



Final Regulation Agency Background Document

Agency name	Virginia Department of Housing and Community Development (DHCD)
Virginia Administrative Code (VAC) citation	13 VAC 5-95
Regulation title	Manufactured Housing Safety Regulations (MHSR)
Action title	Update of current 2006 MHSR to cite correct references to the Federal Construction Standards of HUD regarding Manufactured Housing.
Date this document prepared	January 10, 2014

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The Federal Construction 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). The Virginia Manufactured Home Safety Regulations outline the responsibilities of the state administrative agency (DHCD in Virginia) and the local building officials.

The final regulation adds language to specify the applicable provisions of the USBC, including, permits, inspections, certificates of occupancy and specific requirements of Part 1 of the USBC.

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 or board taking the action, and (3) the title of the regulation.

The Board of Housing and Community Development approved final regulations for the Manufactured Housing and Safety Regulations on December 16, 2013.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.

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 requires the Board to keep the regulation up to date.

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 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. 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 by, (1) more thoroughly clarifying the enforcement role of the local building officials and (2) more thoroughly clarifies the civil penalty and fines resulting from violations of the laws, rules and regulations.

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 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 there are no disadvantages to the public or the Commonwealth, please indicate.*

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.

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
13VAC5-95-20.F	Requires site preparation, utility connection, and skirting installation meet the applicable requirements of the USBC.	Adds language that outlines the administrative provisions of the USBC and specific requirements of Section 425 of Part 1 of the USBC shall apply.	The change is necessary to specify what the applicable requirements of the USBC are.

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

No comments were received during the public comment period.

All changes made in this regulatory action

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

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
13VAC5-95-10		Definitions	<p><i>Modified</i> Act to Federal Act to coincide with federal regulations definition.</p> <p><i>Added</i> Federal Installation Standards for clarity, identification of new Installation Standards.</p> <p><i>Modified</i> Federal regulation to Federal regulations to coincide with federal regulations definition.</p> <p><i>Deleted</i> verbiage on enactment date and authority of federal regulations.</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> definition for Installer to identify person or entity retained for the initial installation of manufactured homes.</p> <p><i>Modified</i> Label definition to include HUD label to coincide with added language of federal standards.</p> <p><i>Modified</i> Local code official to Local building official for cohesion of the definition with the USBC.</p>
13VAC5-95-20.A		General section stating that this chapter shall apply to	<i>Modified</i> to clarify that manufactured homes are defined in 13VAC5-95-10 and

		manufactured homes as defined in specific sections.	as set out in this section.
13VAC5-95-20.D		The current regulation Outlines DHCD as the enforcement agency for the federal standards pertaining to manufactured homes in Virginia.	Added verbiage to include language pertaining to enforcement of civil and criminal penalties.
13VAC5-95-20.E		The current regulation gives building officials the authority to enforce provisions of this chapter within the limits of their jurisdictions.	<i>Modified</i> code officials to building officials to coincide with definitions; deleted and added verbiage to better outline responsibilities and authorizations for building officials enforcement of the regulations.
13VAC5-95-20.F		The current regulation requires mounting and anchoring meet the applicable requirements of the USBC.	<i>Modified</i> removes mounting and anchoring and lists requirements for site work in accordance with state law. It also adds administrative provisions of the USBC that must be complied with.
13VAC5-95-30.A		The current regulation states that the certification label shall be accepted in all localities as meeting the requirements of state law. It goes on to outline the responsibilities of the local building official.	<i>Deleted</i> language; relocated in this code. Also modified section numbering.
13VAC5-95-30.B		The current regulation requires local code officials to enforce the applicable provisions of the USBC	<i>Deleted</i> language; relocated in this code.
13VAC5-95-40		The current regulation requires any manufactured home that is moved before a noted violation has been corrected to make a report to the administrator	<i>REPEALED</i> –
13VAC5-95-50.A		The current regulation requires that distributors and dealers get approval from the administrator (DHCD) before altering any manufactured home.	<i>Added</i> installer in list of entities which are not allowed to perform or cause to be performed, any alternations which affect requirements of the federal standards.
13VAC5-95-50.B		The current regulation says they administrator may be assisted by the local code official when handling alterations.	<i>Modified</i> language to reference §36-99 of the Code of Virginia and the USBC regarding existing homes as subject to Section424 of the USBC.
13VAC5-95-60		The current regulation says installations shall be in accordance with the manufacturer’s installation instructions or other system approved by the local code	<i>Modified</i> language to clarify that installers are included in list of entities that must install homes according to manufacturer’s instructions. <i>Deleted</i> verbiage allowing for use of

		official.	other support or anchoring systems when approved by the local code official.
13VAC5-95-70		The current regulation prohibits the resale of any manufactured home possessing a serious defect or imminent safety hazard	<i>REPEALED</i> , this action is covered under different regulation.
13VAC5-95-80		The current regulation delineates the requirements for lot inspections.	<i>Modified</i> language concerning lot inspections to federal regulations and standards to clarify that administrator may cite violations of both during lot inspections.
13VAC5-95-90			<i>Modified</i> to remove on-site inspections.
13VAC5-95-90.A		The current regulation requires that the administrator receive all consumer complaints involving manufactured homes.	<i>Modified</i> code officials to state local building officials and report to all consumer complaints to coincide with definitions; modified language on complaint form format.
13VAC5-95-90.C		The current regulation gives the administrator the authority to request a representative be present to coordinate the inspection and investigation.	<i>Modified</i> proposed regulation adds the installer to the list of individuals who can provide a representative.
13VAC5-95-90.E		The regulation requires the administrator to refer to the manufacturer of the home of any consumer complaint.	<i>Modified</i> language to include mandatory language requiring the administrator to notify the manufacturer of the home, HUD, the SAA of any consumer complaints reported to the manufacturer.
13VAC5-95-90.F		The current regulation requires the administrator to assist the involved parties in resolving consumer complaints and ensure compliance with Subpart I.	<i>Added</i> installer to list of entities administrator shall assist in resolving consumer complaints. <i>Deleted</i> language on administrator's responsibility to monitor the manufacturer on Subpart I compliance.
	13VAC5-95-90.G		Adds this section to separate it from the previous section.
13VAC5-95-100			<i>Deleted</i> appeal from section.
13VAC5-95-100.A		The current regulation gives the administrator the authority to issue a notice of violation.	<i>Deleted</i> original language and added language that specifies Code of Virginia §36-85-12 to specify civil penalties and prohibited acts.
13VAC5-95-100.B		The current regulation delineates the State Building Technical Review Board process	<i>Deleted</i> original language
13VAC5-95-100.C		The current regulation states that any person	<i>Deleted</i> this section, this is addressed in 5-95-100A reference to §36-85-12.

		convicted shall be considered guilty of a misdemeanor.	
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