



Fast Track Proposed Regulation Agency Background Document

Agency name	Board of Housing and Community Development
Virginia Administrative Code (VAC) citation	<u>13 VAC 5- 21</u>
Regulation title	Virginia Certification Standards
Action title	Clarification of Certification Standards
Date this document prepared	June 25, 2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

In conjunction with the updating of the Department's building and fire regulations, the Virginia Certification Standards have been reviewed for consistency in terminology and content and amendments are proposed to clarify and simplify the regulations. No substantive matters or changes are proposed.

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 Board of Housing and Community Development approved these fast-track regulatory changes to clarify, simplify and correlate the Virginia Certification Standards with the Department's building and fire regulations on June 25, 2007.

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 General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

The statutory authority for these fast-track regulatory changes to the Virginia Certification Standards is contained in § 36-137 of the Code of Virginia. The promulgating agency is the Board of Housing and Community Development. 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 the regulation 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 rationale and justification for these fast-track regulatory changes to the Virginia Certification Standards from the standpoint of the public's health, safety and welfare is to assure that the regulations are written in the plainest understandable language possible and that the regulations are correlated with the Department's building and fire regulations thus eliminating potential conflicts in the application of the regulations.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

As the fast-track regulatory changes to the Virginia Certification Standards do not contain substantive matters or changes and will better correlate the regulations with the Department's building and fire regulations and facilitate a more uniform application and interpretation of the regulations, the fast-track regulatory changes will be noncontroversial.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

The fast-track regulatory changes to the Virginia Certification Standards do not contain substantive matters or changes.

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 advantage to the public of this action is that the regulation will provide the least possible necessary regulation of persons who are required to obtain, or who choose to obtain, certificates by the Board of Housing and Community Development for performing inspections under the building and fire regulations of the board.

There are no advantages to the Department of Housing and Community Development or to the Commonwealth resulting from this action.

There are no disadvantages to the public or to the Commonwealth resulting from this action.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include 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 statement to that effect.

There are no applicable federal requirements concerning this regulatory action.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

This proposed action does not create any disproportionate material impact upon any Virginia locality.

Regulatory flexibility analysis

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) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of 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 proposed regulation.

As there are no substantive matters or changes to the Virginia Certification Standards in this fast-track regulatory action, no analysis of alternative regulatory methods has been performed.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	Not applicable, as no substantive matters or changes are being made to the regulation.
Projected cost of the regulation on localities	Not applicable, as no substantive matters or changes are being made to the regulation.
Description of the individuals, businesses or other entities likely to be affected by the regulation	Not applicable, as no substantive matters or changes are being made to the regulation.
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 (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	Not applicable, as no substantive matters or changes are being made to the regulation.
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	Not applicable. as no substantive matters or changes are being made to the regulation.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. 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 regulation.

Not applicable, as there are no substantive matters or changes to the Virginia Certification Standards in this fast-track regulatory action.

Family impact

Please assess the impact of the proposed 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 is not aware of any potential impact of this action on the institution of the family or on family stability.

Detail of changes

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

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
13 VAC 5-21-10 (Definition of the term “Applicant”)		References the Board of Housing and Community Development.	Removes the reference to the Board of Housing and Community Development due to the inclusion of a statutory reference to the Board in the definition of the term, “Certificate.”
13 VAC 5-21-10 (Definition of the term “BCAAC”)		References the Board of Housing and Community Development.	Removes the reference to the Board of Housing and Community Development as a statutory reference is already provided.
13 VAC 5-21-10 (Definition of the term “Certificate”)		Provides the statutory language concerning the content of certificates.	Adds the statutory reference for the basis of the definition of the term.
13 VAC 5-21-10 (Definition of the term “Certificate holder”)		References the Board of Housing and Community Development.	Removes the reference to the Board of Housing and Community Development due to the inclusion of a statutory

			reference to the Board in the definition of the term, "Certificate."
13 VAC 5-21-10 (Definition of the terms "Code Academy and DHCD")		Uses the acronym, "DHCD" for the Virginia Department of Housing and Community Development.	Replaces the acronym, "DHCD" with the term, "Department" as the term is not used extensively enough to need the shortened version.
13 VAC 5-21-20 and 13 VAC 5-21-21		Uses the acronyms, "BHCD" and "DHCD."	Removes the reference to the acronym, "BHCD" before the term, "certificate" since a statutory reference to the Board of Housing and Community Development is provided in the definition of the term, "certificate." Removes the acronym "DHCD" and replaces with the term, "Department" as the term is not used extensively enough to need the shortened version.
13 VAC 5-21-21		Uses the words, "type of" before the term, "certificate."	Clarifies that the statement concerning the maintenance of the list of examinations is for all certificates and not just "types" of certificates, which can be misread to not include all certificates.
13 VAC 5-21-21		References the Division of Building and Fire Regulation within the Department.	Changes the reference to the Department's Technical Assistance Services Office, which is now the office within the Department administering the regulations.
13 VAC 5-21-41A and B		Referenced certification categories.	Changes the reference from the words, "certificate categories" to the term, "certificates" since the term, "categories" can be misread to not include all certificates.
13 VAC 5-21-41A		References the Division of Building and Fire Regulation within the Department for further information.	Removes the reference to the Division of Building and Fire Regulation as the reference to the Department's Technical Services Office in § 31C already provides contact information.
13 VAC 5-21-41B		Uses the acronym, "BHCD" before the term, "certificate."	Removes the acronym, "BHCD" as a reference to the Board of Housing and Community Development is already provided in the definition of the term,

			“certificate.”
13 VAC 5-21-41B		Uses the heading, “Category of BHCD Certification” in the table setting out specific training required to obtain specific certifications.	Replaces the heading of the table with the term, “Certificate” as the table is for specific certifications, not categories of certifications.
13 VAC 5-21-45A		<p>1) Uses the acronym, “BHCD” before the term, “certificate.”</p> <p>2) Uses the acronym, “DHCD” for the Virginia Department of Housing and Community Development.</p> <p>3) Uses the words, “maintained by DHCD” after the phrase, “list of approved testing agencies.”</p> <p>4) Uses the words, “DHCD may request the assistance of” before the acronym, “BCAAC.”</p>	<p>1) Removes the acronym, “BHCD” as a reference to the Board of Housing and Community Development is already provided in the definition of the term, “certificate.”</p> <p>2) Replaces the acronym, “DHCD” with the term, “Department” as the term is not used extensively enough to need the shortened version.</p> <p>3) Removes the words, “maintained by DHCD” after the phrase, “list of approved testing agencies” as § 31C already requires the list to be maintained.</p> <p>4) Removes the words, “DHCD may request the assistance of” before the acronym, “BCAAC” and adds the words, “may be consulted with” after the term since § 20 already establishes that the Department administers the regulations.</p>
13 VAC 5-21-45B		<p>1) Uses the phrase, “Upon written application by any applicant for a BHCD certificate.”</p> <p>2) Uses the words, “DHCD may request the assistance of” before the acronym, “BCAAC.”</p>	<p>1) Replaces the existing phrase with, “Upon written request,” since there is no application form used to request the approval of alternative training. In addition, the reference to “BHCD” is removed as it is covered in the definition of “certificate.”</p> <p>2) Removes the words, “DHCD may request the assistance of” before the acronym, “BCAAC” and adds the words, “may be consulted with” after the term since § 20 already establishes that the Department administers the</p>

			regulations.
13 VAC 5-21-51		Uses the acronyms "DHCD," BHCD and DFP."	Eliminates the acronyms and substitutes the term "the Department" where appropriate to simplify and eliminate unnecessary language.
13 VAC 5-21-61		Uses the phrases, "by DHCD," "issued under this chapter and "kept in records."	Eliminates the phrases, "by DHCD and "issued under this chapter" since § 20 already establishes that the Department administers the regulations. The phrase, "kept in records" and the context in which it is used is replaced with clearer language for the retaining of records concerning action taken pursuant to the provision.