



Virginia
Regulatory
Town Hall

townhall.virginia.gov

Final Regulation Agency Background Document

Agency name	Board of Housing and Community Development
Virginia Administrative Code (VAC) citation	<u>13</u> VAC <u>5</u> - <u>21</u>
Regulation title	Virginia Certification Standards
Action title	Final Regulation
Document preparation date	August 5, 2005

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

The final regulations differ from the proposed regulations in that (i) the requirement for an endorsement from a supervisor for obtaining a certificate of competence from the Board of Housing and Community Development in the proposed regulation is changed in the final regulation to only needing to provide documentation of compliance with qualification requirements, (ii) the allowance for an alternative to the training requirements necessary to obtain a certificate of competence in the proposed regulation is clarified in the final regulation to not include alternatives to attending the core module of the Virginia Building Code Academy, (iii) the allowance for alternative tests or alternative training in the proposed regulation is clarified in the final regulation to have to be equivalent to the tests or training specified in the regulation and (iv) the requirements in the proposed regulation for sanctions for certificate holders are changed in the final regulation to be in line with a policy approved by the Board of Housing and Community Development.

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.

On July 26, 2005, the Board of Housing and Community Development adopted final regulations entitled "Virginia Certification Standards" (2003 edition) (13 VAC 5-21).

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 numbers, 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.

The statutory authority for the Board of Housing and Community Development to promulgate this final regulation is contained in § 36-137 of the Code of Virginia. As the regulation is a companion to the building and fire regulations of the Department which state law requires keeping up to date, the Board updates this regulation whenever updating the building and fire regulations.

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.

The need for the changes from the proposed regulation to the final regulation is to establish the appropriate level of requirements for obtaining certificates of competence from the Board of Housing and Community. The rationale and justification for the changes is based on the knowledge and expertise of the Building Code Academy Advisory Committee (BCAAC), a legislatively created advisory committee to advise the Board of Housing and Community Development on the training programs of the Department in the area of building and fire regulations. The reasons the changes are essential to protect the health, safety and welfare of the citizens of Virginia are that BCAAC constitutes a broad representation of the enforcement community and the regulated community and its members have the expertise to determine the minimum necessary requirements the agency's certification program. The goals and problems solved by the changes from the proposed regulation to the final regulation are to achieve the correct level of regulation for those persons participating in the certification program of the Department and to assure that they are obtaining the necessary training to perform their jobs.

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.

The substantive changes from the proposed regulations to the final regulations are as follows: (i) in § 31A, the requirement for an endorsement from a supervisor for obtaining a certificate of competence from the Board of Housing and Community Development in the proposed regulation is changed in the final regulation to only needing to provide documentation of compliance with qualification requirements. Correlating changes are made in §§ 45A and 51C; (ii) in § 41A, the allowance for an alternative to the training requirements necessary to obtain a certificate of competence in the proposed regulation is

clarified in the final regulation to not include alternatives to attending the core module of the Virginia Building Code Academy. A correlating change is made in § 45B; (iii) in §§ 45A and 45B, the allowance for alternative tests or alternative training in the proposed regulation is clarified in the final regulation to have to be equivalent to the tests or training specified in the regulation; and (iv) in § 61, the requirements in the proposed regulation for sanctions for certificate holders are changed in the final regulation to be in line with a policy approved by the Board of Housing and Community Development.

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 primary advantages to the public of the changes to the proposed regulation in the final regulation are that code enforcement personnel will have the appropriate level of training and knowledge to perform their jobs which in turn protects the public as they occupy commercial buildings and houses, use amusement devices or are involved in processes or operations involving hazardous, flammable or explosive materials. There are no disadvantages to the public, the Commonwealth or the Department in these final regulations. The primary advantage to the Commonwealth and the Department is that the agency is carrying out the legislative scheme of the issue of certificates of competence to building and fire code enforcement personnel when they have achieved the necessary level of training and education.

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
*13 VAC 5-21-31A	A written endorsement by an applicant’s supervisor was required prior to the issuance of a certificate for certification categories relative to the Virginia Uniform Statewide Building Code (USBC) and the Virginia Statewide Fire Prevention Code (SFPC).	In the final regulation, only documentation that an applicant complies with the qualification requirements is necessary to obtain a certificate.	Private parties are also permitted to be certified and do not always have a supervisor to submit the endorsement; this change also eliminates the subjectivity in approving local government applicants since it is assumed they meet the qualification requirements if they were hired.
13 VAC 5-21-41A	For the Department to maintain a list of certification categories.	Editorial additions to make it clear that the list will have all certification categories and training; also a clarification that the	To make the wording in the final regulation reflect the way the certification program has been applied by the Department with

		list may be different from the training requirements in the regulation.	respect to the list of categories and training requirements.
*13 VAC 5-21-41A	The alternatives to training provisions in the regulation permitted substitution for the core module of the Virginia Building Code Academy (VBCA).	The final regulation does not permit substitution for attending the code module of the VBCA prior to obtaining a certificate.	The Department has rearranged the facilitation of the core module of the VBCA to accommodate the numbers of applicants for certificates, therefore there is no need to have a substitute for the requirement that the core module be attended.
13 VAC 5-21-41B	Contained a reference to the alternatives to the core module of the VBCA.	Editorial changes to correlate with changes to § 41A and additional editorial changes necessary for clarification and the rearrangement of other provisions of the regulation.	To make the final regulation easier to read and apply.
13 VAC 5-21-45	Contained a reference to the written endorsement and to the alternatives to the code module of the VBCA.	Editorial changes to correlate with changes to § 41A (documentation vs. endorsement) and § 41B (attending the core module).	To assure the final regulation is applied correctly.
13 VAC 5-21-51	Contained a reference to the written endorsement and to the alternatives to the code module of the VBCA.	Editorial changes to correlate with changes to § 41A (documentation vs. endorsement) and § 41B (attending the core module).	To assure the final regulation is applied correctly.
*13 VAC 5-21-61	Provided that a certificate holder may be investigated to determine whether a minimum level of competency is maintained.	The final regulation provides for sanctions only if a certificate holder has failed to meet the required training and testing requirements.	Certificate holders are typically local government employees and subject to oversight from the government in the performance of their jobs. The role of the certification program is only to assure that a certificate holder has attended all training and passed the testing requirements.

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
-----------	---------	-----------------

Building Code Academy Advisory Committee (BCAAC)	This legislatively created committee is to advise the Board of Housing and Community Development on the implementation of its training programs in the area of building and fire regulation. The committee made a number of recommendations for changes to the Virginia Certification Standards after reviewing the proposed regulations.	The Board of Housing and Community Development implemented all of the BCAAC recommendations.
--	---	--

All changes made in this regulatory action

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

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
13 VAC 5-21-31A		A written endorsement by an applicant’s supervisor is required prior to the issuance of a certificate for certification categories relative to the USBC and the SFPC.	The proposed change made in the final regulation is that only documentation that an applicant complies with the qualification requirements is necessary to obtain a certificate. The rationale is that private parties are also permitted to be certified and do not always have a supervisor to submit the endorsement; this change also eliminates the subjectivity in approving local government applicants since it is assumed they meet the qualification requirements if they were hired.
13 VAC 5-21-41A		The current regulation (i) requires the Department to maintain a list of certification categories, and (ii) permitted alternative training to be considered to be substituted for the core module of the VBCA.	The proposed changes in the final regulation (i) clarify how the list of certification categories is to be arranged and (ii) requires attendance of the core module of the VBCA. The rationale is (i) to make the final regulation clear and (ii) to achieve a consistent level of training for all certificate holders through the core module now that the Department has arranged the facilitation to accommodate the numbers of students moving through the program.
13 VAC 5-21-41B		Contains a reference to the written endorsement and to the alternatives to the code module of the VBCA.	The proposed changes in the final regulation are to correlate with changes to § 41A and to clarify related provisions of the regulation. The rationale is that it is necessary to make these types of changes to have a final regulation with consistent provisions

			throughout.
13 VAC 5-21-45		The proposed regulation contains a reference to the written endorsement for obtaining a certificate and to the alternatives to the core module of the VBCA.	The proposed changes in the final regulation correlate the changes in § 41A (documentation vs. endorsement) and § 41B (attending the core module) with this section. The rationale is that it is necessary to make these types of changes to have a final regulation with consistent provisions throughout.
13 VAC 5-21-51		The proposed regulation contains a reference to the written endorsement for obtaining a certificate and to the alternatives to the core module of the VBCA.	The proposed changes in the final regulation correlate the changes in § 41A (documentation vs. endorsement) and § 41B (attending the core module) with this section. The rationale is that it is necessary to make these types of changes to have a final regulation with consistent provisions throughout.
13 VAC 5-21-61		The proposed regulation provides that a certificate holder may be investigated to determine whether a minimum level of competence has been maintained.	The proposed changes in the final regulation provide only for sanctions against a certificate holder if all training or testing requirements have not been met. The rationale is that certificate holders are typically local government employees and subject to oversight from the government in the performance of their jobs.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

The Department is not aware of any potential impact of this action on the institution of the family or on family stability.