



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board for Asbestos, Lead, and Home Inspectors
Virginia Administrative Code (VAC) citation	18 VAC 15-30
Regulation title	Lead-Based Paint Activities
Action title	Review of the lead-based paint activities qualifications for licensure and renewal.
Date this document prepared	August 19, 2010

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*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The Board intends to review and amend its Lead-Based Paint Activities regulations to remove the requirement that the lead license expiration date corresponds with the lead training expiration date. The current result is that lead license expiration dates may vary from one license cycle to another causing confusion amongst the regulants population. Most licenses issued under the Department of Professional and Occupational Regulation (DPOR) have a license cycle of one or two years and the expiration date is the last day of the month wherein issued. Amending these regulations will allow the lead program license cycle to be consistent with other programs housed under DPOR. This will in turn lessen the confusion amongst the regulant population.

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., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section 54.1-501 states that the Board shall promulgate regulations to include but not be limited to the prescription of fees, procedures, and qualifications for the issuance and renewal of lead licenses.

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

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

Currently the lead license expiration date is based on the expiration date of the lead initial or refresher training course date. For example if the current license expires 5/31/10 and the refresher training expired 3/31/11, once renewed the license would assume an expiration date of 3/31/11, resulting in the regulant losing two months of the new license cycle. This also results in a different month end expiration date from the previous license cycle which then results in additional confusion for regulants. Most licenses issued under the Department of Professional and Occupational Regulation (DPOR) have a license cycle of one or two years and the expiration date is the last day of the month wherein issued. Amending these regulations will allow the lead program license cycle to be consistent with other programs housed under DPOR. This will in turn lessen the confusion amongst the regulant population.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

18 VAC 15-30-52: Will add a subsection that speaks directly to the training requirement as a qualification for licensure. Will amend the specific entry requirements for each discipline to refer to the newly created subsection.

18 VAC 15-30-164: Will amend by removing the connection between the license expiration date and the training expiration date.

18 VAC 15-30-166: Will amend by stating that the training expiration date must be valid through the end of the newly renewed license expiration date for all five lead disciplines. Will amend by emphasizing the validity time period for training and explaining that the training must be discipline specific. Will amend by stating the consequences of not completing training on time or not taking the proper training for the license discipline. Will further amend the requirement that accredited training programs certify their continued compliance with the Virginia regulations every 24 months instead of 48 months to make the regulation consistent.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

No viable alternative has been identified.

The Board will seek comment from the public to identify necessary amendments and alternatives to the amendments. The Board will evaluate all suggestions and alternatives in arriving at proposed regulation amendments.

Public participation

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also 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 comments may do so via the Regulatory Townhall website , www.townhall.virginia.gov, or by mail, email or fax to **David Dick, Executive Director, Lead-Based Paint Activities NOIRA, DPOR, Perimeter Center, Suite 400, 9960 Mayland Drive, Richmond, VA 23233, ALHI@dpor.virginia.com or (804) 527-4297**. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

A public meeting will be held at the proposed stage and notice of the meeting will 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.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory

approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The Board will use a participatory approach in the development of the proposal and may appoint committees composed of both Board members and non-members.

Family impact

Assess the potential 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.

No family impact has been identified.