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## Proposed Regulation Agency Background Document

<b>Agency name</b>	Board of Housing and Community Development (BHCD)
<b>Virginia Administrative Code (VAC) citation(s)</b>	13VAC5-95
<b>Regulation title(s)</b>	Manufactured Home Safety Regulations (MHSR)
<b>Action title</b>	Review and Update of the Virginia Manufactured Home Safety Regulations
<b>Date this document prepared</b>	December 17, 2019

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 (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

### Brief Summary

*Please 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 Manufactured Home Safety Regulations (MHSR) is an existing regulation. This change will be an amendment to update the regulation to ensure compliance and consistency with the associated HUD (Department of Housing and Urban Development) Manufactured Home Installation Standards (24 CFR Part 3285). The Department of Housing and Community Development is designated as the State Administrative Agency responsible for the installation of manufactured homes in Virginia. The MHSR provides necessary regulations to ensure compliance with the federal Manufactured Home Installation Standards.

### 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.*

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MHSR - Virginia Manufactured Home Safety Regulations  
CFR – Code of Federal Regulations  
HUD – US Department of Housing and Urban Development.

### Mandate and Impetus

*Please 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, board decision, etc.). For purposes of executive branch review, “mandate” has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), “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.”*

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As a State Administrative Agency, it is important for the MHSR to be updated in tandem with Virginia's other building and fire safety regulations. At its January 28, 2019 meeting, the Board of Housing and Community Development adopted a tentative regulatory schedule and directed staff to proceed with initiating the code development process.

### Legal Basis

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

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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.

### Purpose

*Please 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.*

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The intent and goal of this action is to update the MHSR based on current HUD construction standards. This action will also consider amendments to administrative and enforcement provisions of the MHSR as determined necessary for the administration of Virginia's Manufactured Home Installation Program. This action will ensure that manufactured homes are installed in a safe manner to protect the health, safety and welfare of the citizens of the Commonwealth.

### Substance

*Please 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.*

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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 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.*

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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 requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and 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 specific statement to that effect.*

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The requirements are based on federal standards and do not exceed federal requirements.

## Agencies, Localities, and Other Entities Particularly Affected

*Please identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.*

### Other State Agencies Particularly Affected

There are no other state agencies particularly affected.

### Localities Particularly Affected

There are no localities particularly affected.

### Other Entities Particularly Affected

There are no other entities particularly affected.

## Economic Impact

*Pursuant to § 2.2-4007.04 of the Code of Virginia, please identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Please keep in mind that this is change versus the status quo.*

### Impact on State Agencies

<i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	No projected cost is anticipated to implement and enforce the proposed amendments.
<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	No change expected.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	Will help ensure manufactured homes are installed in compliance with federal installation standards.

### Impact on Localities

Projected costs, savings, fees or revenues resulting from the regulatory change.	No change expected.
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<p>Benefits the regulatory change is designed to produce.</p>	<p>Will help ensure manufactured homes are installed in compliance with federal installation standards by providing clarification of specific terms and their implications. Also provides assurances to the consumer that a licensed installer has installed the home.</p>
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**Impact on Other Entities**

<p>Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.</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:  a) is independently owned and operated and;  b) 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 183; the maximum number of brokers would be 15; the maximum number of salespersons would be 345; and maximum number of installers would be approximately 300 (based upon estimated number of MHC Contractors who complete Manufactured Home Installer's Training through DHCD).</p>
<p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Please be specific and include all costs including, but not limited to:  a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses;  b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change;  c) fees;  d) purchases of equipment or services; and  e) time required to comply with the requirements.</p>	<p>Changes do not affect the cost.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>Will help ensure manufactured homes are installed in compliance with federal installation standards by providing clarification of specific terms and their implications. Also provides assurances to the consumer that a licensed installer has installed the home.</p>

**Alternatives**

*Please 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.*

Although no viable alternatives have been identified at this time, the Board may make changes to the regulatory action under consideration if alternative proposals are identified during the regulatory review process. The standards are based on federal standards; the alternative is to have the Department of Housing and Urban Development, as opposed to the state, enforce the regulations.

### Regulatory Flexibility Analysis

*Pursuant to § 2.2-4007.1B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.*

The proposed changes do not have an impact on compliance and reporting requirements. The requirement of providing a certificate to the homeowner after installation is a minor change with potential consumer benefits and minimal small business impact.

### Periodic Review and Small Business Impact Review Report of Findings

*If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, please indicate whether the regulatory change meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.*

*In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.*

The regulation is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses, and is clearly written and easily understandable.

- 1) The regulation ensures the safe installation of manufactured housing.
- 2) There were no specific comments received regarding the periodic review or small business impact.
- 3) The regulation is based federal standards.
- 4) The regulation does not appear to overlap with state or federal law or regulation.
- 5) The regulation was last evaluated and updated in 2014.

## Public Comment

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

There was no public comment regarding these regulations.

## Public Participation

*Please include a statement that in addition to any other comments on the regulatory change, the agency is seeking comments on the costs and benefits of the regulatory change and the impacts of the regulated community. Also, indicate whether a public hearing will be held to receive comments.*

In addition to any other comments, the Board of Housing and Community Development 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 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>. Written comments must include the name and address of the commenter. Comments may also be submitted by mail, email or fax to Kyle Flanders, 600 E Main St, St 300, Richmond, VA 23219, 804-786-6761 (o) 804-371-7090 (f) email [kyle.flanders@dhcd.virginia.gov](mailto:kyle.flanders@dhcd.virginia.gov). In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.

## Detail of Changes

*Please list all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation.*

For changes to existing regulation(s), please use the following chart:

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
13VAC5-95-10			New Definition for “Certificate of installation” and clarification of existing definition of “Installer”. This change will

			<p>help ensure that a qualified installer will review and certify installation of all new manufactured homes, as required by the federal regulations.</p>
<p>13VAC5-95-60</p>			<p>Adds a requirement that a copy of the certificate of installation be provided to the homeowner at the completion of installation. This change will ensure that the homeowner is provided with certification form a qualified installer that the installation complies with the federal standard, prior to occupying the home.</p>