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## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Department of Small Business and Supplier Diversity
<b>Virginia Administrative Code (VAC) citation(s)</b>	Amends 7VAC13-20-80, 7VAC13-20-140, 7VAC13-20-150, 7VAC13-20-160, and 7VAC13-20-200; Adds 7VAC13-20-150.1.
<b>Regulation title(s)</b>	Regulations to Govern the Certification of Small, Women-Owned, and Minority-Owned Businesses
<b>Action title</b>	Regulations to Govern the Certification of Small, Women-Owned, and Minority-Owned Businesses
<b>Final agency action date</b>	June 26, 2017
<b>Date this document prepared</b>	June 26, 2017

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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 Regulations to Govern the Certification of Small, Women- and Minority-Owned Businesses, 7VAC13-20, which are administered by the Department of Small Business and Supplier Diversity (DSBSD), are intended (i) to establish minimum requirements for the certification of small, women- and minority-owned (SWaM) businesses pursuant to Chapter 16.1 (§ 2.2-1603 et seq.) of Title 2.2 of the Code of Virginia, and (ii) to provide a process for evaluating local, state, private sector, and federal certification programs that meet those requirements.

The current regulatory action is exempt from the provisions of the Administrative Process Act (Va. Code § 2.2-4000 et seq.) pursuant to § 2.2-1606(8) of the *Code of Virginia*, which permits DSBSD to:

8. Adopt regulations to implement certification programs for small, women-owned, and minority-owned businesses and employment services organizations, which regulations

shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 2 of § 2.2-4002....

This regulatory action amends 7VAC13-20-80, 7VAC13-20-140, 7VAC13-20-150, 7VAC13-20-160 and 7VAC13-20-200, and adds 7VAC13-20-150.1. These amendments to 7VAC13-20 were necessitated by legislation enacted during the 2017 Session of the General Assembly.

Pursuant to Chapter 836 of the Appropriations Act, 7VAC13-20-140, 7VAC13-20-150, and 7VAC13-20-160 are amended to extend the SWaM certification from three years to five years. This change from a three year to a five year effective period for SWaM certification is effective as of July 1, 2017. Any company that was approved prior to July 1, 2017 will retain the three-year certification period. The proposed new subsection, 7VAC13-20-150.1 also includes this change.

In addition, this regulatory action amends 7VAC13-20-80 and 7VAC13-20-200 to comply with Senate Bill 1192, effective July 1, 2017, which provides that any out-of-state business applying for certification in Virginia as a small, women-owned, or minority-owned business must possess the equivalent certification in its home state as a prerequisite for approval in Virginia. An out-of-state business with a state of origin that does not have a small, women-owned, or minority-owned business certification program shall be exempt from the requirements of this provision.

This regulatory action also amends the title of subsection 7VAC13-20-140 and adds a new section, 7VAC13-20-150.1, to comply with the requirements of House Bill 1858, which directs DSBSD to mandate certification with no additional paperwork for any small, women-owned, or minority-owned business that has obtained certification under any federal certification program.

### 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.*

The Department of Small Business and Supplier Diversity submitted this regulatory action on June 26, 2017 to amend 7VAC13-20-80, 7VAC13-20-140, 7VAC13-20-150, 7VAC13-20-160 and 7VAC13-20-200 of the Regulations to Govern the Certification of Small, Women-Owned, and Minority-Owned Businesses, and to add 7VAC13-20-150.1.

### Family impact

*Please assess the impact of this 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 Department of Small Business and Supplier Diversity does not anticipate that this regulatory action will have a negative impact on the institution of the family and family stability. This action will probably be neutral regarding: 1) strengthening or eroding the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encouraging or discouraging economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthening or eroding the marital commitment; and 4) increasing or decreasing disposable family income.