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## Fast Track Proposed Regulation Agency Background Document

<b>Agency name</b>	Board of Accountancy
<b>Virginia Administrative Code (VAC) citation</b>	18 VAC 5 -21
<b>Regulation title</b>	Board of Accountancy Regulations
<b>Action title</b>	Fee for Administration of Computer-Based CPA Examination
<b>Date this document prepared</b>	January 26, 2006

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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 accordance with Section 2.2-4012.1 of the Administrative Process Act (APA), and Executive Order 21 (2002), the Board of Accountancy is proposing a fast-track regulation to decrease the administration fee charged to Virginia candidates who take the computer-based CPA examination, or "CBT," for the first time from \$160 to \$120, and to repeal entirely the fee charged to Virginia candidates who re-take the CBT. By taking over the administration of the CBT from its current vendor—CPA Examination Services Inc. (CPAES), the Board will more efficiently and effectively administer the CBT for its candidates; the net effect of which is to provide direct savings to Virginia candidates.

### 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.*

During its meeting on January 9, 2006, the Board of Accountancy unanimously approved decreasing the examination administration fee from \$160 to \$120, and promulgating this action to amend the Board of Accountancy Regulations.

### 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.*

As required by Executive Order 21 (2002), the Board has been given the legal authority to promulgate the contemplated amendments to its regulations through Chapter 44 of Title 54.1 of the Code of Virginia, 1950, as amended. The Board has that legal authority in Sections 54.1-4403 (1), (2), (3) and (4), and 54.1-4409 (A). The Board received a memorandum dated February 8, 2006 from the Office of the Attorney General stating that the Board has the authority to promulgate these proposed 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.*

On July 26, 2005, the Board of Accountancy unanimously approved to take over the administration of the computer-based CPA examination, or "CBT," from the current vendor—CPA Examination Services Inc. (CPAES)—to more efficiently and effectively administer the CBT for its Virginia candidates, and to provide direct savings to Virginia candidates.

Currently, Virginia exam candidates pay an examination administration fee of \$160 to CPAES for their initial exam application (this fee will be decreased to \$120 under this proposal), and they pay an examination administration fee ranging from \$60 to \$105 to CPAES to re-take the CBT (this fee will be repealed entirely under this proposal). In the first year of the CBT (April 2004 to April 2005), CPAES collected a total of \$591,210 from Virginia exam candidates. This included fees from initial examination candidates (which totaled \$256,770) and from re-examination candidates (which totaled \$334,440).

With this proposal, the Board will decrease the examination administration fee charged to initial exam candidates from \$160 to \$120 and repeal entirely the examination administration fee charged to re-exam candidates. So, using the same figures from the first year of the CBT, the total real **savings** passed directly to Virginia exam candidates under the Board's proposal would have been **\$362,970** over the same period.

Section 54.1-4409 of the Code of Virginia states that the Board "shall issue a CPA certificate only to a person who meets the character, education, experience, continuing professional education (CPE), and CPA exam requirements established in this chapter and by regulations of the Board." Before an applicant for a CPA certificate may sit for the CPA exam, that applicant must meet the prescribed education requirements in the statutes and regulations of the Board.

Further, Section 54.1-4403 of the Code states that the Board shall have the power and duty (i) to establish the "qualifications of applicants for licensure, provided that all qualifications shall be necessary to ensure competence and integrity;" (ii) to examine the "qualifications of each applicant for licensure,

including the preparation, administration and grading of examinations;” (iii) to promulgate regulations “in accordance with the Administrative Process Act ... necessary to assure continued competency, ... and to effectively administer the regulatory system;” and (iv) to levy and collect fees for licensure that are “sufficient to cover all expenses for the administration and operation of the Board.”

Since the Board is required by statute to issue licenses only to those applicants who are qualified individuals—one requirement for licensure being the CPA examination—the Board must have the appropriate fees “that are sufficient” to cover the expenses for administering the CBT. Therefore, to meet its statutory obligation, it is essential that the Board’s examination administration fee take effect by August 14, 2006, when the Board takes over the administration of the CBT.

If this fee change fails to be promulgated, then (i) the Board will not be able to effectively and efficiently administer the CBT; (ii) applicants for a CPA license in Virginia will not be able to take the CBT; and (iii) the Board will not have sufficient funds to cover its operating expenses.

The practice of public accountancy is a profession that, according to Section 54.1-100, “requires specialized skill or training and the public needs, and will benefit by, assurances of initial and continuing professional ... ability.” The “potential for harm is recognizable and not remote,” so, it is necessary for the Board to promulgate this proposed regulation through the fast-track process to “effectively administer the regulatory system,” of which a key part concerns the “qualifications of applicants for licensure” that includes administering the CBT.

### 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.*

The Board of Accountancy is promulgating this regulation using the fast-track process because it will decrease the examination administration fee charged to Virginia candidates who take the CBT for the first time from \$160 to \$120, and to repeal entirely the fee charged to Virginia candidates who re-take the CBT. By taking over the administration of the CBT from its current vendor—CPA Examination Services Inc. (CPAES), the Board will more efficiently and effectively administer the CBT for its candidates; the net effect is to provide direct savings to Virginia candidates.

By using the figures supplied by CPAES from the first year of the CBT (April 2004 to April 2005), the Board’s proposal, by decreasing the examination administration fee charged to initial exam candidates from \$160 to \$120 and repealing entirely the fee charged to re-exam candidates, the total real **savings** passed directly to Virginia exam candidates would have been **\$362,970** over the same period.

Therefore, this regulation is noncontroversial and represents a real savings to Virginia exam candidates.

### 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 only changes to be made will be to Board of Accountancy Regulation 18 VAC 5-21-20. In this section, the first change is to amend the "Initial CPA exam application fee" to "Examination administration fee" and the fee itself from "\$25" to "\$120". (This proposal will decrease the examination administration fee from \$160 to \$120.) The second change is to clarify that the examination administration fee will be assessed only for Virginia candidates initially applying to the CBT and not for re-taking the CBT; furthermore, should the Board contract for examination administration services in the future, such contracts "shall not include a fee for those services that exceeds \$200."

**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 is to decrease the cost of the examination administration fee for those Virginia candidates taking the CBT. The primary advantages to the Board is that it will be able to more effectively and efficiently administer the CBT; applicants for a CPA license in Virginia will be able to take the CBT; and the Board will have sufficient funds to cover its operating expenses.

There are no disadvantages to the public or the Commonwealth.

**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 is no requirement of this proposal which is more restrictive than applicable federal requirements.

**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 proposal will not affect any locality disproportionately. It will decrease the examination administration fee charged to Virginia candidates who take the CBT for the first time from \$160 to \$120, and repeal entirely the examination administration fee charged to Virginia candidates who re-take the CBT.

**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.*

The only alternative would be to not have the new reduced examination administration fee for Virginia candidates to take the CBT. This would cause the Board to determine different means by which to pay for undertaking the administration of the CBT. This would impact current licensees—CPAs and CPA firms—through the raising of licensing and other fees, creating a higher burden for individuals to maintain their licenses. Further, not having sufficient funds to effectively administer current services, along with the additional services linked to administering the CBT, would directly affect the current licensees and the public. Results include lessening the ability of the Board to review applicants for licensure, and lessening the ability of the Board to protect the public through its assurance of the competency of its licensees. Such an analysis led to the conclusion that not implementing this proposal would increase the costs on licensees to stay in business, thus increasing the cost of services provided to the public—making services less accessible.

Since this alternative would in fact be more burdensome and costly for individuals, the Board determined that it was not a viable alternative to its proposal that would result in direct savings being passed on to Virginia candidates who take the CBT.

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

<p><b>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</b></p>	<p>With the Board assuming the administration of the CBT, this proposed decrease in the examination administration fee from \$160 to \$120 for initial candidates and \$0 for re-examination candidates would entail a revenue increase to the Board of \$180,690. This amount would address the anticipated increase in personnel costs of approximately \$150,000, as well as the initial one-time costs—furniture and IT—of approximately \$13,000 to administer the examination in-house.</p>
<p><b>Projected cost of the regulation on localities</b></p>	<p>No projected cost of regulation on localities.</p>
<p><b>Description of the individuals, businesses or other entities likely to be affected by the</b></p>	<p>Individuals who will be Virginia candidates for the CBT, and those who will be applicants for a CPA</p>

<p><b>regulation</b></p>	<p>license in Virginia. No businesses or other entities will likely be affected by this proposal, except to gain a larger pool of employees with accounting and auditing knowledge and skills.</p>
<p><b>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.</b> 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.</p>	<p>The most recent national statistics available about CPA candidate information for the CBT from April 5, 2004 to February 28, 2005 from the National Association of State Boards of Accountancy, Inc. (NASBA)—the parent company of CPAES—show that Virginia ranks 5<sup>th</sup> in the number of candidates tested in the United States, behind only California, New York, Texas, and Illinois. Between April 5, 2004 to May 12, 2005, 2,744 Virginia candidates were tested. So, the best estimate would be around 3,000 or more individual candidates annually.</p>
<p><b>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.</b></p>	<p>The projected costs for individuals include a direct savings from the current \$160 examination administrative fee to the proposed \$120 fee. Using the same figures from the first year of the CBT (April 2004 to April 2005), the total savings passed directly to Virginia candidates would have been <b>\$362,970</b> over the same period. There are no projected increases in the reporting, record keeping or other administrative costs required for compliance by small businesses.</p>

**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.*

The only alternative would be to not have the new reduced examination administration fee for Virginia candidates to take the CBT. This would cause the Board to determine different means by which to pay for undertaking the administration of the CBT. This would impact current licensees—CPAs and CPA firms—through the raising of licensing and other fees, creating a higher burden for individuals to maintain their licenses. Further, not having sufficient funds to effectively administer current services, along with the additional services linked to administering the CBT, would directly affect the current licensees and the public. Results include lessening the ability of the Board to review applicants for licensure, and lessening the ability of the Board to protect the public through its assurance of the competency of its licensees. Such an analysis led to the conclusion that not implementing this proposal would increase the costs on licensees to stay in business, thus increasing the cost of services provided to the public—making services less accessible.

Since this alternative would in fact be more burdensome and costly for individuals, the Board determined that it was not a viable alternative to its proposal that would result in direct savings being passed on to Virginia candidates who take the CBT.



**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 amendments proposed by the Board of Accountancy will not have an impact on the institution of the family and family stability. The proposed amendments will not strengthen nor erode the authority and rights of parents in the education, nurturing, and supervision of their children. They will not 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. These amendments will not strengthen or erode the marital commitment. The effect of amendments on disposable family income will be minimal.

**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
18 VAC 5-21-20		The current section lists all fees for the Board.	<p><b>Amendment:</b> In this section, the first change is to amend the "Initial CPA exam application fee" to "Examination administration fee" and the fee itself from "\$25" to "\$120". The second change is to clarify that the examination administration fee will be assessed only for initial application to the exam and not for re-examination candidates; furthermore, should the Board contract for examination administration services, such contracts "shall not include a fee for those services that exceeds \$200."</p> <p><b>Consequences:</b> Unless enacted, the administration fee established for the initial application for the CPA exam will not be clarified for candidates preparing to take the exam, which will create unnecessary confusion about the process. Further, unless enacted, fee collections will not be accurately</p>

			<p>aligned with the costs of the work performed by the Board members and staff. If the fee is not adjusted, then the fees from Virginia regulants (CPAs and CPA firms) will have to be raised to cover the administrative costs for the exam, or the Board will not be able to adequately perform its oversight role.</p> <p><b>Essential Nature:</b> Current regulations provide for a \$25 initial CPA exam fee to cover the costs of work performed by the Board members and staff. It is important that with the Board assuming the administration of the CPA exam, each exam candidate understand that the only fee paid to the Board will cover only the initial application for the exam, not the re-examination fee, and that should the Board contract for examination administration services through the Virginia Public Procurement Act (VPPA), that the contract shall not include a fee for those services that exceeds \$200.</p> <p><b>Issues:</b> None.</p>
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