



May 25, 2018

The adoption process of the 2018 Statewide Fire Prevention Code (SFPC), (base document is the 2015 International Fire Code (IFC)), is not intended to emulate emergency code changes. As you are aware this code change is a result of the on-going effort by the Department of Housing and Community Development (DHCD) to remove unenforceable language and to simplify the code for the lay person readability.

Furthermore, this effort attempts to eliminate any provisions of the SFPC or the referenced standards that are not within the scope of the administrative chapter of the SFPC. Unfortunately, the judgement that has so prudently been applied throughout the Commonwealth by the State Fire Marshal and the local fire officials/fire marshals, as sanctioned by section 103.2.1 of the SFPC, is attempting to be removed without supporting evidence.

The Fire Service agencies continue to be gravely concerned with the proposed regulations and the negative impact that will follow on fire and life safety. We have been involved raising objections throughout the process. In an effort to find consensus with the DHCD staff document, through workgroup meetings, the Fire Services Board's Codes and Standards Committee, with VFPA members, tackled the voluminous, complex and complicated endeavor to remove the "unenforceable language" as identified in section 101.4 of the SFPC. Where consensus was found, it is reflected in the proposed regulations. But where there was not consensus the proposed DHCD staff language prevailed and is printed in the proposed SFPC.

The proposed SFPC was published in the Virginia Register on April 30, 2018. Here is a link: <http://register.dls.virginia.gov/details.aspx?id=6874>. This marks the beginning of final action phase, and the beginning of a 60-day final adoption period.

As you read the proposed regulations you may note a "(N)" in front of many section numbers. The "(N)" designation in front of a section number indicates that the text of that section was amended or deleted during the code update process to remove "construction-related provisions" (similar to a vertical line in the column of a code book indicating a change from the previous edition of the code). The text as shown in the Virginia Register is the final text of the regulation. But there will be an Appendix N that will include the original text from the 2018 IFC. This supplemental document (Appendix N) is not part of the regulation and cannot be published in the Virginia Register. The supplemental information will be included, for informational purposes only, in the SFPC printed code books.

There have been many concerns raised throughout this process. From the Board of Housing and Community Development not consistently following Robert's Rules of Order and stifling opposing voices, to the proposed final regulations not being made available to the Fire Services Board representatives at the same time as it was provided to the building officials group (two weeks in advance). But the most concerning points are: the more than 80 changes in the proposed final regulations which were not presented to, or vetted in the workgroup process. And the several discrepancies between the document that was approved at the Codes and Standards Committee meeting on September 18, 2017 and the Final Regulations presented to the Board of Housing on October 16, 2017. There was no review of those changes or justifications for them being changed in the full board meeting.

For brevity cited below are but a few of the specific issues noted mostly in the first ten chapters. Additional problems will be posted on the VFPA website. Neither of these are intended to be an exhaustive list, nor to indicate that only the listed chapters have conflicts. Merely, the depth and breadth of the issues, and despite the desire to find consensus in the first 10 chapters there continues to be problems in these chapters, let alone the remaining chapters that did not undergo this same exhaustive process.

A vast majority of the changes have been to remove code specifics, such as

Chapter 2: The definition of “maintained” creates a conflict within various portions of the code given the definition includes, “continuance as installed” such as the changes in **803.5.1; 803.5.1.1; and 803.8.1** – These deletions were only considered “consensus” by the FSB Code Committee if table 803.3 was retained in the SFPC. This change does damage to the SFPC and weakens the code by allowing wall coverings which do not require a USBC permit due to size, to now also be unregulated by the SFPC.

304.1.2 – This new language removes a recognized standard and creates a condition to be corrected based on judgement rather than the prescriptive and specific criteria contained in the referenced standard.

603.3.2.4 – This code sections scope had been changed with a consensus workgroup recommendation that is not reflected in the proposed changed. This edit removes operational issues associated with tanks that may not be regulated by the USBC. This reduces a safety provision of the SFPC.

603.3.3 Underground storage of fuel oil. What the code currently states is that “the storage of fuel oil in underground storage tanks shall comply with NFPA 31.” The proposed code is re-written and the NFPA 31 reference is removed and replaced with “in accordance with the applicable building code.” This change removes an operational reference standard – NFPA 31 – which includes operating regulations such as mixing oil based fuels with gasoline (NFPA 31 4.6.1).

603.6.2, 603.6.4, & 603.6.5 – There are inconsistencies within these sections. Corroded chimneys can be regulated and repaired, but the connectors that are corroded don't have to be. The change to 603.6.4 and 603.6.5 removes the ability of the fire code to mitigate a dangerous condition.

803.6; 804.1; 804.3 – These sections, when combined with the definition of “maintained” will not allow any modification of these materials since they must be maintained “in continuance as installed”. This is pulling the definition into use as these materials shall be maintained and the definition says “in continuance”.

901.5.1 – This code deletion stops the fire official from prohibiting the occupancy of a partially approved and constructed building. This prevents the fire official from correcting a dangerous situation. This was a non-consensus item, and the DHCD staff language was inputted.

- This is the 2012 SFPC language that was deleted in its entirety: “**901.5.1 Occupancy.** It shall be unlawful to occupy any portion of a building or structure until the required fire detection, alarm and suppression systems have been tested and approved” The Fire Service’s proposal was to add, approved in accordance with the Building Code.

(N) **1010.1.9.3** – Deletion of this section removes an operational component that allows fire code officials to have flexibility and work with building occupants to ensure safety and security of their buildings. This section has been used extensively to allow businesses to lock egress doors without having to install panic type hardware to ensure the usability of the exit. This will now require doors to only comply with the building code under which it was constructed and remain in continuance as installed.

2306.7.5 Dispenser hose currently indicates that, “Dispenser hoses shall be not more than 18 feet in length unless otherwise *approved*. Dispenser hoses shall be *listed* and *approved*. When not in use, hoses shall be reeled, racked or otherwise protected from damage.” The section was changed to remove the specific length as well as the operation and maintenance of the hose, in lieu of “Dispenser hoses shall be maintained in accordance with the applicable building code.” Nowhere in the applicable building code does it indicate when a hose is not in use it shall be reeled, racked or otherwise protected from damage. This is a dispenser of class I and II flammable liquids that still has product in the hose. This is another example of a weakening of the SFPC fire and life safety standards.

Again, these are but a few of the specific issues noted. So what is the next step? The Board of Housing and Community Development (BHCD) is the promulgating authority with the DHCD as the agency which supports the BHCD. As such the BHCD may suspend, amend or withdraw from the regulatory process of the SFPC if it receives requests from 25 or more individuals which have significant and substantial impact concerns of a regulation.

If the BHCD does not receive request from 25 or more individuals which cite a similar significant and substantial impact, or if the BHCD determines that the changes have minor or inconsequential impact, then the SFPC become final as printed in the Va Register and become effective October 16, 2018.

This means the SFPC is now in its 60 day comment period for the 25 names with the same concerns.

If the 25 names are acquired prior to 6/29/18 then it will then go the BHCD for re-review. The July BHCD meeting is scheduled for July 16th at 10 am. Location is DHCD located at 4224 Cox Rd. Glen Allen VA. With the period closing June 29, we expect that this meeting will be when any issues are reconsidered.

The VFPA Legislative / Code Committee wishes to encourage Virginia's Fire Service and Code Enforcement Communities to remain involved in this process and encourage those concerned with the proposed regulations to provide a written comment on the Virginia Town Hall at <http://townhall.virginia.gov/L/comments.cfm?stageid=8098> or to the BHCD (the regulatory authority) via their agency contact person Kyle Flanders, Policy and Legislative Director, Department of Housing and Community Development, at kyle.flanders@dhcd.virginia.gov.