



townhall.virginia.gov

Proposed Regulation Agency Background Document

Agency name	Board of Housing and Community Development (BHCD)
Virginia Administrative Code (VAC) citation(s)	13 VAC5-21
Regulation title(s)	Virginia Certification Standards (VCS)
Action title	Review and Update of the Virginia Certification Standards
Date this document prepared	December 17, 2019

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Brief Summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The VCS is a regulation governing the certification, qualification and examination requirements for those person's whose work is regulated by the Uniform Statewide Building Code (USBC). The VCS dictates the training requirements and certification standards for inspectors, permit technicians, and all other code officials.

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.

VCS – Virginia Certification Standards

Mandate and Impetus

Please identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, board decision, etc.). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

As this regulation addresses the certifications required by the Department's building and fire regulations for persons performing enforcement activities under those regulations, this regulation needs to be coordinated with the other building and fire regulations of the Department. At its January 28, 2019 meeting, the Board of Housing and Community Development adopted a tentative regulatory schedule and directed staff to proceed with initiating the update process for the regulations.

As the regulation is a companion to the building and fire regulations of the Department, the VCS must be periodically reviewed and updated to correlate with those regulations.

Legal Basis

Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.

The statutory authority to update the regulation is contained in § 36-137 of the Code of Virginia. The promulgating agency is the Board of Housing and Community Development.

Purpose

Please explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's 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 briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

This change edits the sentence structure of Certification Categories and Training Requirements. The change is editorial and alters the “list of certificates offered and sets out the required training necessary to attend and complete...” to “the list of certificates offered and sets out the training required to be completed to obtain each certificate...” There is an additional editorial change deleting an unnecessary word.

Issues

Please identify the issues associated with the regulatory change, 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, include a specific statement to that effect.

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

Requirements More Restrictive than Federal

Please identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and 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 specific statement to that effect.

There are no applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Please identify any other state agencies, localities, or other entities particularly affected by the regulatory change. “Particularly affected” are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

None

Localities Particularly Affected

None

Other Entities Particularly Affected

None

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, please identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Please keep in mind that this is change versus the status quo.

Impact on State Agencies

<i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	No change expected.
<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	No change expected.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	Clarification of existing regulation.

Impact on Localities

Projected costs, savings, fees or revenues resulting from the regulatory change.	No change expected.
Benefits the regulatory change is designed to produce.	Clarification of existing regulation.

Impact on Other Entities

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	No change expected.
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: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	No change expected.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Please be specific and include all costs including, but not limited to:	No change expected.

<p>a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses;</p> <p>b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change;</p> <p>c) fees;</p> <p>d) purchases of equipment or services; and</p> <p>e) time required to comply with the requirements.</p>	
<p>Benefits the regulatory change is designed to produce.</p>	<p>Clarification of existing regulation.</p>

Alternatives

Please describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

Although no viable alternatives have been identified at this time, the Board may make changes to the regulatory action under consideration if alternative proposals are identified during the regulatory review process.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

The regulations in place establish a baseline for the certification of building, fire, and property maintenance officials in the Commonwealth; ensuring buildings are constructed and maintained properly. The regulations serve their intended purposes with minimal impact to small business and the minimum level of compliance and reporting necessary.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, please indicate whether the regulatory change meets the criteria set out in Executive Order 14 (as amended,

July 16, 2018), e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.

In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

The regulation is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses, and is clearly written and easily understandable.

- 1) The regulation ensures proper training and certification for code officials who ensure the safe construction and maintenance of structures in Virginia.
- 2) There were no specific comments received regarding the periodic review or small business impact.
- 3) The regulation is clear and easy to understand for stakeholders and the general public.
- 4) The regulation does not appear to overlap with state or federal law or regulation.
- 5) The regulation was last evaluated and updated in 2014.

Public Comment

Please summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. If no comment was received, enter a specific statement to that effect.

None.

Public Participation

Please include a statement that in addition to any other comments on the regulatory change, the agency is seeking comments on the costs and benefits of the regulatory change and the impacts of the regulated community. Also, indicate whether a public hearing will be held to receive comments.

In addition to any other comments, the Board of Housing and Community Development 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 for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Written comments must include the name and address of the commenter. Comments may also be submitted by mail, email or fax to Kyle Flanders, 600 E Main St, St 300, Richmond, VA 23219, 804-786-6761 (o) 804-371-7090 (f) email kyle.flanders@dhcd.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.

Detail of Changes

Please list all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation.

If the regulatory change will be a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory change. Delete inapplicable tables.

For changes to existing regulation(s), please use the following chart:

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
13VAC5-21-41			Primarily an editorial change that certifications are based on completing courses, not merely attending them
13VAC5-21-45			Editorial change; delete unnecessary word.