



Final Regulation Agency Background Document

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| Agency name | Department of Housing and Community Development |
| Virginia Administrative Code (VAC) citation | 13 VAC 5-51-21 through 5-51-155 |
| Regulation title | Virginia Statewide Fire Prevention Code |
| Action title | Final Regulations |
| Document preparation date | August 5, 2005 |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Enter statement here: The Virginia Statewide Fire Prevention Code ensures life safety and fire protection systems are properly maintained and provide safeguards for the proper handling of hazardous materials and explosives. The proposed substantive changes deal with the display and storage of smokeless powder, the use of naturally cut trees to be in homes and sprinkled buildings, the inspections of nightclubs, private hospitals, dormitories and schools, the allowance of alcohol-based dispensers to be mounted on walls in the hallways of hospitals and other health care facilities and provisions to store LP-gas containers for retail purposes closer to openings.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

Enter statement here: The Board of Housing and Community Development approved the Virginia Statewide Fire Prevention Code at their regularly scheduled meeting on July 26, 2005.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Enter statement here: The Board of Housing and Community Development promulgates the Virginia Statewide Fire Prevention Code pursuant to the COV § 27-97 as mandatory authority.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

Enter statement here: The proposed regulations adopt new model consensus codes and standards that enable the fire prevention inspectors and fire officials to deal effectively with new technologies in fire protection and alarm systems; the storage and proper maintenance of flammable and hazardous materials; and, to provide for better and improved means to prevent the spread of infectious diseases in hospitals. The regulations allow for homeowners and buildings with sprinkler systems to have during holidays the use of natural cut trees and further allow gun show operators, civil war enactors, retailers and gun owners to safety store and use smokeless powder. The proposed regulations provide for annual inspections of occupancies such as nightclubs, private hospitals, dormitories and schools by the State Fire Marshal Office thereby being pro-active and reducing significantly the chance of disastrous fires in these vulnerable occupancies. Finally, the owners of small mercantile businesses are provided relief from more restrictive distance form opening provisions for the storage of LP-gas containers.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

Enter statement here: In 13VAC 5-51-81 O permit fees for firework displays are increased to cover the cost of inspections. In 13VAC 5-51-81 P a new fee schedule is adopted for the State Fire Marshal Office to cover inspections costs for the inspection of nightclubs and private hospitals, schools and dormitories. In 13VAC 5-51-130 a new definition is added for "nightclubs" as part of the occupancy inspection program mandated by the 2004 General Assembly. In 13VAC 5-51-131 A requires the maintenance of occupancy unless the building official determines that there has been a change of occupancy or occupancy classification. In 13VAC 5-51-131 C and D and 13VAC 5-51-150 L, N, P and Q sets forth new and less restrictive requirements for the storage, display and handling of smokeless powder and primers. In 13VAC 5-51-132 G requires an announcement is made prior to and before the entertainment in nightclubs commences that identifies for new patrons or those being served alcohol know where the approved exits are located. In 13VAC 5-51-134 natural cut trees are permitted within dwelling units, places of worship and in sprinkled Groups A, E, M, R-1 and R-2 thus preserving the erection of Christmas

trees during the holiday season. In 13VAC 5-51-135 G new electronic monitoring technology is allowed to be installed to check fire extinguishers in lieu of visual inspections. In 13VAC 5-51-135 H for Group R-1 hotels and motels battery smoke detectors need to be tested monthly by the owner and recorded for annual inspections by the fire official. In 13VAC 5-51-145 A and 13VAC 5-51-152 A and B wall-mounted dispensers for use by medical personnel for disinfectant control would be allowed in hospitals and other health care facilities. In 13VAC 5-51-145 B and C hazardous material records are required to be stored in approved containers along with approved hazardous material plans for use by the emergency responders. In 13VAC 5-51-154 A through G provide less restrictive, but safe, distances for the storage for retail sales of LP-gas containers used for grilling and provides for overnight parking of LP-gas trucks during winter in residential neighborhoods to be available for emergency deliveries.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 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 indicate.

Enter statement here: These proposed regulations provide for small businesses and citizens safe storage and retail sales for smokeless powder and primers and for LP-gas containers by having less restrictive requirements. The use of natural cut trees for holiday seasons that were prohibited in the model codes continues a tradition that has been allowed since the inception of the statewide fire code. Citizens can enjoy their Christmas trees and Christmas tree growers would not be significantly harmed economically to the point that hundreds of small Virginia Christmas tree growers would have been put out of business. Health care personnel will have the availability of a more effective way to cleanse their hands after examining patients resulting in better control of the spread of **infections and** contagious diseases. Enabling the State Fire Marshal Office the ability to inspect nightclubs and other at-risk occupancies is a pro-active effort to prevent or lessen the chances for any catastrophic fire and subsequent loss of lives and substantial number of injuries and property losses from occurring that has been seen in other states. Overall there are no adverse disadvantages to the public or the Commonwealth.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

| Section number | Requirement at proposed stage | What has changed | Rationale for change |
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| 13VAC 5-51-81P | None for occupancy inspections | Establishes fees for occupancy inspections of at-risk occupancies for nightclubs, dormitories, schools and hospitals mandated and authorized by the 2004 General Assembly | Currently these occupancies are not being inspected by the State Fire Marshal Office and recent tragic fires in other states calls for a more pro-active approach to minimize the chances of such tragic fires |

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| 13VAC 5-51- 131 A | Similar to text in SFPC 102.1.1 | Places into the technical section occupancy requirements and who is to approve. | occurring in the Commonwealth. To ensure enforcement of occupancy is coordinated and clarified for the code officials and users. |
| 13VAC 5-51- 131 C &D | | | |
| 13VAC 5-51- 150 A, B, L, N, P and Q | | | |
| 13VAC 5-51- 132 G | None | Requires announcement before the start of entertainment to inform patrons in nightclubs where the exits are located. | Nightclubs have ever changing patrons and drinking of alcohol that affects the patron's ability to discern exits without reminders. |
| 13VAC 5-51- 134 | Would prohibit Christmas trees in dwelling units and other non sprinkled occupancies | Allows Christmas trees in homes and other sprinkled occupancies | Restores less restrictive provisions from the 1996 SFPC and honors commitment made to the General Assemble to do so. |
| 13VAC 5-51- 135 H | Requires annual inspections of smoke detectors. Was then the requirement for 2 1/2 years under the 2000 SFPC. | Requires only for Group R-1 hotels and motels monthly testing and recording of results for only battery smoke detectors. | The 1996 SFPC did require monthly weekly testing. |
| 13VAC 5-51- 145 A and 13VAC 5-51- 152 A and B | None | Allows corridor wall-mounted dispensers for alcohol-based disinfectant for use by medical personnel in hospitals and other health care facilities. | Reduces significantly the spread of contagious diseases. |
| 13VAC 5-51- 154 A | International Fire Code more restrictive requirements | Provides less restrictive distance requirements from building | The less restrictive provisions still provide |

Enter any other statement here:

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

| Current section number | Proposed new section number, if applicable | Current requirement | Proposed change and rationale |
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| | 13VAC 5-51-81P | None | Establishes fees for occupancy inspections of at-risk occupancies for nightclubs, private college dormitories, private schools and hospitals mandated and authorized by the 2004 General Assembly. Currently these occupancies are not being inspected by the State Fire Marshal Office and recent tragic fires in other states call for a more pro-active approach to minimize the chances of such tragic fires. Public college dorms and public schools are currently inspected on an annual basis. |
| 13VAC 5-51-131 | 13VAC 5-51-131 A | Similar to Section 102.1.1 | Places into the technical section occupancy requirements and who is to approve changes. This will help ensure that enforcement of occupancy is coordinated and clarified for the code officials and users. |
| 13VAC 5-51-131 | 13VAC 5-51-131 C &D | Existing language does not include provisions for smokeless powder. | Establishes provisions for the sale of smokeless powders and small arms primers during trade shows inside exhibition halls. This would include gun shows and similar events. This change was a recommendation of an ad hoc committee of the Board of Housing and Community Development consisting of building and fire officials, vendors, and consumer groups convened to study existing provisions of the Statewide Fire Prevention Code and make appropriate recommendations for changes to address |

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| <p>13VAC 5-51-150</p> | <p>13VAC 5-51-150 A,B,L, N, P and Q</p> | <p>Current Code has very low limits relating to use, storage and handling of small arms primers and smokeless powder. For example, In mercantile occupancies not more than 20 pounds of smokeless powder in one pound cans may be displayed. This, in some stores would not be enough to display one each of every type of powder available.</p> | <p>concerns from client groups that existing provisions were to strict.</p> <p>This change will increase provisions for the sale, use, storage, and handling of smokeless powders and small arms primers for vendors, retailers, re-enactors, and private individuals. This would include gun shows and similar events. This change was a recommendation of an ad hoc committee of the Board of Housing and Community Development consisting of building and fire officials, vendors, and consumer groups convened to study existing provisions of the Statewide Fire Prevention Code and make appropriate recommendations for changes to address concerns from client groups that existing provisions were to strict.</p> |
| | <p>13VAC 5-51-132 G</p> | <p>None</p> | <p>Requires announcement before the start of entertainment to inform patrons in nightclubs where the exits are located. Nightclubs have ever changing patrons and drinking of alcohol that affects the patron's ability to discern exits without reminders. Similar provisions have been included in the Code for several years for other assembly type occupancies. This is a recommendation of the Public Assembly Fire and Life Safety Task Force's study requested by Governor Warner.</p> |
| <p>13VAC 5-51-134</p> | <p>13VAC 5-51-134</p> | <p>The Code currently has the same provisions adopted by emergency regulations in response to 2004 HB 622. .</p> | <p>This change is to make permanent the provisions of the emergency regulations and will allow natural cut Christmas trees in homes and places of worship that are non sprinkled in response to legislation by the 2004 General Assemble, HB 622.</p> |
| <p>13VAC 5-51-135</p> | <p>13VAC 5-51-135 H</p> | <p>The current Code is not very specific relating to testing but references NFPA Standard 72 on Fire Alarms.</p> | <p>Requires monthly testing and recording of results for only battery smoke detectors. The 1996 SFPC did require weekly testing. . This change is in response to continuing problems with maintenance of battery powered smoke detectors. Hard wired smoke detectors replaced battery powered smoke detectors as a requirement in new construction several years ago with battery backups required by current codes. Battery powered smoke detectors are still used in retrofit applications but will continue to decline in use.</p> |

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| <p>13VAC 5-51-145 A and 13VAC 5-51-152</p> | <p>13VAC 5-51-145 A and 13VAC 5-51-152 A and B</p> | <p>Current Code requirements are ambiguous but storage and use of flammable liquids in means of egress are normally prohibited</p> | <p>Provides requirements for the safe use and storage of flammable hand wash disinfectants in corridors of health care occupancies. The Center for Disease control recommends the use of these products to reduce more than 80,000 deaths per year associated with infections incurred after admittance to hospitals. This new provision should reduce significantly the spread of contagious diseases and numbers of infections. The Federal Center for Medicaid and Medicare Services has begun the process to amend their regulations for hospitals to allow the same.</p> |
| <p>13VAC 5-51-154</p> | <p>13VAC 5-51-154 A through G</p> | <p>Current provisions require 20 feet of separation from building openings for containers, does not permit parking in residential areas and does not require an overfill protection device for portable containers when being filled.</p> | <p>New and revised provisions provides less restrictive distance requirements from building openings for LP-gas containers used for grilling and allows LP-gas truck to be parked in residential occupancies to respond to request for emergency deliveries. The less restrictive provisions still provide adequate safety with the reduced distance from openings and allow suppliers and dealers to respond to emergency request during winter months or other natural disasters. The requirement for over fill protective device is in line with NFPA and industry standards which currently require containers manufactured after September 30, 1998 to have the device. Many of the older models have already been modified to meet the new standard and cannot be re qualified without meeting the new requirements.</p> |

Enter any other statement here:

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

Enter statement here: These regulations positively impact families by reducing opportunities for the spread of diseases in hospitals; by ensuring during winter months propane for heating can be delivered to homes.