



## Proposed Regulation Agency Background Document

<b>Agency name</b>	DPOR/Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects (APELSCIDLA Board)
<b>Virginia Administrative Code (VAC) citation</b>	18 VAC 10 -20
<b>Regulation title</b>	Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects Regulations
<b>Action title</b>	To allow candidates to sit for the ARE prior to completing the NCARB IDP
<b>Date this document prepared</b>	July 2, 2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

The Board intends to change its regulation to permit architect license applicants, who are applying via examination, to begin taking divisions of the Architect Registration Examination (ARE) prior to completing the NCARB Intern Development Program (IDP). Currently, the Board's regulation requires an architect examination applicant to complete the NCARB IDP prior to becoming eligible to take the ARE.

Other changes which may be necessary may also be considered.

## 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 Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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Section 54.1-404 of the Code of Virginia authorizes the Board to promulgate regulations for a regulatory system. While the Board is mandated to establish regulations, the content of the regulations is up to the discretion of the Board.

## Purpose

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.*

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At its meeting in June 2006, the National Council of Architectural Registration Boards (NCARB), of which the Virginia Board is a member (NCARB is also responsible for developing and managing the ARE and the IDP), voted to change its policy to allow examination candidates to begin taking the ARE prior to completing the IDP (provided they are enrolled in the IDP and have completed a portion of the IDP).

In February 2006, the NCARB Board adopted a policy on this matter which states:

In the decades since the sequential concept of education/IDP/ARE was established in the Model Law, much has changed in the education and training of emerging professionals. Notably, with great credit to the Boyer Report, the practice of architecture is better integrated into the academy, and accredited programs today attract among the very best and brightest of university students. While an emerging professional has much yet to learn after graduation from an accredited program, we recognize that some of them may be prepared to begin taking the ARE after acquiring a prerequisite level of practical experience.

NCARB has collected and analyzed considerable data, debated this subject internally and discussed this matter with our collateral colleagues. After these deliberations, it is our conclusion that there is no evidence of increased risk to the health, safety and welfare of the public if a candidate with an accredited professional degree and who is actively engaged in IDP is permitted to begin to start taking divisions of the ARE. The data revealed that only a very small portion of candidates in those jurisdictions that permit the ARE to be taken out of sequence currently choose to do so.

At its meeting in June 2007, NCARB further refined its policy to allow examination candidates to begin taking the ARE prior to completing the IDP (provided they are enrolled in the IDP – they no longer have to have completed a portion of the IDP).

The Virginia Board concurs with this change and would like its applicants, if they so elect, to be able to take advantage of this change in NCARB policy. This change will permit applicants to begin taking the examination when they are most ready to take the examination; more and more architectural applicants are non-traditional students, who have gained substantial amounts of work experience prior to completing the education requirement, thereby making them ready to begin taking the examination sooner.

Other changes which may be necessary may also be considered.

### Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)*

The Board would like to change its regulation to allow architect license applicants, who are applying via examination, the opportunity to start taking divisions of the Architect Registration Examination (ARE) prior to completing the NCARB Intern Development Program (IDP). Currently, the Board's regulation requires an architect examination applicant to complete the NCARB IDP prior to becoming eligible to take the ARE.

Other changes which may be necessary may also be considered.

### 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 the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

The Board could leave the status quo; however, this would handicap those candidates who are ready to being taking the examination sooner by forcing them to wait unnecessarily. In addition, if Virginia does not make this change, and becomes out of sync with the rest of the nation, it could cause candidates who would normally apply to Virginia to take the examination to, instead, apply to other states which would let them take the exam earlier in accordance with NCARB's revised policy position. There are no anticipated disadvantages to the public or Commonwealth.

### Requirements more restrictive than federal

*Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

There are no applicable federal requirements.

### Localities particularly affected

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

Not applicable.

**Public participation**

*Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.*

In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is 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) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to Mark N. Courtney, DPOR, 3600 West Broad St., Richmond, VA 23230, tel. (804) 367-8514, fax (804) 367-0795, and APELSCIDLA@dpor.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last date of the public comment period.

A public hearing will be held and notice of the public hearing may appear on the Virginia Regulatory Town Hall website ([www.townhall.virginia.gov](http://www.townhall.virginia.gov)) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

<b>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</b>	See below.
<b>Projected cost of the regulation on localities</b>	See below.
<b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b>	See below.
<b>Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	See below.

<p><b>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</b></p>	<p>See below.</p>
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**Fiscal Impact of Proposed Regulation**

**Summary:**

This proposed regulatory change permits architect license applicants, who are applying via examination, to begin taking divisions of the Architect Registration Examination (ARE) prior to completing the NCARB Intern Development Program (IDP). Currently, the Board’s regulation requires an architect examination applicant to complete the IDP prior to becoming eligible to take the ARE.

All costs incurred in support of board activities and regulatory operations are paid by the department and funded through fees paid by applicants and licensees. All boards within the Department of Professional and Occupational Regulation must operate within the Code provisions of the Callahan Act (54.1-113), and the general provisions of 54.1-201. Each regulatory program’s revenues must be adequate to support both its direct costs and a proportional share of agency operating costs. The department allocates costs to its regulatory programs based on consistent, equitable, and cost-effective methodologies. The board has no other source of income.

**Fiscal Impact:**

	FY 2008	FY 2009	FY2010	FY2011
Fund	NGF (0900)	NGF (0900)	NGF (0900)	NGF (0900)
Program/Service Area	560 46	560 46	560 46	560 46

Impact of Regulatory Changes:				
One-Time Costs	0	0	0	0
Ongoing Costs	0	0	0	0
Total Fiscal Impact	0	0	0	0
FTE	0.00	0.00	0.00	0.00

**Description of Costs:**

One-Time: No one-time costs are expected as a result of this regulatory change.

Ongoing: No ongoing costs are expected as a result of this regulatory change.

**Cost to Localities:** No change anticipated.

**Description of Individuals, Businesses, or Other Entities Impacted:** This regulation change will affect a very minimal number of license candidates. Only those candidates for the Architect Registration Examination (ARE) who elect to take the ARE prior to completing the Intern Development Program, will be affected.

**Estimated Number of Regulators:** None, Only candidates to be regulators are affected.

**Projected Cost to Regulators:** No change in licensing fees is anticipated as a result of this regulatory change.

**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. 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 regulation.*

The Board could leave the status quo; however, this would handicap those candidates who are ready to being taking the examination sooner by forcing them to wait unnecessarily. In addition, if Virginia does not make this change, and becomes out of sync with the rest of the nation, it could cause candidates who would normally apply to Virginia to take the examination to, instead, apply to other states which would let them take the exam earlier in accordance with NCARB's revised policy position.

**Regulatory flexibility analysis**

*Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

The regulations were developed with consideration that the affected industries consist of small businesses. The Board considers that the regulatory methods implemented were promulgated to accomplish the applicable law while minimizing the adverse impact on small businesses and are consistent with the regulation of small businesses of other professions.

The amendment does not apply to businesses and contains no compliance or reporting requirements for businesses and has no impact on performance standards for small businesses.

**Public comment**

*Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.*

No comments were received from the public during the public comment period.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

The contemplated changes are not anticipated to have any significant impact on Virginia's families.

**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:

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
18 VAC 10-20-120			Amend subsections B and C to allow architect license applicants, who are applying via examination, the opportunity to start taking divisions of the Architect Registration Examination (ARE) prior to completing the NCARB Intern Development Program (IDP). Currently, the Board's regulation requires an architect examination applicant to complete the NCARB IDP prior to becoming eligible to take the ARE.
18 VAC 10-20-140			Amend subsection A to allow architect license applicants, who are applying via examination, the opportunity to start taking divisions of the Architect Registration Examination (ARE) prior to completing the NCARB Intern Development Program (IDP). Currently, the Board's regulation requires an architect examination applicant to complete the NCARB IDP prior to becoming eligible to take the ARE.