



## Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Housing and Community Development (DHCD)
<b>Virginia Administrative Code (VAC) citation</b>	13 VAC 5-95-10 thru 13 VAC 5-95-100
<b>Regulation title</b>	Manufactured Housing Safety Regulations (MHSR)
<b>Action title</b>	Update of current MHSR to reference the recent changes in the Federal Construction Standards of HUD regarding standards of installation.
<b>Date this document prepared</b>	May 31, 2011

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

The regulatory action is to update the Manufactured Housing Safety Regulations to incorporate by reference the recent changes and additions to the Federal Construction Standards of HUD. The Federal Construction Standards are enforcement provisions for the design, construction, distribution and the installation of manufactured homes. These enforcement standards are enforced in the Commonwealth of Virginia through a Cooperative Agreement between the U.S Dept. of HUD and the Department of Housing and Community Development (DHCD). As of October, 2008 HUD instituted manufactured home installation standards as part of their enforcement procedures to be the standard for the installation of manufactured homes in all states. The change proposed in the MHSR allows the Commonwealth of Virginia to adopt Installation Standards of HUD Part 3285 as the most current installation standard available. Also, the Federal Installation Standards will replace current outdated standards no longer in print and not readily available at the request of clients and constituents of the State Building Code Administrative Office.

Proposed regulations were published in the January 31, 2011 Virginia Register, a 60-day comment period was established through March 1, 2011 and a public hearing was held on March 28, 2011. No public comments were received.

**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 or board taking the action, and (3) the title of the regulation.*

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The Board of Housing and Community Development adopted final regulations with no changes to the proposed regulations at its May 23, 2011 meeting.

**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 number(s), 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.*

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The statutory authority to update the regulation is contained in § 36-85.7 of the Code of Virginia. The promulgating agency is the Board of Housing and Community Development. State law does require the Board to keep the regulation up to date.

**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.*

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The enabling law for the MHSR requires the Board to keep the regulation up to date. The regulatory action is essential to protect the health, safety and welfare of citizens of the Commonwealth by providing the most current and up to date installation standards currently available and mandated. The current installation standards are outdated and no longer available as a viable resource upon request by clients, building officials and installers; also HUD's new Manufactured Home Installation Standards are enforced as a mandatory installation standard under Federal Regulation. The regulation will delineate the mandatory installation standard per HUD which is fundamental to the protection of the health, safety and welfare of citizens and is readily available for clients, building officials and installers.

**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.*

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The MHSR is updated to include all references to the Federal Installation Standards (24 CFR Part 3285). The regulation contains minor changes to the provisions of the regulations which have been vetted through the client groups affected by the MHSR and have met no opposition. There is anticipation and request for assistance regarding manufactured housing installation that a more up to date enforcement standard is necessary. A more up to date standard is required to provide assistance to Building Officials and local Building Inspections Departments, installers and home owners regarding installation and inspections procedures and all processes related to the installation of manufactured homes within the Commonwealth.

**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.*

The advantage for the public, building officials, installers and private citizens is the revision to the code removing outdated and unattainable NCSBCS/ANSI A225.1 standard 1994 edition and to specify the new mandated HUD installation regulation in the code. The HUD installation standards provide minimum requirements for the initial installation of new manufactured homes and each new home installation designs and instructions have been approved by the Secretary or DAPIA. The Federal Construction Standards are enforcement provisions for the design, construction, distribution and the installation of manufactured homes. A more up to date standard is required to provide assistance to Building Officials and local Building Inspections Departments, installers and home owners regarding installation and inspection procedures and all processes related to the installation of manufactured homes within the Commonwealth. The Building Official is responsible but not limited to the aspects for the installation and set up of a new manufactured home for footings, foundation systems, anchoring of the home, exterior and interior close-up, additions and alterations, and system connections done during initial installation. Such aspects shall be subject to and shall comply with the installation instructions provided by the manufacturer of the home; when the manufacturer's installation instructions are not available; such aspects shall be subject to and shall comply with Title 24 Code of Federal Regulations, Part 3285 – Model Manufactured Home Installation Standards. Where the installation or erection of a manufactured home utilizes components which are to be concealed, the installer shall notify the building official that an inspection is necessary and assure that an inspection is performed and approved prior to concealment of such components, unless the building official has agreed to an alternative method of verification.

**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

There are no changes to the regulation since the proposed stage.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.*

Commenter	Comment	Agency response

No public comments were received.

**All changes made in this regulatory action**

*Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections.*

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
5-95-10			<p><i>Added</i> Design Approval Primary Inspection Agency or DAPIA to define who does plans approval</p> <p><i>Deleted</i> Distributor this is addressed via the existing definition for Dealer.</p> <p><i>Added</i> Federal Installation Standards for clarity identification of new Installation Standards.</p> <p><i>Added</i> definition for Installation to provide clarity of work to be performed governed by the federal installation standards/state installation standards.</p> <p><i>Added</i> installer to identify person or entity retained for the initial installation of manufactured home.</p> <p><i>Modified</i> Label or certification label to coincide with federal regulations definition.</p> <p><i>Modified</i> Local Building Official for cohesion of the definition with the USBC.</p> <p><i>Added</i> Manufacturer’s installation instruction to define the approval authority of the instructions and clarify the work for the installation at the site to comply with federal standards.</p> <p><i>Added</i> Recreational vehicles to clarify vehicles not covered by the standards.</p>
5-95-20A			Deleted as defined in 13 VAC 5-95-10 and 13VAC5-95-20. The definition of manufactured home is in the definition section of the regulation.
5-95-20D			Added verbiage to include inspections to better identify what the administrator is authorized to perform
5-95-20E			Modified code officials to building official to coincide with definitions; deleted and added verbiage to

			better outline responsibilities and authorizations for building officials enforcement of the regulations
5-95-20F			Modified language to better specify code requirements and parameters for administrative requirements.
	5-95-20G		Added section for clarification for recreational vehicles not subject to regulations
5-95-30A			Deleted language, it has been relocated in this code. Modified section numbering
5-95-30B			Deleted language, it has been relocated in this code
5-95-40			Modified code officials to building official to coincide with definitions.
5-95-50A			Modified language to coincide with definitions, and added clarification for work on new homes
5-95-50B			Modified code officials to building official to coincide with definitions, added language to clarify for new homes;
	5-95-50C		Added new section for direction of building officials for their authority in accordance with State Code for regulations and procedures regarding used manufactured homes for alterations, additions and repairs.
5-95-60			Modified definitions to coincide with 13VAC6-20; deleted language concerning support and anchoring this is addressed in this regulation
5-95-70			REPEALED, this action is covered under different regulation
5-95-80			Deleted distributor and replaced with broker
5-95-90A			Deleted distributor and replaced with broker, also allow for complaints to be submitted in other formats
5-95-90B			Deleted distributor and replaced with broker
5-95-90C			Deleted distributor and replaced with broker and added installer
5-95-90D			Deleted distributor and replaced with broker and added installer
5-95-90F			Deleted distributor and replaced with broker and added installer
5-95-100A			Deleted original language and added language that specifies Code of Virginia §36-85-12 to specify civil penalties and prohibited acts.
5-95-100B			Deleted original language and added language that specifies Code of Virginia §36-114 addressing appeals.
5-95-100C			Deleted this section, this is addressed in 5-95-100A reference to §36-85-12

**Regulatory flexibility analysis**

*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.*

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Other alternatives for achieving the need in the most cost-effective manner are not known at this time. No alternatives were suggested during the public comment period.

### Family impact

*Please assess the impact of the proposed 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.*

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The regulations do not have an impact on the institution of family and family stability.