



Proposed Regulation Agency Background Document

Agency name	Virginia Department of Housing and Community Development (DHCD)
Virginia Administrative Code (VAC) citation	13 VAC 5-95
Regulation title	Manufactured Housing Safety Regulations (MHSR)
Action title	Update of current 2006 MHSR to cite correct references to the Federal Construction Standards of HUD regarding Manufactured Housing.
Date this document prepared	June 4, 2013

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

In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.

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. The Federal Construction 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). 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. The changes adopted through these regulations 1) provides a more thorough definition of installation of manufactured homes; 2) more thoroughly clarifies the enforcement role of the local building officials; 3) provides clarification concerning alterations in new and existing manufactured homes and; 4) more thoroughly clarifies the civil penalty and fines resulting from violations of the laws, rules and regulations.

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.

DHCD – Department of Housing and Community Development
MHSR – Manufactured Housing Safety Regulations
HUD – United States Department of Housing and Urban Development
DAPIA – Design Approval Primary Inspection Agency
SECRETARY – Secretary of Housing and Urban Development or an official of HUD delegated the authority of the Secretary with respect to the Act.

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.

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 requires the Board to keep the regulation up to date.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

The enabling law for the MHSR requires the Board to keep the regulation up to date. The proposed 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. Also HUD’s new Manufactured Home Installation Standards are enforced as a mandatory installation standard under Federal Regulation. The proposed regulation will delineate the mandatory installation standard per HUD which is fundamental to the protection of the health, safety and welfare of citizens by, (1) more thoroughly clarifying the enforcement role of the local building officials and (2) more thoroughly clarifies the civil penalty and fines resulting from violations of the laws, rules and regulations.

Substance

Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the “Detail of changes” section.)

The proposed MHSR will be updated to include all references to the Federal Installation Standards (24 CFR Part 3285). The proposed regulation will contain 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 the regulatory action poses no disadvantages to the public or the Commonwealth, please indicate.

The advantage for the public, building officials, installers and private citizens of the revision to the code specify the new mandated HUD installation regulations. The HUD installation standards provide minimum requirements for the initial installation of new manufactured homes and for 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. The more up to date standard is required to provide assistance to Building Officials and locals Building Inspections Departments, installers and homeowners regarding installation and inspection procedures and all processes related to the installation of manufactured homes within the Commonwealth. The Building Official is responsible for enforcement of the installation standards in the set up of a new manufactured home for footings, foundation systems, anchoring systems, exterior and interior close-up, additions and alterations, and all 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 the Federal Installation Standards (24 CFR Part 3285). Where the installation or erection of a manufactured home utilizes components which are to be concealed, the installer shall notify the building official and schedule necessary inspections to assure that all required inspections are performed and approved prior to concealment of such components, unless the building official has agreed to an alternative method of verification.

Requirements more restrictive than federal

Please identify and describe any requirements of the proposal, which are more restrictive than applicable federal requirements. Include a rationale 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 requirements or no requirements that exceed applicable federal requirements which are more restrictive.

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.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>) or by mail, email or fax to Cindy Davis, 600 E. Main Street, Suite 300, Richmond, VA 23219, (804) 371-7161, fax number: (804) 371-7092, e-mail address: cindy.davis@dhcd.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last date of the public comment period.

A public hearing will be held after this regulatory stage is published in the *Virginia Register of Regulations* and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>). Both oral and written comments may be submitted at that time.

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 requirements creates the anticipated economic impact.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source, and (b) a delineation of one-time versus on-going expenditures.	No projected cost is anticipated to implement and enforce the proposed amendments.
Projected cost of the new regulations or changes to existing regulations on localities.	No anticipated projected cost.

<p>Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.</p>	<p>Local Building Inspections Depts., as well as manufactured home retailer/installers, installers or manufacturers who are regulated by these regulations.</p>
<p>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 owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>The maximum number of manufacturers would be 23; the maximum number of dealers would be 138; the maximum number of brokers would be 9; the maximum number of salespersons would be 362; and maximum number of installers would be approximately 280 (based upon estimated number of MHC Contractors who complete Manufactured Home Installer’s Training through DHCD).</p>
<p>All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. 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 would be a projected increase for the installation of new single sectional and/or multi-sectional homes as per the following:</p> <p>\$150.00 required for initial training for contractors licensed as manufactured home installers holding MHC license designation with DPOR;</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>New mandated HUD installation regulations provide better installation of manufactured homes and fewer complaints from consumers. Provides a better delineation of the building official, inspectors, installers, dealers and manufacturers.</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.

Other alternatives for achieving the need in the most cost-effective manner are not known at this time. If any alternatives are submitted, they will be available for evaluation during the public comment period.

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.

Other alternatives for achieving the need in the most cost-effective manner are not known at this time. If any alternatives are submitted, they will be available for evaluation during the public comment period.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response

No public comment was received during the NOIRA 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.

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

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. 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 list separately (1) all differences between the pre-emergency regulation and this proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulation(s), use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements

5-95-10A			<p><i>Modified</i> Act to Federal Act to coincide with federal regulations definition. <i>Added</i> Federal Installation Standards for clarity, identification of new Installation Standards. <i>Modified</i> Federal regulation to Federal regulations to coincide with federal regulations definition. <i>Deleted</i> verbiage on enactment date and authority of federal regulations. <i>Added</i> definition for Installation to provide clarity of work to be performed governed by the federal installation standards/state installation standards. <i>Added</i> definition for Installer to identify person or entity retained for the initial installation of manufactured homes. <i>Modified</i> Label definition to include HUD label to coincide with added language of federal standards. <i>Modified</i> Local code official to Local building official for cohesion of the definition with the USBC.</p>
5-95-20A			<p><i>Modified</i> to clarify that manufactured homes are defined in 13VAC5-95-10 and as set out in this section.</p>
5-95-20D			<p>Added verbiage to include language pertaining to enforcement of civil and criminal penalties.</p>
5-95-20E			<p><i>Modified</i> code officials to building officials to coincide with definitions; deleted and added verbiage to better outline responsibilities and authorizations for building officials enforcement of the regulations.</p>
5-95-20F			<p><i>Modified</i> language to better specify code requirements and parameters for administrative requirements.</p>
5-95-30A			<p><i>Deleted</i> language; relocated in this code. Also modified section numbering.</p>
5-95-30B			<p><i>Deleted</i> language; relocated in this code.</p>
5-95-40			<p><i>REPEALED</i> –</p>
5-95-50A			<p><i>Added</i> installer in list of entities which are not allowed to perform or cause to be performed, any alternations which affect requirements of the federal standards.</p>
5-95-50B			<p><i>Modified</i> language to reference §36-99 of the Code of Virginia and the USBC regarding existing homes as subject to Section424 of the USBC.</p>

5-95-60			<p><i>Modified</i> language to clarify that installers are included in list of entities that must install homes according to manufacturer's instructions.</p> <p><i>Deleted</i> verbiage allowing for use of other support or anchoring systems when approved by the local code official.</p>
5-95-70			<i>REPEALED</i> , this action is covered under different regulation.
5-95-80			<i>Modified</i> language concerning lot inspections to federal regulations and standards to clarify that administrator may cite violations of both during lot inspections.
5-95-90			<i>Modified</i> to remove on-site inspections.
5-95-90A			<i>Modified</i> code officials to state local building officials and report to all consumer complaints to coincide with definitions; modified language on complaint form format.
5-95-90E			<i>Modified</i> language to include mandatory language requiring the administrator to notify the manufacturer of the home, HUD, the SAA of any consumer complaints reported to the manufacturer.
5-95-90F			<p><i>Added</i> installer to list of entities administrator shall assist in resolving consumer complaints.</p> <p><i>Deleted</i> language on administrator's responsibility to monitor the manufacturer on Subpart I compliance.</p>
5-95-100			<i>Deleted</i> appeal from section.
5-95-100A			<i>Deleted</i> original language and added language that specifies Code of Virginia §36-85-12 to specify civil penalties and prohibited acts.
5-95-100B			<i>Deleted</i> original language
5-95-100C			<i>Deleted</i> this section, this is addressed in 5-95-100A reference to §36-85-12.