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## Fast-Track Regulation Agency Background Document

<b>Agency name</b>	Virginia Board of Accountancy
<b>Virginia Administrative Code (VAC) citation(s)</b>	18VAC5-22
<b>Regulation title(s)</b>	Board of Accountancy Regulations
<b>Action title</b>	Inclusion of additional way to earn CPE hours and removal of duplicative subsections
<b>Date this document prepared</b>	November 8, 2017

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (preferably no more than 2 or 3 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.*

Since 2011, the CPE requirements for CPAs—regardless of whether the type of work they perform—have been the same, unless granted an exemption from the CPE requirements by the Board. The proposed amendment repeals in part and amends in part so that there is a single subsection addressing general CPE requirements, instead of two. The proposed amendment clarifies how a person requests an exemption from the CPE requirements, as detailed under current Board policy and practice. The proposed amendment provides an additional way for CPAs to earn CPE hours, as already permitted under Board policy.

### Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

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"The Board" means the Virginia Board of Accountancy.

"CPA" means Certified Public Accountant.

"CPE" means continuing professional education.

### 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.*

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On August 31, 2017, the Board voted to take regulatory action to amend 18VAC5-22 *et seq.*, Board of Accountancy Regulations, through the fast-track process.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.*

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Va. Code § 54.1-4403(3) grants authority to the Board to promulgate regulations, "in accordance with the Administrative Process Act (§ 2.2-4000 *et seq.*) necessary to assure continued competency, to prevent deceptive or misleading practices by licensees, and to effectively administer the regulatory system." The Board is the promulgating entity for regulations governing public accountancy. Section 54.1-4403(12) specifically references the Board's power to establish CPE requirements as a condition for licensure.

### Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation 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.*

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This amendment is intended to simplify the regulatory burden on and reduce confusion for CPAs by having a single subsection addressing general CPE requirements, and codifies an additional way by which CPAs can earn CPE hours, which has been permitted by practice for several years in the Board's guidance documents. Roughly 20% of CPAs have been found to have a CPE deficiency, due in part to confusion about which subsection(s) of regulation applies to them, when in fact, since 2011, the CPE requirements for CPAs—regardless of whether the type of work they perform—have been the same, unless granted an exemption from the CPE requirements by the Board. The Board anticipates that by eliminating duplicative material, CPAs will have a better understanding of their CPE obligations, which in turn will allow them to achieve the minimum continuing education necessary to competently provide services to the public and to their employers. The Board also believes that increased CPE compliance will occur if it codifies an additional way for CPAs to earn CPE hours.

### Rationale for using fast-track process

*Please explain the rationale for using the fast-track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?*

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This rulemaking is expected to be noncontroversial because the proposed amendment does not increase the CPE requirements of CPAs, it includes an additional way by which CPAs can earn CPE hours that is already permitted in the Board’s guidance documents, and does not change the criteria by which a person is judged to be eligible for an exemption. This change is also supported by the Virginia Society of Certified Public Accountants.

### Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of changes” section below.*

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The proposed amendment combines the existing first two subsections into one subsection, since beginning in 2011, the CPE requirements have been identical for CPAs regardless of where they work. The proposed amendment does not increase a CPA’s regulatory burden or obligation, as the overall required total number of CPE hours earned in either a calendar year or during a reporting period remains the same. It incorporates information that is contained in Board Policy #9 on how an exemption from CPE requirements is obtained and retained, which has been the Board’s practice for several years. The proposed amendment also includes examination and certification as an additional way of earning CPE hours. It codifies information that is contained in Board Policy #4 on this subject, which also has been the Board’s practice for several years.

### 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.*

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- 1) There are no primary disadvantages to the public. The primary advantages to the public are greater likelihood that CPAs are earning the CPE hours related to the services they are providing, which allows them to stay up-to-date with current technical standards, improves work product produced, and broadens the range of services they can competently provide.
- 2) There are no primary disadvantages to the Board or the Commonwealth. The primary advantages to the Board and the Commonwealth is less staff time devoted to explaining the CPE requirements to CPAs by telephone and by email.
- 3) There is no restraint on competition as a result of promulgating this regulation.

### Requirements more restrictive than federal

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

There are no applicable federal requirements.

### Localities particularly affected

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

There are no localities particularly affected.

### Regulatory flexibility analysis

*Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

There are no alternative methods consistent with health and safety of the public.

### Economic impact

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.*

<p><b>Projected cost to the state to implement and enforce the proposed regulation, including:</b>  <b>a) fund source / fund detail; and</b>  <b>b) a delineation of one-time versus on-going expenditures</b></p>	<p>There are no projected costs.</p>
<p><b>Projected cost of the new regulations or changes to existing regulations on localities.</b></p>	<p>There are no projected costs.</p>
<p><b>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</b></p>	<p>The individuals, businesses, or other entities likely to be affected are persons who hold Virginia CPA licenses, and entities or sole proprietors that hold Virginia CPA firm licenses.</p>

<p><b>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that:</p> <p>a) is independently owned and operated and;</p> <p>b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>There are 27,842 persons who hold Virginia CPAs licenses as of September 30, 2017. There are 1,179 entities or sole proprietors that hold Virginia CPA firm licenses as of September 30, 2017.</p>
<p><b>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including:</b></p> <p>a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and</p> <p>b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>There are no projected costs.</p>
<p><b>Beneficial impact the regulation is designed to produce.</b></p>	<p>To simplify the CPE regulations, to clarify how someone obtains an exemption from the CPE requirements, and to provide CPAs with an additional way to earn CPE hours.</p>

**Alternatives**

*Please describe any viable 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. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

There are no alternatives to the proposed action that is less burdensome and less intrusive.

**Public participation notice**

*If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.*

**Periodic review and small business impact review report of findings**

*If this fast-track is the result of a periodic review/small business impact review, use this form to report the agency's findings. Please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and (2) indicate whether the regulation meets*

*the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please 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.*

This proposed action is not the result of a periodic review/small business impact review.

**Family impact**

*Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent 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.*

This proposed action will have no impact on the institution of the family and family stability.

**Detail of changes**

*Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below.*

For changes to existing regulation(s), please use the following chart:

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change, intent, rationale, and likely impact of proposed requirements</b>
18VAC5-22-90	N/A	While the requirements are the same, there are two separate sections discussing the CPE requirements for CPAs who provide services to the public and CPAs who provide services to or on behalf of an employer. Currently, examination and certification are not explicitly included as acceptable ways to earn CPE hours, though the Board by policy permits it	Change: Combine the two subsections about general CPE requirements into a single subsection that covers all CPAs. Provide clarity on how an exemption from the CPE requirements is obtained and retained. Include examination and certification as acceptable ways of earning CPE hours. Intent: To reduce confusion and simplify the regulatory burden on CPAs by having a single subsection addressing general CPE requirements. To reduce ambiguity on how a person qualifies for an

		<p>under the provision of “Whether other forums are acceptable shall be determined by the board on a case-by-case basis.”</p>	<p>exemption. To make explicit that examination and certification are acceptable ways of earning CPE hours.                  Rationale: Since 2011, there has been no difference between a CPA’s general CPE obligations based on their work, thus eliminating the need for two separate subsections discussing general CPE requirements. The regulation can be simplified by repealing the duplicative material and making a single subsection that addresses all CPAs. Less ambiguity in the how a person obtains an exemption will encourage eligible licensees to pursue this avenue and reduce their individual regulatory burden. Additionally, while the Board has been permitting examination and certification as acceptable ways of earning CPE hours, it believes that including this in regulation provides a stronger assurance to CPAs that this will remain an acceptable way to earn CPE hours in the future.                  Likely Impact: Reduced confusion in the regulated community about their CPE obligations and increased CPE compliance as an additional way are available to them to earn CPE hours.</p>
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