

TITLE 7. ECONOMIC DEVELOPMENT

DEPARTMENT OF SMALL BUSINESS AND SUPPLIER DIVERSITY

Final Regulation

REGISTRAR'S NOTICE: The Department of Small Business and Supplier Diversity is claiming an exemption from the Administrative Process Act in accordance with subdivision 8 of § 2.2-1606 of the Code of Virginia, which exempts regulations implementing certification programs for small, women-owned, and minority-owned businesses and employment services organizations from the Administrative Process Act pursuant to subdivision B 2 of § 2.2-4002 of the Code of Virginia.

Title of Regulation: **7VAC13-20. Regulations to Govern the Certification of Small, Women-Owned, and Minority-Owned Businesses (amending 7VAC13-20-210, 7VAC13-20-220).**

Statutory Authority: § 2.2-1606 of the Code of Virginia.

Effective Date: March 8, 2019.

Agency Contact: Jennifer Mayton, General Administrative Manager III, Department of Small Business and Supplier Diversity, 101 North 14th Street, 11th Floor, Richmond, VA 23219, telephone (804) 593-2007, or email jennifer.mayton@sbsd.virginia.gov.

Summary:

The amendments shorten the time period from 12 months to six months within which a business may (i) reapply for small, women-owned, or minority-owned (SWaM) certification if their certification is revoked or denied or (ii) request a waiver of the reapplication period.

7VAC13-20-210. Revocation procedure.

A. Initiation of the revocation process.

1. The department may, at the request of any state agency or at its own discretion, examine any certified business to verify that it continues to meet the applicable eligibility requirements for certification as a small, women-owned, or minority-owned business.
2. Any individual or firm that believes that a business certified by the department does not qualify under the standards of eligibility for certification may request that the department undertake a review to verify that the certified business continues to meet the eligibility requirements for certification. Such requests must be written and signed and must contain specific identification of the affected business and the basis for the belief that the business does not meet the eligibility standards. After reviewing the request, the department shall determine whether to conduct a review of the business. The department's decision may not be appealed by the party seeking such verification. Written requests for verification of continued eligibility of a certified business for certification should be sent to the Virginia Department of Small Business and Supplier Diversity at its principal place of business.

B. Review procedure.

1. If the department determines to conduct a review of a business's certification, the department shall notify the business in writing that the department is reviewing its certification, explaining the basis for its decision to conduct a review.
2. The department may request records or other documentation from the business, may conduct an onsite visit of the business facilities, and may question other parties during its review.

3. The department may impose a time limit of not less than 15 days in which the business must respond to a request for records or other documentation. A reasonable extension may be given by the department for good cause shown by the business. Requests for time extensions should be made in writing to the department and should specify the length of time for which the extension is being requested and the reason for the request. If the business fails to provide the information in the time requested, the department shall issue a notice of intent to revoke the certification.

4. Upon completion of the review, a written report shall be prepared, which shall include:

- a. A statement of the facts leading to the review;
- b. A description of the process followed in the review;
- c. The findings of the review; and
- d. A conclusion that contains a recommendation for disposition of the matter.

C. Revocation process.

1. If during the review procedure a business is found to be ineligible for certification and is issued a notice of intent to revoke its certification, the business shall have the right to an informal fact-finding proceeding as provided in 7VAC13-20-230.

2. A business's certification will remain effective until the issuance of a letter of revocation.

3. If the business does not request an appeal within 10 days of the notice of intent to revoke, as provided in 7VAC13-20-230, a letter of revocation will be issued at the end of such 10-day period.

4. A business whose certification has been revoked may reapply for certification in the same category ~~12~~ six months after the date of revocation.

7VAC13-20-220. Reapplication.

A. A business whose application for certification has been denied may reapply for the same category of certification ~~12~~ six months after the date on which the business receives the notice of denial. An applicant denied certification may apply for certification in any other category without delay if otherwise eligible.

B. The applicant may request a waiver of the ~~12-month~~ six-month reapplication period from the department director by submitting a written request for reconsideration and providing a reasonable basis for the waiver. The director or his designee, in his discretion, shall render a final decision regarding the request for reconsideration and waiver within 30 days, which determination shall not constitute a case decision subject to appeal.