



Virginia
Regulatory
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Final Regulation Agency Background Document

Agency name	Virginia Department of Housing and Community Development
Virginia Administrative Code (VAC) citation	13 VAC 5-21
Regulation title	Virginia Certification Standards (VCS)
Action title	Requirements for local, third party, and others seeking code enforcement certification in Virginia.
Date this document prepared	7 January 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

This regulatory action amends the existing regulation to clarify the existing mandatory requirements for all certificate holders in code enforcement, to separately obtain both periodic training to maintain a level of technical knowledge required of the certificate holder as well continuing education to progress the level of professional skill commensurate with the building code cycles and the construction industry developments. This regulatory action further correlates the proposed regulatory amendments within the Virginia Uniform Statewide Building Code (USBC), which encompass the relevant Sections of the Virginia Construction Code (Section 105.2.3), Virginia Residential Code (Section 105.2.3), and Virginia Maintenance Code (Section 104.4.4), regarding compliance with each of the two requirements for periodic maintenance training and continuing education credits. This regulatory action applies the mandated training and education requirements to further define the active, inactive, and lapsed certificate status of certificate holders relative to the ongoing training and education of certificate holders. Additionally this regulatory action clarifies references to training and examination requirements for initial certification to the required list maintained by the agency for purposes of certification application and establishes criteria for age of training and examination in the application process.

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 Virginia Certification Standards 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 of the state to promulgate this regulation is pursuant to Title 36 of the Code of Virginia §36-137, mandating the Board of Housing and Community Development (BHCD) to issue a certificate of competence concerning the content, application, and intent of specified subject areas of the building and fire prevention regulations promulgated by the Board to present or prospective personnel of local governments and to any other persons seeking to become qualified to perform inspections pursuant to Chapter 6 (§ [36-97](#) et seq.) of Title 36, Chapter 9 (§ [27-94](#) et seq.) of Title 27, and any regulations adopted thereunder, who have completed training programs, topic examinations, or in other ways demonstrated adequate knowledge.

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.

As recognized in §36-99 of the Code of Virginia, the purpose of the USBC protects the health, safety, and welfare of the citizens of the Commonwealth, while permitting buildings to be constructed in the most economical manner consistent with such pertinent recognized standards relative to construction, health, and safety. Therefore, the certification and associated training and education of the local and non-government code enforcement personnel are inherent in and critical to the achievement of this purpose and ensures the technical and professional level of those personnel, including the knowledge and skill gained resultant from the initial training, mandated periodic training and continuing education, as well as a familiarity with and understanding of recent developments within the building codes and construction industry.

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.

Not being substantive in nature, this regulatory action primarily serves to clarify and correlate the existing regulatory requirements.

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.*

This regulatory action poses no foreseen disadvantages to the public or the Commonwealth.

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

No changes made since the proposed stage.

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 public comment received.

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
13VAC5-21-10			Addition of definition
13VAC5-21-31.A		The current requirement allows for the qualification endorsement section of the certification application be submitted in written form	The proposed change adds electronic submission of the qualification endorsement section of the certification application in addition to the written format. The purpose of this change is to reduce paper applications by utilizing electronic application submission.
13VAC5-21-31.C		The current requirement does not apply limits to age of passing examinations grades in the certification application process.	The proposed change places a six year limit on the age of the passing examination grade accepted in the certification application process except where the applicant holds an active certification issued by the approved testing agency. This proposed change promotes the professionalism of the code enforcement personnel through demonstration of competency of current code content and application.
13VAC5-21-41.A		Currently the standard identifies specific training requirements in the regulation and is then duplicated in regulation required training list maintained by the department.	The proposed change removes the language of the specific training requirements sited in the regulations and now references all training requirements to the department maintained list. The rationale for this proposed change is to eliminate duplication and allow for training requirement updates to pass through the Board of Housing and Community Development approval eliminating the need for regulation change to maintain current training requirements for all applicants for certification.
13VAC5-21-45.B		The current requirement does not apply limits to the validity of the required training based on time between attendance and submission of application in the certification process.	The proposed change places a six year limit on the age of the training in the certification application process and that all training requirements are based on agency maintained list at the time of application. The purpose of this proposed change is to promote the professionalism of the code enforcement personnel through knowledge of current Virginia code content and application.

13 VAC 5-21-45.A		The current regulation allows for applicant to apply for alternative to the examination and training requirements.	The proposed change eliminates the examination alternative. The intent of this proposed change is to promote the professionalism of the code enforcement personnel through knowledge of current model code content and application.
13VAC5 – 21-51.A		The current regulation defines the issuance and maintenance process of certification and the existing definition of inactive status.	The proposed change adds the requirement that all certification applications be based on current criteria as indicated on the agency maintained list. Additionally the proposed change further delineates the certificate status of lapsed to indicate the status when a certificate is not maintained per the regulation.
13VAC5 – 21-51.C		The current regulation allows for the issuance of a provisional certificate when the agency fails to provide identifies training indicates such a certificate is warranted.	The proposed changes adds criteria for the issuance of a provisional certificate when a certificate falls into inactive or lapsed status or when circumstances out of applicant’s control occurs such as medical or military leave. This regulation change broadens the criteria of provisional certificate issuance.
13VAC5 – 21-51.D		New language	The proposed change adds language consistent with that of the USBC to include the continuing education requirement. This change applies consistent certification requirements for all local and non-government certificate holders.
13VAC5- 21-61		New language	The proposed change adds the provision for issuance of noncompliance notices when the certificate holder fails to meet the maintenance training or continuing education requirements. The purpose of this change is to increase communication and accountability with compliance to regulation requirements thereby ensuring all certificate holders remain current in code knowledge and application.