



townhall.virginia.gov

Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board for Contractors
Virginia Administrative Code (VAC) citation(s)	18 VAC 50-30
Regulation title(s)	Board for Contractors Individual License and Certification Regulations
Action title	Amendments to Licensing of Inactive Tradesman
Date this document prepared	November 29, 2015

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

The Board for Contractors seeks to amend the licensing requirements for inactive tradesman to extend the amount of time a license may be in an inactive status or to create an alternative license status that will allow an individual to keep a license but not be permitted to practice.

Legal basis

Please identify the (1) the agency (includes any type of promulgating entity) and (2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should 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's overall regulatory authority.

Section 54.1-1102 of the Code of Virginia provides the authority for the Board to promulgate regulations for the licensure of contractors in the Commonwealth. The content of the regulations is pursuant to the Board’s discretion, but shall not be in conflict with the purposes of the statutory authority.

Purpose

Please describe 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, please explain any potential issues that may need to be addressed as the regulation is developed.

The Board has received many requests from retired tradesman to retain their license without being required to complete the required continuing education. In 2013, the Board added the licensing of inactive tradesman to the regulations that would allow an individual to inactivate their license up to three years by only paying the renewal fee. At the end of those three years, they would have to complete the required continuing education in order to activate their license or it would expire. The Board would like to consider amending this requirement to either lengthen or include an emeritus status.

Substance

Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

Section 18 VAC 50-30-73 and 50-30-75: The Board will consider amending these sections to include an emeritus status or to change the requirements to activate or inactivate a tradesman license.

Other sections may be amended, as required, as determined by Board discussion or public comment.

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.

No viable alternatives have been identified at this time.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including 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. Please include one of the following choices: 1) a panel will be appointed and the agency’s contact if you’re interested in serving on the panel is _____; 2) a panel will not be used; or

3) *public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.*

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to **Eric Olson, c/o Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, Virginia 23233; email: contractor@dpor.virginia.gov; fax (866) 430-1033**. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time.

A panel will not be used.

Periodic review and small business impact review report of findings

If this NOIRA is the result of a periodic review/small business impact review, use this NOIRA to report the agency's findings. Please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and (2) 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. In addition, as required by 2.2-4007.1 E and F, please 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.

1)

Commenter	Comment	Agency response
Richard Schwartz	Please reconsider allowing retired plumbers and gas fitters to keep their licenses and not be charged fees and education. I graduated from Loyola, taught school and midway became a plumber. I was always fair and reasonable and honest with customers. I am 69 and have an autoimmune disease and haven't earned income for years. This does not create a big effort and great loss of income for the state.	Mr. Schwartz, Thank you for your comment. Current regulations allow for a tradesman to put their license into inactive status for 3 years which would allow a licensee to only pay the renewal fee and not complete the continuing education requirement for one renewal cycle. The Board has voted to open a separate regulatory action to look at expanding the inactive status for a longer period of time based on your comment.

2) This requirement is necessary for the protection of the public health, safety and welfare.

1) Code of Virginia §§ 54.1-201.5 and 54.1-1102 mandates the Board for Contractors to promulgate regulations. The continued need for the regulation is established in statute. Repeal of the regulation would remove the current public protections provided by the regulation. The regulation does not have an adverse economic impact on small businesses nor individual licensure or certification. Rather, the regulation allows individuals who meet specific minimum competencies to become licensed or certified in Virginia.

2) One comment was received during the public comment period that suggested reviewing the inactive license status.

3) The regulation is clearly written and is easily understandable.

4) The regulation does not overlap, duplicate or conflict with federal or state law or regulation.

5) The most recent evaluation occurred in 2011 which resulted in no changes to the regulations.