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Periodic Review and Small Business Impact Findings Where Result is "Retain the Regulation As Is"

Agency name	Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects
Virginia Administrative Code (VAC) citation	18VAC10-20
Regulation title	Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects Regulations
Date	March 24, 2016

This information is required pursuant to Executive Order 17 (2014).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including: 1) the most relevant law and/or regulation; and 2) promulgating entity, i.e., agency, board, or person.

(1) Relevant Laws

[§ 54.1-201.A.5](#) of the *Code of Virginia* states that the Board has the power and duty "To promulgate 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 practitioners and to effectively administer the regulatory system administered by the regulatory board. The regulations shall not be in conflict with the purposes and intent of this chapter or of Chapters 1 (§ [54.1-100](#) et seq.) and 3 (§ [54.1-300](#) et seq.) of this title.

[§ 54.1-404.A](#) of the *Code of Virginia* authorizes the board as follows: "The Board shall promulgate regulations not inconsistent with this chapter governing its own organization, the professional qualifications of applicants, the requirements necessary for passing examinations in whole or in part, the proper conduct of its examinations, the implementation of exemptions from license requirements, and the proper discharge of its duties."

The imperative form of the verb “shall” is used, making the Board’s authority to regulate mandatory rather than discretionary.

Executive Order 17 (2014) states, in part, "Each existing regulation in the state shall be reviewed at least once every four years by the promulgating agency unless specifically exempted from periodic review by the Governor."

(2) Promulgating Entity

Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

No viable alternative has been identified. The current regulations establish minimum licensing requirements for architects, professional engineers, land surveyors, and landscape architects. Minimum standards are necessary for these professions because these individuals design the very infrastructure of the country including buildings, bridges, and other important structures. Ensuring that these professionals meet minimum education, training, experience, and examination standards is crucial to the protection of the public health, safety, and welfare of the public.

The regulations also establish specific requirements for the certification of interior designers. However, as a certificate program, it does not affect the practice of interior design by non-certified individuals.

These regulations also establish minimum requirements for business registrations.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

#	Regulation # Commenter’s Name	Summary of Comment(s)
		Board Response
1	18VAC10-20 Regulation Architect, Engineers, Surveyors and Landscape Architects Irwin W. Stanton, P.E	As I understand it these regulations are up for review as to whether these regulations should be repealed, amended, or retained. These regulations are necessary to help protect public health, safety, and welfare. As such these regulations should not be repealed. I have no specific recommendations for amending the regulations at this time.

		<p><i>Board Response: The Board concurs.</i></p>
<p>2</p>	<p>18 VAC 10-20-210. Requirements for the Principles of Engineering (PE) examination</p> <p>Peter Skaredoff, P.E.</p>	<p>The current requirements under this section for taking the PE examination state that a potential candidate needs to have some educational background, generally in the form of a college degree. Even without a degree, the board may judge that academic coursework meets the equivalent requirement. The results of this regulation is that an individual with either limited or no academic background has no chance of ever becoming a Professional Engineer, regardless of the years of qualifying engineering experience. I believe this requirement creates a needless barrier to entry for the engineering field in Virginia by discouraging otherwise talented individuals from entering the field if there is a fixed ceiling on professional advancement. I believe this also creates an economic burden in the state by restricting both the supply of our native engineering talent pool and the earnings potential of Virginia citizens.</p> <p>I suggest the current regulations should be amended to allow 20 years of qualifying engineering experience to be an acceptable means of satisfying the requirements of 18 VAC 10-20-210 without having any college level education.</p> <p>Personally and professionally, I would respect any individual, with 20 years of qualifying engineering experience and having passed the PE exam, as a colleague and peer as a professional engineer.</p> <p><i>Board Response: By consensus, the Board agreed to keep the requirements as they are at this time.</i></p>
<p>3</p>	<p>18 VAC 10-20-210. Requirements for the Principles of Engineering (PE) examination</p> <p>Garrison C Cavell</p>	<p>I respectfully suggest that the current regulations should be amended to allow 20 years of qualifying engineering experience to be an acceptable means of satisfying the requirements of 18 VAC 10-20-210 without having any college level education. If a person has this amount of qualifying experience, it should demonstrate a level of competence, determination, and an ability to learn and apply oneself to the profession. More importantly, the EIT and PE exams serve as</p>

		<p>excellent, rigorous and thorough filters to determine a person's depth and breadth of engineering knowledge.</p> <p><i>Board Response: By consensus, the Board agreed to keep the requirements as they are at this time.</i></p>
4	<p>18 VAC 10-20-210. Requirements for the Principles of Engineering (PE) examination</p> <p>William Suffa, P.E.</p>	<p>The Board is considering whether or not to modify the regulations to permit 20+ years of experience in engineering to be equivalent to a Bachelor's of Science degree for purposes of qualification for sitting for the PE examination.</p> <p>The regulations currently permit such experience to qualify in lieu of the FE examination.</p> <p>It is respectfully requested that the Board consider permitting 20+ years of experience EITHER to apply in lieu of the FE exam OR in lieu of the Bachelors of Science degree, but not both.</p> <p>The skills required to pass both the FE and PE exams demonstrate a grasp of the knowledge and skills taught in a Bachelors curriculum. Neither examination is easily passed without such skills and knowledge.</p> <p><i>Board Response: By consensus, the Board agreed to keep the requirements as they are at this time.</i></p>

Four public comments were received during the public comment period January 11 – February 1, 2016. The first comment recommends that the regulation regarding the licensing/certification of Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects be retained in order to help protect the health safety and welfare of the public. The second, third and fourth comments pertain to allowing experience to replace education requirements. The Board determined to keep the requirements as they are at this time. No informal advisory committee was formed.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The regulations are consistent with the criteria of Executive Order 17 (2014) in that they are necessary for the protection of the public health, safety, and welfare. Further, apart from this periodic review, the regulations were recently amended to ensure that it is written clearly and is easily understandable. In the recent regulatory review, each profession-specific requirement was evaluated and the regulations were studied on a macro level to ensure consistent language in similarly themed areas of the regulations by implementing the simplest form of text to achieve the most clarity for all affected members of the public. The current regulations became effective January 1, 2016.

Result

Please state that the reason why the agency is recommending that the regulation should stay in effect without change.

The agency recommends that the regulations remain in effect and unchanged.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, 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. Also, include a discussion of the basis for the agency’s determination to retain the regulation as is, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

1. The current regulations establish minimum licensing requirements for architects, professional engineers, land surveyors, and landscape architects. Minimum standards are necessary for these professions because these individuals design the very infrastructure of the country including buildings, bridges, and other important structures. Ensuring that these professionals meet minimum education, training, experience, and examination standards is crucial to the protection of the public health, safety, and welfare of the public. The regulations also establish specific requirements for the certification of interior designers. However, as a certificate program, it does not affect the practice of interior design by non-certified individuals. These regulations also establish minimum requirements for business registrations.
2. Four public comments were received during the public comment period January 11 – February 1, 2016. The first comment recommends that the regulation regarding the licensing/certification of Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects be retained in order to help protect the health safety and welfare of the public. The second, third and fourth comments pertain to allowing experience to replace education requirements. The Board determined to keep the requirements as they are at this time.
3. The regulations are not complex in nature.
4. The regulations do not overlap, duplicate, or conflict with federal or state laws or regulations but instead work in concert with them.
5. The last periodic review concluded December 2011. The current regulations became effective January 1, 2016.

No small business impact has been identified.