



Proposed Regulation Agency Background Document

Agency name	Virginia Department of Housing and Community Development (DHCD)
Virginia Administrative Code (VAC) citation	13 VAC 5-95-10 thru 13 VAC 5-95-100
Regulation title	Manufactured Housing Safety Regulations (MHSR)
Action title	Update of current MHSR to reference the recent changes in the Federal Construction Standards of HUD regarding standards of installation.
Date this document prepared	August 31, 2009

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

In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.

The regulatory action is to update the Manufactured Housing Safety Regulations to incorporate by reference the recent changes and additions to the Federal Construction Standards of HUD. The Federal Construction Standards are enforcement provisions for the design, construction, distribution and the installation of manufactured homes. These enforcement standards are enforced in the Commonwealth of Virginia through a Cooperative Agreement between the U.S. Dept. of HUD and the Department of Housing and Community Development (DHCD). As of October, 2008 HUD instituted manufactured home installation standards as part of their enforcement procedures to be the standard for the installation of manufactured homes in all states. The change proposed in the MHSR allows the Commonwealth of Virginia to adopt Installation Standards of HUD Part 3285 as the most current installation standard available. Also, the Federal Installation Standards will replace current outdated standards no longer in print and

not readily available at the request of clients and constituents of the State Building Code Administrative Office.

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.

MHSR - Manufactured Housing Safety Regulations

HUD – United States Department of Housing and Urban Development

DAPIA – Design Approval Primary Inspection Agency

SECRETARY – Secretary of Housing and Urban Development or an official of HUD delegated the authority of the Secretary with respect to the Act

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

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. State law does require the Board to keep the regulation up to date.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

The enabling law for the MHSR requires the Board to keep the regulation up to date. The proposed regulatory action is essential to protect the health, safety and welfare of citizens of the Commonwealth by providing the most current and up to date installation standards currently available and mandated. The current installation standards are outdated and no longer available as a viable resource upon request by clients, building officials and installers; also HUD's new Manufactured Home Installation Standards are enforced as a mandatory installation standard under Federal Regulation. The proposed regulation will delineate the mandatory installation standard per HUD which is fundamental to the protection of the health, safety and welfare of citizens and is readily available for clients, building officials and installers.

Substance

Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the "Detail of changes" section.)

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 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 the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The advantage for the public, building officials, installers and private citizens is the revision to the code removing outdated and unattainable NCSBCS/ANSI A225.1 standard 1994 edition and to specify the new mandated HUD installation regulation in the code. The HUD installation standards provide minimum requirements for the initial installation of new manufactured homes and 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. 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 inspection procedures and all processes related to the installation of manufactured homes within the Commonwealth. The Building Official is responsible but not limited to the aspects for the installation and set up of a new manufactured home for footings, foundation systems, anchoring of the home, exterior and

interior close-up, additions and alterations, and 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 Title 24 Code of Federal Regulations, Part 3285 – Model Manufactured Home Installation Standards. Where the installation or erection of a manufactured home utilizes components which are to be concealed, the installer shall notify the building official that an inspection is necessary and assure that an inspection is 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 proposal, which are 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 requirements or no requirements that exceed applicable federal requirements which are more restrictive.

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.

There are no localities particularly affected.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the board/agency 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 may do so via the Regulatory Town Hall website, www.townhall.virginia.gov; or by mail, email or fax to Clinton Wallace, 600 E. Main Street, Suite 300, Richmond, VA 23219, (804) 371-7161, fax number: (804) 371-7092 , email address: clinton.wallace@dhcd.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last date of the public comment period.

[The following paragraph is optional:]

A public hearing will be held and notice of the public hearing may appear on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and the Commonwealth Calendar. Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source, and (b) a delineation of one-time versus on-going expenditures.	No projected cost is anticipated to implement and enforce the proposed amendments.
Projected cost of the <i>new regulations or changes to existing regulations</i> on localities.	No anticipated projected cost.
Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.	Manufactured home retailer/installers, installers and manufacturers who are regulated by these regulations
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.	The maximum number of manufacturers would be 42, the maximum number of dealers would be 238, the maximum number of brokers would be 3, the maximum number of salespersons would be 699, and the maximum number of installers would be 570.
All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities. Please be specific and do include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential	HUD prepared an Initial Regulatory Flexibility Analysis (IRFA) that evaluated the potential economic impact on the small entities the regulations would affect including manufacturers retailers, installers and trainers. Appendix A of 24 CFR Part 3286 provides a detailed cost analysis of each section of the final rule.

<p>purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>There would be a projected increase for single sectional and/or multi sectional homes per the following:</p> <p>Retailers: \$5.36 to provide purchaser/lessee with consumer disclosure.</p> <p>Retailers, Manufacturer, Installer: \$40.00 for the temporary storage of units for support of the home and protecting the interior of the home from damage.</p> <p>Installer: \$20.00 when work is completed the installer must certify the home has been installed in compliance with the installation instruction;</p> <p>\$2.50 installer must provide a signed copy of its certification to the retailer that contracted with the purchaser for the sale of the home;</p> <p>\$100.00 required initial training for installers;</p> <p>\$20.00 requires installer verify that the site is appropriate for the installation;</p> <p>\$0.20 requires installer to notify retailer, purchaser and SAA if site is not appropriate for installation;</p> <p>\$0.20 requires installer notify manufacturer and retailer if a failure to comply with construction and safety standards is noticed during installation;</p> <p>\$124.03 provides requirements for installer to maintain records for 3 years.</p> <p><i>Totals:</i></p> <table border="0"> <tr> <td>Retailer</td> <td>Manufacturer</td> <td>Installers</td> </tr> <tr> <td>\$45.36</td> <td>\$40.00</td> <td>306.93</td> </tr> </table>	Retailer	Manufacturer	Installers	\$45.36	\$40.00	306.93
Retailer	Manufacturer	Installers					
\$45.36	\$40.00	306.93					
<p>Beneficial impact the regulation is designed to produce.</p>	<p>Replace current outdated standards no longer in print and not readily available at the request of clients and constituents of the State Building</p>						

	Code Administrative Office. Will provide better installation of manufactured homes and fewer complaints from consumers. Provides a better delineation of the responsibilities for each party involved for the building official, inspectors, installers, dealers and manufactures.

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.

Other alternatives for achieving the need in the most cost-effective manner are not known at this time. If any alternatives are submitted, they will be available for evaluation during the public comment period.

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.

Other alternatives for achieving the need in the most cost-effective manner are not known at this time. If any alternatives are submitted, they will be available for evaluation during the public comment period.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response

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 proposed regulations do not have an impact on the institution of family and family stability.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact if implemented in each section. Please detail the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all provisions of the new regulation or changes to existing regulations 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, rationale, and consequences
5-95-10			<p><i>Added</i> Design Approval Primary Inspection Agency or DAPIA to define who does plans approval</p> <p><i>Deleted</i> Distributor this is addressed via the existing definition for Dealer.</p> <p><i>Added</i> Federal Installation Standards for clarity identification of new Installation Standards.</p> <p><i>Added</i> definition for Installation to provide clarity of work to be performed governed by the federal installation standards/state installation standards.</p> <p><i>Added</i> installer to identify person or entity retained for the initial installation</p>

			<p>of manufactured home.</p> <p><i>Modified</i> Label or certification label to coincide with federal regulations definition.</p> <p><i>Modified</i> Local Building Official for cohesion of the definition with the USBC.</p> <p><i>Added</i> Manufacturer’s installation instruction to define the approval authority of the instructions and clarify the work for the installation at the site to comply with federal standards.</p> <p><i>Added</i> Recreational vehicles to clarify vehicles not covered by the standards.</p>
5-95-20A			Deleted as defined in 13 VAC 5-95-10 and 13VAC5-95-20. The definition of manufactured home is in the definition section of the regulation.
5-95-20D			Added verbiage to include inspections to better identify what the administrator is authorized to perform
5-95-20E			Modified code officials to building official to coincide with definitions; deleted and added verbiage to better outline responsibilities and authorizations for building officials enforcement of the regulations
5-95-20F			Modified language to better specify code requirements and parameters for administrative requirements.
	5-95-20G		Added section for clarification for recreational vehicles not subject to regulations
5-95-30A			Deleted language, it has been relocated in this code. Modified section numbering
5-95-30B			Deleted language, it has been relocated in this code
5-95-40			Modified code officials to building official to coincide with definitions.
5-95-50A			Modified language to coincide with definitions, and added clarification for work on new homes
5-95-50B			Modified code officials to building

			official to coincide with definitions, added language to clarify for new homes;
	5-95-50C		Added new section for direction of building officials for their authority in accordance with State Code for regulations and procedures regarding used manufactured homes for alterations, additions and repairs.
5-95-60			Modified definitions to coincide with 13VAC6-20; deleted language concerning support and anchoring this is addressed in this regulation
5-95-70			REPEALED, this action is covered under different regulation
5-95-80			Deleted distributor and replaced with broker
5-95-90A			Deleted distributor and replaced with broker, also allow for complaints to be submitted in other formats
5-95-90B			Deleted distributor and replaced with broker
5-95-90C			Deleted distributor and replaced with broker and added installer
5-95-90D			Deleted distributor and replaced with broker and added installer
5-95-90F			Deleted distributor and replaced with broker and added installer
5-95-100A			Deleted original language and added language that specifies Code of Virginia §36-85-12 to specify civil penalties and prohibited acts.
5-95-100B			Deleted original language and added language that specifies Code of Virginia §36-114 addressing appeals.
5-95-100C			Deleted this section, this is addressed in 5-95-100A reference to §36-85-12

For new chapters, use this chart:

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
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Enter any other statement here