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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board of Agriculture and Consumer Services
Virginia Administrative Code (VAC) Chapter citation(s)	2 VAC 5-685
VAC Chapter title(s)	Regulations Governing Pesticide Applicator Certification Under Authority of the Pesticide Control Act
Action title	Amend Commercial Applicator Certification Category for Public Health Pest Control
Date this document prepared	March 23, 2026

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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 the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

Section 70 of the Regulation establishes 13 categories of certification available to commercial pesticide applicators. The Regulation defines these categories by the location or pest to which a pesticide is applied. The Regulation establishes that the public health pest control category is for a commercial applicator who will be using or supervising the use of pesticides for the management and control of pests having medical and public health significance. This category is used by applicators applying pesticides for this purpose in either a public space, including locality-wide, or a private space.

This regulatory action will amend the Regulation by subdividing the existing public health pest control category into two subcategories that will each be more narrowly defined than the existing public health pest control certification category. This will enable a commercial applicator controlling pests of public health significance to train for, be tested on, and meet certification standards that more closely align with

the type of pesticide application that the applicator conducts, rather than the broader standards currently required for certification in the public health pest control category.

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

“Board” means the Board of Agriculture and Consumer Services.

“Commercial pesticide applicator” or “commercial applicator” means any applicator who has completed the requirements as determined by the Board, including appropriate training and time in service, to apply for a certification, and who uses or supervises the use of any pesticide for any purpose or on any property, other than as provided in the definition of private applicator, as defined in the Regulation.

“Law” means the Pesticide Control Act (Va. Code § 3.2-3900 et seq.).

“Regulation” means the Regulations Governing Pesticide Applicator Certification under Authority of Virginia Pesticide Control Act (2 VAC 5-685).

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation, (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

This regulatory action is the result of a petition for rulemaking submitted to the Board by the Virginia Pest Management Association (VPMA).

VPMA indicated that the public health pest control commercial pesticide applicator certification is difficult to attain for applicators whose job duties focus only on insecticide applications to control public health pests in non-public areas, such as residential mosquito control, and that many people who apply for the public health pest control certification currently do not pass the exam because it contains detailed questions pertaining to public health pest control measures conducted in public access areas. VPMA also indicated that the certification difficulty has resulted in a decreased availability of applicators who are certified and qualified to conduct insecticide applications to control public health pests in non-public areas.

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.

Section 3.2-109 of the Code of Virginia (Code) establishes the Board as a policy board with authority

to adopt regulations in accordance with the provisions of Title 3.2 of the Code.

Section 3.2-3906 of the Law authorizes the Board to adopt regulations to classify or subclassify certifications or certificates issued and to establish training and testing standards for certification.

Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

The Board is authorized to adopt regulations to establish training, testing, and standards for certification of commercial pesticide applicators. This regulatory action will more narrowly define the public health pest control certification categories to reflect the type of public health pest control application being conducted. The intent of this regulatory action is to increase the availability of certified applicators qualified to perform specific public health pest control applications. Because of the inherent safety considerations associated with the application of pesticides, it is imperative that the requirements for pesticide businesses and individuals who apply pesticides are clear and attainable. The proposed action will continue to protect the health and safety of the citizens of the Commonwealth by ensuring that minimum competencies are met by commercial pesticide applicators.

Substance

Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

This regulatory action will amend Section 70 to subdivide Category 8 pertaining to public health pest control certification into two subcategories. The certification standards will be revised to reflect the pesticide applicator knowledge and skills required for each subcategory. Persons seeking certification will be required to complete Board-approved training, submit an application, and pass an examination for the appropriate subcategory. Persons seeking certification in both subcategories will be required to complete training and examination requirements for each subcategory.

The new subcategories for public health pest control will require the development of new training materials and examinations for each subcategory.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

Alternatives to the regulatory action include no change to the public health pest control category in Section 70. No change to this certification category would require persons to continue to meet the current certification requirements in the broad public health pest control category. Stakeholders believe that the broad scope of the Category 8 certification standards limits the number of applicators qualified to conduct

site-specific residential pesticide treatments. The intent of this regulatory action is to increase the availability of certified public health pest control applicators and reduce pesticide applications by uncertified applicators by subdividing Category 8 into two, more narrowly defined subcategories.

**Periodic Review and
Small Business Impact Review Announcement**

If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and the ORM procedures), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify it as necessary for your agency. Otherwise, delete the paragraph below and insert “This NOIRA is not being used to announce a periodic review or a small business impact review.”

This NOIRA is not being used to announce a periodic review or a small business impact review.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

The Board is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email, or fax to:

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In order to be considered, comments must be received by 11:59 p.m. on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.