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Periodic Review Report of Findings

Agency name	Virginia Department of Labor and Industry/Safety and Health Codes Board
Virginia Administrative Code (VAC) citation	16 VAC 25-35 -10 et seq.
Regulation title	Regulation Concerning Certified Lead Contractors Notification, Lead Project Permits and Permit Fees
Date this document prepared	September 18, 2019

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 (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Acronyms and Definitions

Please define all acronyms used in this Report. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

Enter statement here

Legal Basis

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

Section 40.1-51.20 of the Code of Virginia mandates that all certified lead contractors notify the Department of Labor and Industry prior to commencement of each lead abatement project in

which certification is required by the Department of Professional and Occupational Regulation. The contractor shall also obtain a lead permit and pay the appropriate fee in accordance with this Code section. This regulation establishes the notification requirements and provides that the Department of Labor and Industry conduct on-site inspections of each certified lead contractor’s actual abatement projects. This regulation does not exceed the mandate required by Section 40.1-51.20.

Alternatives

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

The Department of Labor and Industry did not consider any alternatives to this regulation because it is mandated by state law.

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. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response

No public comments were received on this regulation during the public comment period which began on April 29, 2019, and ended on May 20, 2019. The agency and the Safety and Health Codes board did not establish an informal advisory group for the purpose of assisting in the periodic review.

Effectiveness

Pursuant to § 2.2-4017, please indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

The regulation provides the identification of certain lead abatement projects and the tracking of active projects. Section 40.1-51.21 of the Code of Virginia requires that at least once a year, during an actual project, the Department of Labor and Industry conduct an on-site, unannounced inspection of each certified lead abatement contractor’s procedures in regard to

the removal of lead-based paint. This inspection ensures protection of the health of the workers and also the health of the general public by controlling the release of lead into the environment or residence.

The regulation also provides a concise procedure for the notification and payment of fees associated with lead projects. The fees generated are designed to cover the costs associated with the compliance inspections conducted by the Department.

This regulation is not overly complex and does not overlap, duplicate, or conflict with federal or state law or regulation. The regulation is clearly written and easily understandable.

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Decision

Please explain the basis for the rulemaking entity's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

The Safety and Health Codes Board retained the regulation without change.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, include 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, discuss why the agency's decision, consistent with the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.
