



## Periodic Review / Retain Regulation Agency Background Document

<b>Agency name</b>	Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects
<b>Virginia Administrative Code (VAC) citation</b>	18VAC10-20
<b>Regulation title</b>	Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects Rules and Regulations
<b>Document preparation date</b>	December 30, 2011

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

### 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

[§ 54.1-201.5](#) 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 14 (2010) 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) The promulgating entity is the 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.

**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.*

One public comment was received and is summarized below along with the Board's response. No informal advisory committee was formed.

#	REGULATION # COMMENTOR'S NAME	SUMMARY OF COMMENT(S)
		BOARD RESPONSE
1	Hamilton Palmer §54.1-406 18VAC10-20-683 18VAC10-20-740.D 18VAC10-20-740.E 18VAC10-20-740.F	<b>affect of design, plans, plats of former regulant who does not renew license because of education</b>  Allowances should be made to Virginia Code for licensed individuals (regulant) who have affixed their seal to documents and subsequently and voluntarily placed their license 'on the shelf' due to not meeting the required education. If a previous regulant notices changes need be made to their original design, or if under review by federal, state, or local agencies, and requests that revisions need be made to the design, then the previous regulant should be allowed to make those changes/revisions in the interest, safety, health and welfare of the Citizens of the

#	REGULATION # COMMENTOR'S NAME	SUMMARY OF COMMENT(S)
		BOARD RESPONSE
		<p>Commonwealth.</p> <p>Simply put, the licensee/regulant should be able to make revisions to plans, plats, design that they made when duly licensed and regulated. This will not cost the Commonwealth money and would be in the best interest to the health, safety, and welfare of the citizens.</p> <p>The <i>Code of Virginia</i> requires a license of anyone prior to engaging in the practice of architecture or engineering which includes design, consultation, evaluation or analysis and involves proposed or existing improvements to real property. Regulations are promulgated by the Board under the authority granted to the Board by statute. Section 740 of the Board's regulations addresses the licensure requirements of a professional who reviews plans which he may or may not own. The professional is required to obtain permission from the person or organization that owns the plans (permission should have been established by the original contract between the professional and the client.) The purpose of continuing education (CE) is to ensure that the professional remains current in his field of practice.</p> <p>To allow plan review by a professional who has not recently been practicing would pose an increased risk to the health, safety, and welfare of the Commonwealth's citizens because the reviewing professional, although having been the first to draft the plans, may have been out of practice for a significant period of time. The Board's regulations currently protect the health, safety, and welfare of the citizens of the Commonwealth by requiring that only <i>currently</i> licensed professionals (who've <i>recently</i> completed CE) to draft, review, and amend plans.</p>

**Effectiveness**

*Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), 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 14 (2010) in that they are necessary for the protection of the public health, safety, and welfare. Further, apart from this periodic review, the regulations are currently under general review to amend the language to ensure that it is written clearly and is easily understandable. In the current general 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 proposed regulations were approved by the Secretary of Commerce and Trade on 8/15/2011 and are now being reviewed by the governor.

## Result

*Please state that 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 agency's determination whether the regulation should be amended or repealed, 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.
2. Only one public comment was received. The comment recommends allowing professionals, who originally authored plans, to be allowed to come back at any time and amend those plans. This is not consistent with the Board's responsibility to ensure that only minimally qualified professionals edit plans. Minimal qualifications are, in part, established through a 16-hour continuing education requirement, along with requiring that an individual is *currently* licensed.
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. Apart from this periodic review, the regulations are currently under general review to amend the language to ensure that it is written clearly and is easily understandable. In the current general 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 proposed regulations were approved by the Secretary of Commerce and Trade on 8/15/2011 and are now being reviewed by the governor.

No small business impact has been identified.

## Family impact

*Please provide an analysis of the regulation's impact on the institution of the family and family stability.*

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No family impact has been identified.