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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Virginia Board of Accountancy
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	18 VAC5-22
<b>VAC Chapter title(s)</b>	Board of Accountancy Regulations
<b>Action title</b>	Amend Regulations Following Periodic Review
<b>Date this document prepared</b>	November 8, 2018

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 (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

The Virginia Board of Accountancy has not made significant revisions to 18VAC5-22 since their adoption in 2010. The regulations establish the necessary requirements to assure continued competency, to prevent deceptive or misleading practices by licensees, and to enforce Chapter 44 of Title 54.1. On September 25, 2018, the VBOA began a periodic review of the regulations and concluded that amendments were needed.

The intent of this planned regulatory action is to explore amendments to the regulations, in order to ensure the regulations (i) are protective of public health, safety, and welfare; (ii) address changes in statutes, and professional standards; and (iii) clarify and codify longstanding agency policies.

### Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

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“VBOA” means Virginia Board of Accountancy.

“CPA” means certified public accountant.

### Mandate and Impetus

*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, or board decision). 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.”*

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The VBOA recently concluded a periodic review of 18VAC5-22 and determined at that time that the regulation should be amended.

### Legal Basis

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

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VBOA regulations are promulgated under the general authority of Title 54.1, Chapter 44 of the Code of Virginia.

Subsection 3 of § 54.1-4403 of the Code of Virginia gives the VBOA the power and duty to “[p]romulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by licensees, and to effectively administer the regulatory system.” Subsection H of § 54.1-4402 of the Code of Virginia states that the VBOA “shall have the responsibility of enforcing [Chapter 44 of Title 54.1] and may by regulation establish rules and procedures for the implementation of the provisions of this chapter.”

### Purpose

*Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.*

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The last time the VBOA regulations underwent a thorough and complete review was in 2010 when 18VAC5- 21 was repealed and 18VAC5-22 was promulgated.

In the intervening years, Chapter 44 of Title 54.1 has change several times and a comprehensive regulatory review is necessary to ensure the VBOA regulations complement existing statutes, impose

minimal burdens on CPAs and CPA firms while still protecting the public, and reflect current agency policies and procedures.

The regulations will also be reviewed to ensure they achieve their intended objectives in the most efficient, cost-effective manner, and are clearly written and understandable. The VBOA may propose other changes it identifies as necessary during the regulatory review process.

**Substance**

*Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

The VBOA is proposing to perform a general review of the existing regulations. During review of the regulations, other changes may be identified as necessary to ensure consistency with current practices and legal requirements, improve clarity, and to make any amendments necessary to better protect the health, safety, and welfare of citizens of the Commonwealth.

**Alternatives to Regulation**

*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 VBOA may make changes to the regulatory action under consideration if alternative proposals are identified during the regulatory review process, and after consideration of any submissions during the public comment period.

**Periodic Review and Small Business Impact Review Announcement**

*If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and Executive Order 14 (as amended, July 16, 2018)), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify as necessary for your agency. Otherwise, delete the paragraph below and insert "This NOIRA is not being used to announce a periodic review or a small business impact review."*

This NOIRA is not being used to announce a periodic review or a small business impact review.

**Public Participation**

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.*

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The VBOA is seeking comments on this regulation, including but not limited to: ideas to be considered in the development of this regulation, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation. Also, the agency/board is also 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) the probable effect of the regulation on affected small businesses; and 3) the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through one of the following methods:

- Via the Public Comment Forums feature of REGULATORY TOWN HALL website at <http://townhall.virginia.gov/>

OR

- Send to the attention of: Kelli Anderson, Communications Manager

By E-MAIL to: [kelli.anderson@boa.virginia.gov](mailto:kelli.anderson@boa.virginia.gov)

By FAX to: (804) 527-4409

By U.S. Mail to:

Virginia Board of Accountancy  
9960 Mayland Drive, Suite 402  
Henrico, VA 23233

Written comments must include the name and address of the commenter. 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 the proposed stage of this regulatory action, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time.