \$500,000 for corporate surety bonds and public liability insurance policy to be filed with the local jurisdiction before a permit for the storage, use, sale, or manufacture of explosives and blasting agents is issued. The bond or certificate of insurance is required to cover any potential damage to persons or property arising out of activities authorized by the permit. Under current policy, the amount of the bond or certificate of insurance is determined by the localities. The establishment of a minimum amount for the bond or certificate of insurance is not likely to have a significant economic impact. According to DHCD, the department has been recommending to localities for many years that the bond or certificate of insurance not be less than \$500,000 and hence the proposed change is not likely to significantly change current practice.

(6) The proposed regulation shortens the time within which fire officials hired to enforce the SFPC get certified from three years to one year after appointment. It also requires that technical assistants hired to enforce the SFPC get certified by BHCD one and a half years after appointment, rather than the three years currently required. Shortening the time required for fire officials and assistants to get certified is likely to have a small positive economic impact. According to DHCD, one year for fire officials and one and a half years for technical assistants is adequate time for individuals to take the required core and technical modules and get certified and requiring this shorter time limit will not significantly increase compliance costs. To the extent that the change reduces the number of under-qualified individuals enforcing the SFPC, the proposed change will have a net positive impact.

(7) The proposed regulation requires fire officials to notify the DHCD within 60 days of the employment of assistants to enforce the SFPC. This change is not likely to have a significant economic impact. While it adds a small additional cost on localities of reporting the information, it allows DHCD to better enforce the time limit within which assistants need to be certified, potentially reducing the number of under-qualified assistants.

(8) The proposed regulation requires local officials to identify any fire apparatus access road requirements to the owner prior to the issuance of a building permit. Fire access road requirements are determined by the local ordinances. The proposed change will have a positive

economic impact. It will impose a very small additional cost on localities of identifying the fire access road requirements before construction begins. On the other hand, it will save builders the cost of undertaking expensive corrective measures to meet these local fire access road requirements once construction is completed or close to completion.

(9) The proposed regulation also requires that fire hydrant systems be located and installed according to written standards of the locality. The proposed change is likely to have a small positive economic impact. To the extent that it encourages localities to maintain written standards, the proposed change will reduce arbitrariness and uncertainty faced by builders in the location and installation of fire hydrants.

Businesses and Entities Affected

The proposed changes to the regulation will affect (1) fire officials and technical assistants hired to enforce the SFPC, (2) individuals seeking permits related to the storage, use, sale, and manufacture of explosives, blasting agents, and fireworks in localities that do not enforce the SFPC, (3) individuals seeking to be certified or renewed as blasters, and (4) builders operating the Commonwealth.

Localities Particularly Affected

The proposed regulation affects all localities throughout the Commonwealth.

Projected Impact on Employment

The impact of the proposed changes to this regulation on employment is not known. The new fee schedule for the issuance and renewal of permits and background clearance cards will make it more expensive for businesses involved in the storage, use, sale, or manufacture of explosives and blasting agents. However, the more effective and timely issuance of these permits could lower costs for these businesses. The increased cost of getting a blaster certification could affect the number of individuals seeking to be certified as blasters. The shortening of the time limit for fire officials and assistants to get certified could affect the number of individuals employed or under contract to an enforcing agency to enforce the SFPC.

Effects on the Use and Value of Private Property

The effect of the proposed changes to the regulation on the use and value of private property is not known. While the higher fees for permits and background clearance cards for the

storage, use, sale, or manufacture of explosives and blasting agents will increase costs, the more effective and timely issuance of these permits could reduce the cost of doing business. For builders operating in the Commonwealth, the requirement that local officials identify fire access and fire hydrant requirements prior to the start of construction is likely to lower uncertainty and hence the costs associated with construction.