



Fast Track Proposed Regulation Agency Background Document

Agency name	Virginia Board of Accountancy
Virginia Administrative Code (VAC) citation	The emergency regulation that became effective May 14, 2009, expires November 13, 2010, and is in subsection B of 18 VAC 5-21-30
Regulation title	Education
Action title	Making the emergency regulation a permanent regulation
Date this document prepared	July 28, 2010

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

Although the CPA examination is a uniform, national examination, it is administered through the individual states. Most states require obtaining from one or more accredited institutions at least 120 semester hours of education, a baccalaureate or higher degree, and an accounting concentration or equivalent prior to taking the CPA examination through the state. Prior to the emergency regulation, the requirements for the education that must be obtained prior to taking the CPA examination through Virginia were more restrictive because they required 150 semester hours of education rather than 120. The relatively recent computerization of the CPA examination has made taking the examination through another state easier.

The emergency regulation that became effective May 14, 2009, expires November 13, 2010, and is in subsection B of 18VAC5-21-30 brought the education requirements for taking the CPA examination through Virginia in line with the requirements of most other states by reducing the number of semester hours of education required to 120. The Board believes the change has

significant advantages for the public, the Board, and the Commonwealth and no disadvantages. Not making the emergency regulation permanent would have serious negative implications, because the regulation replaced by the emergency regulation would once again be effective.

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.

The Board plans for the emergency regulation to become a permanent regulation as part of comprehensive revisions to the regulations the Board is proposing through the fast track regulatory process. Those revisions are primarily in response to the comprehensive revisions to the accountancy statutes that became effective July 1, 2007. The proposed comprehensive revisions to the regulations were approved by Governor McDonnell on July 6, 2010, and will be posted in the *Virginia Register* on August 2, 2010, with a comment period ending September 1, 2010.

The Board believes the proposed comprehensive revisions to the regulations are not controversial and will become permanent effective September 16, 2010. However, there is inherent risk in the fast track process, and the Board is submitting this Form TH-04 to assure that the emergency regulation becomes permanent. If the proposed comprehensive revisions to the regulations become permanent, the Board will withdraw this Form TH-04.

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 General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

The Board was established under the former § 54.1-2000 of the Code of Virginia and was reestablished as an independent board by subsection A of § 54.1-4402 of the Code of Virginia. Subsection H of § 54.1-4402 of the Code of Virginia gives the Board the responsibility of enforcing the accountancy statutes and establishing by regulation rules and procedures for the implementation of those statutes.

- a. The accountancy statutes are in Chapter 44 (§ 54.1-4400 et seq.) of Title 54.1 of the Code of Virginia.
- b. The regulations are in Chapter 21 of Agency 5, Title 18 of the Virginia Administrative Code (18VAC5-21).

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 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.

Although the CPA examination is a uniform, national examination, it is administered through the individual states for a fee set by the state. Each state has requirements for the education that must be obtained prior to taking the CPA examination through the state. In most states, those requirements are not as extensive as the education requirements for licensure. In order to obtain a Virginia license, the accountancy statutes require a person to have obtained from one or more accredited institutions at least 150 semester hours of education, a baccalaureate or higher degree, and an accounting concentration or equivalent. Most other states have the same education requirements for licensure.

The accountancy statutes, revised in 2007, do not address the education requirements that must be met prior to taking the CPA examination through Virginia. Prior to the emergency regulation that is in subsection B of 18VAC5-21-30, the education requirements for taking the CPA examination through Virginia were the same as the education requirements for obtaining a Virginia license. That was more restrictive than the requirements of most other states, because they only require that 120 semester hours of education be obtained prior to taking the CPA examination.

A baccalaureate degree with an accounting concentration can ordinarily be obtained with 120 semester hours of education. Obtaining from one or more accredited institutions at least 120 semester hours of education, a baccalaureate or higher degree, and an accounting concentration typically prepares a person to pass the CPA examination. Many accounting majors want to pass the CPA examination as soon as possible after they obtain their baccalaureate degree. They believe that will improve their marketability to potential employers and enable them to start their careers sooner. Many will then obtain the additional 30 semester hours of education required for licensure later on a part-time basis.

The emergency regulation therefore changed the regulations so that in order for a person to take the CPA examination through Virginia he must have obtained from one or more accredited institutions at least 120 semester hours of education, a baccalaureate or higher degree, and an accounting concentration or equivalent. It also updated and made clarifying changes to the definition of accounting concentration or equivalent that applies to taking the CPA examination through Virginia and to obtaining a Virginia license.

The education requirements of the emergency regulation are the same as those of most other states and have been incorporated into the accounting programs of Virginia's colleges and universities and into the plans of students and others for taking the CPA examination through Virginia. Some colleges and universities were required to restructure their accounting programs so that all the courses required for an accounting concentration were provided by the time an accounting major earned a baccalaureate degree.

Not making the emergency regulation permanent would have the following serious negative implications, because the regulation replaced by the emergency regulation would once again be effective:

- a. It would likely require some Virginia colleges and universities to change their accounting programs back to how they were prior to the emergency regulation. Such changes could involve increased personnel costs and disruptions in educational plans of students.
- b. It would likely force persons who plan to ultimately obtain a Virginia license, but want to take the CPA examination soon after obtaining their baccalaureate degree, to take the CPA examination through a state whose requirements are the same as the emergency regulation. This would not be a favorable result for the Board and the Commonwealth.
- c. It would cause a significant reduction in the Board's revenues as persons begin taking the CPA examination through states whose requirements are the same as the emergency regulation. For the year ended March 31, 2010, fees the Board charged for processing the application to take the CPA examination totaled approximately \$210,000.
- d. It would cause confusion because the regulation that was replaced by the emergency regulation is inconsistent with the accountancy statutes as they were revised in 2007, and its requirements for obtaining an accounting concentration or equivalent need clarifying changes.

The emergency regulation has been widely accepted, and the Board has received no negative comments. The Board plans for the emergency regulation to become a permanent regulation as part of comprehensive revisions to the regulations the Board is proposing through the fast track regulatory process. Those revisions are primarily in response to the comprehensive revisions to the accountancy statutes that became effective July 1, 2007. The proposed comprehensive revisions to the regulations were approved by Governor McDonnell on July 6, 2010, and will be posted in the *Virginia Register* on August 2, 2010, with a comment period ending September 1, 2010.

The Board believes the proposed comprehensive revisions to the regulations are not controversial and will become permanent effective September 16, 2010. However, there is inherent risk in the fast track process, and the Board is submitting this Form TH-04 to assure that the emergency regulation becomes permanent. If the proposed comprehensive revisions to the regulations become permanent, the Board will withdraw this Form TH-04.

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?

Please note: If an objection to the use of the fast-track process is received within the 60-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 (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii)

proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The emergency regulation is scheduled to expire November 13, 2010. The requirements of the emergency regulation have been incorporated into the accounting programs of Virginia's colleges and universities and into the plans of students and others for taking the CPA examination through Virginia. Not making the emergency regulation permanent would have serious negative implications, because the regulation replaced by the emergency regulation would once again be effective.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

The emergency regulation that became effective May 14, 2009, expires November 13, 2010, and is in subsection B of 18 VAC5-21-30 would become a permanent regulation. The emergency regulation reads as follows:

B. Education.

1. In order for a person to take the CPA examination through Virginia, he must have obtained from one or more accredited institutions or from the National College at least 120 semester hours of education, a baccalaureate or higher degree, and an accounting concentration or equivalent prior to taking any part of the CPA examination.
2. For the purpose of complying with subdivision B 1 of this subsection and with subdivision A 1 a of § 54.1-4409.2 of the Code of Virginia, obtaining an accounting concentration or equivalent requires obtaining at a minimum:
 - a. 24 semester hours of accounting courses, including courses in auditing, financial accounting, management accounting, and taxation; and
 - b. 24 semester hours of business courses, no more than six semester hours of which could be considered accounting courses.

Principles or introductory accounting courses cannot be considered in determining whether a person has obtained the 48 minimum number of semester hours required for an accounting concentration or equivalent.

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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The primary advantages to the public of making the emergency regulation permanent are that:

1. Virginia colleges and universities would avoid the need to change their accounting programs back to how they were prior to the emergency regulation, and the increased personnel costs and disruptions in educational plans of students that could result from the change would be avoided;
2. persons who plan to ultimately obtain a Virginia license, but want to take the CPA examination soon after obtaining their baccalaureate degree, would not be forced to take the CPA examination through a state that has the same requirements as the emergency regulation; and
3. the public would avoid the confusion that would result if the regulation that was replaced by the emergency regulation becomes effective once again, because it is inconsistent with the accountancy statutes as they were revised in 2007, and its requirements for obtaining an accounting concentration or equivalent need clarifying changes.

The primary advantages to the agency and the Commonwealth are that:

1. the significant loss of revenues from persons taking the CPA examination through states that have the same requirements as the emergency regulation would be avoided, and
2. the Board and the Commonwealth would avoid the unfavorable result of forcing students who plan to ultimately obtain a Virginia license, but want to take the CPA examination soon after obtaining their baccalaureate degree, to take the CPA examination through a state that has the same requirements as the emergency regulation.

There are no disadvantages to the public, the agency, or the Commonwealth in making the emergency regulation permanent.

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 that will be particularly affected by making the emergency regulation permanent.

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.

Not making the emergency regulation permanent would mean that the regulation that was replaced by the emergency regulation would become effective once again. That would have serious negative implications.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	No additional costs will be incurred.
Projected cost of the regulation on localities	No additional costs will be incurred.
Description of the individuals, businesses or other entities likely to be affected by the regulation	Making the emergency regulation permanent only directly affects persons who plan to take the CPA examination.
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. Small business means a business entity, including its affiliates, that (i) is independently	Making the emergency regulation permanent will not affect small businesses or other entities.

<p>owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	
<p>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>No additional costs will be incurred by making the emergency regulation permanent. However, not making it permanent would lead to a significant reduction of the Board’s revenues.</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.

Many alternatives were discussed, but none were deemed viable by the Board.

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.

Making the emergency regulation permanent will have a favorable impact on Virginia families as children who are enrolled in college will continue to be able to qualify to take the CPA examination when they have completed their baccalaureate degree, which will likely result in a job offer occurring earlier in the career progression. Also, CPA firms may continue to choose to assist their employees with education expenses to complete the 150 semester hour requirement to obtain a Virginia license.

Family members who choose to change career fields or who suffer a job loss may show a greater interest in becoming a CPA if they can begin the examination process as soon as they have completed the baccalaureate degree and the core accounting and business coursework. Employers are more apt to hire an individual who is qualified to begin the examination process.

Detail of changes

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

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

The Regulations Prior to the Emergency Regulation

The regulations prior to the emergency regulation addressed the education that must be obtained prior to taking the CPA examination through Virginia in subsection B of 18VAC5-21-30, which was entitled *Education prior to taking the CPA exam* and had the following five subdivisions:

1. Each candidate whose application to sit for a CPA exam administered prior to July 1, 2006, shall have received a baccalaureate degree or its equivalent conferred by an accredited college or university as required by § 54.1-4409 B 1 of the Code of Virginia and shall at the time the application is received have completed the following courses at the undergraduate or graduate level to meet the accounting concentration requirement of § 54.1-4409 B 1 of the Code of Virginia:
 - a. At least 24 semester hours of accounting including courses covering the subjects of financial accounting, auditing, taxation, and management accounting; and
 - b. At least 18 semester hours in business courses (other than the courses described in subdivision 1a of this subsection).

A candidate whose application is received under the requirements of this subdivision may take the CPA exam so long as the requirements of subsection C of this section are met.

2. Each candidate whose application to sit for a CPA examination administered on or after July 1, 2006, shall meet the requirements of § 54.1-4409 B 2 of the Code of Virginia and shall at the time the application is received have completed the following courses at the undergraduate or graduate level to meet the accounting concentration requirement of § 54.1-4409 B 2 of the Code of Virginia:
 - a. At least 30 semester hours of accounting, including courses covering the subjects of financial accounting, auditing, taxation, and management accounting; and
 - b. At least 24 semester hours in business courses (other than the courses described in subdivision 2a of this subsection).
3. A quarter hour of coursework shall be considered the equivalent of two-thirds of a semester hour of coursework.
4. Each candidate with a degree or coursework earned at a nonaccredited college or university shall, if credit for such degree or coursework is to be considered by the board,
 - (i) have his educational credentials evaluated by an academic credentials service approved by the board or an accredited institution, as defined in 18 VAC 5-21-10, to determine the extent to which such credentials are equivalent to the education

requirements set forth in subdivisions 1 and 2 of this subsection and (ii) submit such evaluations to the board, which may accept or reject the evaluator's recommendations in whole or in part.

5. Evidence of having obtained the required education shall be submitted in the form of official transcripts transmitted in a manner determined by the board. In unusual circumstances, the board may accept other evidence it deems to be substantially equivalent.

The Emergency Regulation

The emergency regulation changed the title of subsection B of 18VAC5-21-30 to *Education* and replaced the five subdivisions with two subdivisions. The title *Education* indicates that the emergency regulation does not just prescribe requirements for the education that must be obtained prior to taking the CPA examination through Virginia. The emergency regulation's definition of accounting concentration or equivalent applies both to the requirements for the education that must be obtained prior to taking the CPA examination through Virginia and the education required to obtain a Virginia license. The two subdivisions of the emergency regulation are:

1. In order for a person to take the CPA examination through Virginia, he must have obtained from one or more accredited institutions or from the National College at least 120 semester hours of education, a baccalaureate or higher degree, and an accounting concentration or equivalent prior to taking any part of the CPA examination.
2. For the purpose of complying with subdivision B 1 and with subsection A 1 a of § 54.1-4409.2 of the Code of Virginia, obtaining an accounting concentration or equivalent requires obtaining at a minimum:
 - a. 24 semester hours of accounting courses, including courses in auditing, financial accounting, management accounting, and taxation; and
 - b. 24 semester hours of business courses, no more than six semester hours of which could be considered accounting courses.

Principles or introductory accounting courses cannot be considered in determining whether a person has obtained the 48 minimum number of semester hours required for an accounting concentration or equivalent.

An Analysis of How the Emergency Regulation Changed Subsection B of 18VAC5-21-30

Subdivision B 1 of 18VAC5-21-30 before the emergency regulation became effective. This subdivision applied only to CPA examinations administered prior to July 1, 2006, and is no longer applicable. That subdivision is therefore not needed in the regulations and is excluded from the emergency regulation.

Subdivision B 2 of 18VAC5-21-30 before the emergency regulation became effective. The reference in this subdivision to subdivision B 2 of § 54.1-4409 of the Code of Virginia is no longer applicable and therefore does not appear in the emergency regulation. One of the 2007 revisions to the accountancy statutes was to repeal § 54.1-4409.

Subsection A 1 a of § 54.1-4409.2 of the Code of Virginia prescribes the education required for a person to obtain a Virginia license, requiring that the person obtain from one or more accredited institutions at least 150 semester hours of education, a baccalaureate or higher degree, and an accounting concentration or equivalent. The accountancy statutes do not address the education required for a person to take the CPA examination through Virginia, but the requirements prescribed by subdivision B 2 of 18VAC5-21-30 before the emergency regulation became effective were the same as the education requirements for a Virginia license.

The emergency regulation changed subsection B of 18VAC5-21-30 so that a person is required to have obtained from one or more accredited institutions at least 120 semester hours of education, a baccalaureate or higher degree, and an accounting concentration or equivalent prior to taking the CPA examination through Virginia. An additional 30 semester hours of education is therefore needed to obtain a Virginia license.

In addition to prescribing the education that must be obtained prior to taking the CPA examination through Virginia, the emergency regulation prescribes the requirements for determining whether a person has obtained an accounting concentration or equivalent. In prescribing those requirements, the emergency regulation basically retained the two components described in subdivision B 2 of 18VAC5-21-30 before the emergency regulation became effective but made clarifying changes:

- a. The emergency regulation clarifies that principles or introductory accounting courses cannot be considered in determining whether a person has obtained an accounting concentration or equivalent.
- b. It also clarifies that a person must have education in business courses that are not designed primarily as accounting courses. Accounting courses contribute to a person's knowledge of business, even though that is not their main objective. To provide some flexibility in structuring course loads, the emergency regulation permits counting no more than six semester hours of courses that could be considered accounting courses in determining compliance with the second component. A person could therefore obtain the minimum number of semester hours required for an accounting concentration or equivalent by taking 30 semester hours of courses that would be considered accounting courses and 18 semester hours of courses that would be considered business courses but would not be considered accounting courses.

Subdivision B 3 of 18VAC5-21-30 before the emergency regulation became effective. This subdivision addressed how to convert quarter-hours to semester-hours. That is no longer necessary because the relationship is standardized throughout higher education. It is therefore not addressed in the emergency regulation.

Subdivision B 4 of 18VAC5-21-30 before the emergency regulation became effective. This subdivision addressed how coursework from nonaccredited institutions may be considered. That is no longer applicable because subsection A 1 a of § 54.1-4409.2 of the Code of Virginia requires that all the education required for licensure be obtained from accredited institutions. The emergency regulation therefore requires that all the education required to take the CPA examination through Virginia be obtained from accredited institutions and does not address coursework from nonaccredited institutions.

Subdivision B 5 of 18VAC5-21-30 prior to the emergency regulation. This subdivision required providing evidence of completing the required coursework and prescribed forms of evidence that would be acceptable. That is no longer necessary because subsection A 1 a of § 54.1-4409.2 of the Code of Virginia requires providing documentation of obtaining the education required for licensure, and the Board believes the regulations do not need to address the form of evidence.