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Fast Track Proposed Regulation Agency Background Document

Agency name	Department of Housing and Community Development; Virginia Manufactured Housing Board
Virginia Administrative Code (VAC) citation	13 VAC 6-20
Regulation title	Manufactured Housing Licensing and Transaction Recovery Fund Regulations
Action title	Amend the Regulations to comport with the definition of "new manufactured home" as amended in Code of Virginia, 36-85.16 by the 2005 General Assembly in H 2720 (Chapter 430 of the 2005 Acts of Assembly) and to correct the references to a previously repealed regulation.
Document preparation date	June 6, 2005

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

House Bill 2720 was enacted by the 2005 General Assembly (Chapter 430 of the 2005 Acts of Assembly) and approved March 21, 2005, to amend the definition of "new manufactured home" in the Code of Virginia. This amendment of the Regulations will incorporate the language from the Code of Virginia in the Regulations for the definition of "new manufactured home" to address manufactured homes sold from one dealer to another before being sold to a consumer. If the manufactured home is sold from one dealer to another and then sold to a consumer within two years of the date of manufacture of the home, the home must be sold as a new manufactured home. If the sale to the consumer occurs more than two years after the date of manufacture of the home, the home must be sold as used and the consumer must be advised, in writing, of the effect of the used status of the home on the warranty issued with the home. The exact language from HB 2720 is being added to the Regulations with no other change to the definition.

The second change is to correct a reference in the Regulations to another regulation that has been repealed previously. The reference, found in four (4) sections of the Regulations, cites the Industrialized Building and Manufactured Home Safety Regulations. That regulation was repealed by the Board of Housing and Community Development in accordance with the APA. The appropriate, correct reference should be to the Manufactured Home Safety Regulations, 13 VAC 5-95. This proposed amendment corrects the title of the Manufactured Home Safety Regulations and inserts the correct VAC number.

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 their meeting on May 19, 2005, the members of the Virginia Manufactured Housing Board present voted unanimously to amend the definition of “new manufactured home” in the Regulations to match the language in Chapter 430 of the 2005 Acts of Assembly and to correct the references to the previously repealed Industrialized Building and Manufactured Home Safety Regulations. The Board also voted to Fast Track the proposed amendments.

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.

Section 36-85.18(4) of the Code of Virginia establishes the power and duty of the Virginia Manufactured Housing Board to promulgate regulations in accordance with the APA to carry out the provisions of the chapter. The authority of the Virginia Manufactured Housing Board to promulgate the Regulations is mandatory.

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.

Chapter 430 of the 2005 Acts of Assembly (H 2720) amended the Code of Virginia section 36-85.16 in the definition of a “new” manufactured home. Since the Regulations promulgated by the Board cannot conflict with the Code of Virginia provisions, this amendment is necessary for the Regulations to comport with the Code of Virginia. The purpose of the second amendment is to correct in four locations in the Regulations the title of a referenced standard that has been repealed and replaced by the Board of Housing and Community Development.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. 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 rationale for using the fast track process is that the amendments proposed by the Board are not discretionary amendments. The amendment to the definition of “new manufactured home” was adopted by Chapter 430 of the 2005 Acts of the Assembly. The Board is simply making the same change to the definition in the Regulations. The Board of Housing and Community Development has previously repealed the Industrialized Building and Manufactured Home Safety Regulations and replaced that regulation with the Manufactured Home Safety Regulations. This proposed amendment simply corrects the title and VAC numbers of the referenced regulation.

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.)

13 VAC 6-20-10 Definitions: In the definition of “Code” correct the title of the referenced regulation. In the definition of “New manufactured home” add the language that was added by Chapter 430 of the 2005 Acts of Assembly.

13 VAC 6-20-80: Correct the title and VAC number of the referenced regulation.

13 VAC 6-20-120: Correct the title and VAC number of the referenced regulation.

13 VAC 6-20-350: Correct the title and VAC number of the referenced regulation.

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.*

- 1) The primary advantages to the public will be to have the Regulations reference the correct title and VAC number and to have a clear determination of what constitutes a new

manufactured home resulting in less confusion for consumers and industry businesses. There are no known primary disadvantages for the public.

- 2) The primary advantages to the agency will be to have Regulations that refer to the correct title of referenced documents and that comport with the Code of Virginia. There are no known primary disadvantages.
- 3) There are no known pertinent matters of interest to the public or the Commonwealth.

Financial impact

Please identify the anticipated financial impact of the proposed regulation and at a minimum provide the following information:

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	No projected cost is anticipated to implement and enforce the proposed amendments.
Projected cost of the regulation on localities	No anticipated projected cost.
Description of the individuals, businesses or other entities likely to be affected by the regulation	Manufactured home manufacturers, dealers and consumers involved in purchases of manufactured homes that have been sold from one dealer to another prior to the sale to the consumer.
Agency’s best estimate of the number of such entities that will be affected	The maximum number of manufacturers would be 50 and the maximum number of dealers would be 260 since those are the numbers of licensed entities in the program. The number of consumers involved would not be likely to exceed 150 to 200.
Projected cost of the regulation for affected individuals, businesses, or other entities	No anticipated projected costs for affected entities.

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.

The alternative would be to not amend the Regulations. By not amending the Regulations, we would continue to have a Regulation that references a repealed regulation and includes a definition that would be different from the same definition in the Code of Virginia. Therefore, this would not be an appropriate alternative.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

No anticipated impact on the institution of the family and family stability.

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
6-20-10		Definition of "Code" refers to the Industrialized Building and Manufactured Home Safety Regulations.	Delete "Industrialized Building and" from the title to reflect the correct title of the regulation adopted by the Board of Housing and Community Development.
6-20-80		Definition of "New manufactured home" does not address homes sold from one dealer to another.	Amend definition as amended by Chapter 430 of the 2005 Acts of Assembly to address homes sold from one dealer to another and then sold to a consumer.
6-20-120		Refers to Section 1200.2 of the Industrialized Building and manufactured Home Safety Regulations.	Corrects the reference to 13 VAC 5-95-10 of the Manufactured Home Safety Regulations.
6-20-350		Refers to Section 1200.2 of the Industrialized Building and Manufactured Home Safety Regulations.	Corrects the reference to 13 VAC 5-95-10 of the Manufactured Home Safety Regulations.