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Final Regulation Agency Background Document

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| Agency name | Board of Housing and Community Development |
| Virginia Administrative Code (VAC) Chapter citation(s) | 13 VAC5 -21 |
| VAC Chapter title(s) | Virginia Certification Standards |
| Action title | Update the Virginia Certification Standards |
| Date this document prepared | December 2020 |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Virginia Certification Standards is a regulation governing the certification, qualification and examination requirements for those person's whose work is regulated by the Uniform Statewide Building Code (USBC). The VCS dictates the training requirements and certification standards for inspectors, permit technicians, and all other code officials.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

VCS – Virginia Certification Standards
USBC – Uniform Statewide Building Code

Statement of Final Agency Action

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 of Housing and Community Development adopted final regulations for the Virginia Certification Standards December 14, 2020.

Mandate and Impetus

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.

No change to information provided in the previous stage.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The statutory authority to update the regulation is contained in § 36-137 of the Code of Virginia. The promulgating agency is the Board of Housing and Community Development.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

As recognized in §36-99 of the Code of Virginia, the purpose of the USBC protects the health, safety, and welfare of the citizens of the Commonwealth, while permitting buildings to be constructed in the most economical manner consistent with such pertinent recognized standards relative to construction, health, and safety. Therefore, the certification and associated training and education of the local and non-government code enforcement personnel are inherent in and critical to the achievement of this purpose and ensures the technical and professional level of those personnel, including the knowledge and skill gained resultant from the initial training, mandated periodic training and continuing education, as well as a familiarity with and understanding of recent developments within the building codes and construction industry.

Substance

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.

Several updates have been made to the Virginia Certification Standards in an effort to provide clarity as to the status of a certificate and when a certificate holder will be considered out of compliance with the regulations.

Issues

Identify the issues associated with the regulatory change, 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, include a specific statement to that effect.

This regulatory action is advantageous as it provides clarity for regulants and in the administration of the regulation. The action poses no foreseen disadvantages to the public or the Commonwealth.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are no applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

Other State Agencies Particularly Affected

None

Localities Particularly Affected

None

Other Entities Particularly Affected

None

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

No public comment received.

Detail of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

| Current chapter-section number | New chapter-section number, if applicable | New requirement from previous stage | Updated new requirement since previous stage | Change, intent, rationale, and likely impact of updated requirements |
|---------------------------------------|--|--|---|---|
| 13VAC5-21-10 | | | | Adds definitions for “Active certificate,” “inactive certificate,” and “provisional certificate,” which are terms that are used in the regulation but have yet to be defined |
| 13VAC-5-21-10 | | | | Deletes the definition for “Nongovernmental employee,” which is a term not used in the regulation |
| 13VAC-5-21-10 | | | | Grammatical update of “department” to “Department” |
| 13VAC-5-21-20 | | | | Grammatical update of “department” to “Department” |
| 13VAC5-21-31 | | | | Removes the requirements for certificate applicants to receive endorsements from supervisors, code officials, or the code official’s supervisor since the issuance of a certificate is not predicated on an applicant’s ability to perform a job and instead signifies that an applicant has taken the appropriate classes and passed the |

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| | | | | appropriate certification exams |
| 13VAC5-21-31 | | | | Grammatical update of "department" to "Department" |
| 13VAC5-21-31 | | | | Update to include proper office name for contact. |
| 13VAC5-21-41 | | | | Grammatical update of "department" to "Department" |
| 13VAC5-21-41 | | | | Requires that training must have been completed 4 years prior to application submittal ensuring knowledge consistent with most recent codes. |
| 13VAC5-21-51 | | | | Clarifies the statuses of certificates as either Active or Inactive and provides clarity for when a certificate holder will be considered out of compliance with the requirements for maintaining their active certificate status |
| 13VAC5-21-51 | | | | Grammatical update of "department" to "Department" |
| 13VAC5-21-61 | | | | Clarifies that the issuance of noncompliance notices is not a function of the Board. |

Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

| Current chapter-section number | New chapter-section number, if applicable | Current requirements in VAC | Change, intent, rationale, and likely impact of updated requirements |
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| 13VAC5-21-10 | | None | Adds definitions for "Active certificate," "inactive certificate," and "provisional certificate," which are terms that are |

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| | | | used in the regulation but have yet to be defined |
| 13VAC-5-21-10 | | “Nongovernmental employee” means any person not employed by a locality collecting and transmitting the fee levy to the department in accordance with subdivision 7 of § 36-137 of the Code of Virginia | Deletes the definition for “Nongovernmental employee,” which is a term not used in the regulation |
| 13VAC-5-21-10 | | | Grammatical update of “department” to “Department” |
| 13VAC-5-21-20 | | | Grammatical update of “department” to “Department” |
| 13VAC5-21-31 | | <p>Currently requires applicants for USBC or SFPC related certificates to receive written endorsement from a code official or code official’s supervisor in the locality in which they are employed that certifies the applicant complies with the qualification section of the USBC or SFPC.</p> <p>Applicants for VADR certificates require written endorsement from the applicant’s supervisor or person having a similar relationship to the applicant, certifying that the applicant is qualified to conduct activities related to the VADR</p> | Removes the requirements for certificate applicants to receive endorsements from supervisors, code officials, or the code official’s supervisor since the issuance of a certificate is not predicated on an applicant’s ability to perform a job and instead signifies that an applicant has taken the appropriate classes and passed the appropriate certification exams |
| 13VAC5-21-31 | | | Grammatical update of “department” to “Department” |
| 13VAC5-21-31 | | References prior name, “Training and Certification Office.” | Update to include proper office name for contact. |
| 13VAC5-21-41 | | | Grammatical update of “department” to “Department” |
| 13VAC5-21-41 | | | Primarily an editorial change that certifications are based on completing courses, not merely attending them |
| 13VAC5-21-41 | | Current requirement is training must have been completed 6 years prior to application submittal. | Requires that training must have been completed 4 years prior to application submittal ensuring knowledge consistent with most recent codes. |
| 13VAC5-21-45 | | Includes the word “with”. | Deletion of unnecessary text, “with” |
| 13VAC5-21-51 | | Currently provides a certificate status of “lapsed”, which is not defined or used elsewhere in the regulations. | Clarifies the statuses of certificates as either Active or Inactive and provides clarity for when a certificate holder will be considered out of compliance with the requirements for maintaining their active certificate status |
| 13VAC5-21-51 | | | Grammatical update of “department” to “Department” |

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| 13VAC5-21-61 | | Currently allows the board to issue notices of noncompliance to certificate holders. | Clarifies that the issuance of noncompliance notices is not a function of the Board |
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