



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 15-30 – Lead-Based Paint Activities Regulations Department of Professional and Occupational Regulation September 20, 2005

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The Board for Asbestos, Lead and Home Inspectors (board) proposes to: 1) list "acting as or being an ostensible licensee for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the licensee's business" as grounds for discipline, 2) list "failure to notify the board in writing within 30 days after any change in address or name" as grounds for discipline, 3) require that notifications and training program participants lists be submitted electronically on forms provided by the board, and 4) require that each accredited lead training program maintain and make available to the board each participant's social security number rather than their birth date.

Estimated Economic Impact

Health risks associated with lead-based paint

According to the U.S. Center for Disease Control and Prevention, Agency for Toxic Substances and Disease Registry,¹ Lead can affect almost every organ and system in the body. The most sensitive is the central nervous system, particularly in children. A child who swallows large amounts of lead may develop blood anemia, severe stomachache, muscle weakness, and brain damage. Lead can also damage kidneys and the male reproductive system. The effects are the same whether it is breathed or swallowed. At high levels, lead may decrease reaction time, cause weakness in fingers, wrists, or ankles, and possibly affect the memory.

Purpose of these regulations

These regulations contain procedures and requirements for the accreditation of lead-based paint activities training programs and providers, procedures and requirements for the licensure of individuals and firms engaged in lead-based paint activities in target housing and child-occupied facilities, and standards for performing such activities. Lead-based paint activities are defined as risk assessment, inspection, project design and abatement that affect or relate to target housing and child-occupied facilities. Target housing is defined as any housing constructed prior to 1978, except for housing for the elderly, or persons with disabilities (unless any one or more children age six years or under resides or is expected to reside in such housing for the elderly or persons with disabilities) or any zero-bedroom dwelling.

New grounds for disciplinary action

The board and Department of Professional and Occupational Regulation (department) have seen situations where firms or individuals who having had their license revoked or license application denied, have found others who have not been so disciplined or denied to apply for and become licensed. The individual who had his license revoked or license application denied then directed the operations of the licensee's business. Since the license was presumably denied or revoked due to incompetence or dishonest or sloppy practice, then the situation where the disciplined individual can effectively operate as licensed despite the denial or revocation

¹ U.S. Center for Disease Control and Prevention, Agency for Toxic Substances and Disease Registry ToxFAQs: Lead, June 1999

minimizes the board and department's ability to protect the public from the effects of incompetent, dishonest, or haphazard lead-based paint activities.

Consequently, the board proposes to add the following to the list of grounds for disciplinary action: "acting as or being an ostensible licensee for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the licensee's business." In practice, it may be difficult to prove that a licensee is actually permitting someone else to control their business. Nevertheless, as long as the board does not mistakenly discipline legitimate licensees, this proposed amendment has the potential to produce a net benefit for the Commonwealth by reducing the likelihood that dishonest or incompetent individuals can continue to practice and expose the public to unnecessary health and financial risks.

The board also proposes to add "failure to notify the board in writing within 30 days after any change in address or name" as grounds for discipline. The board needs to keep track of licensees' identity and location in order to monitor their compliance with the regulations. The risk to public health of incompetent or dishonest lead-based paint activities is significant. The cost for licensees of keeping the board informed is small since, according to the department, they can prepare and email notifications in ten minutes or less. Thus, the proposal to allow the board to enforce a requirement that will help enable it to monitor licensees' compliance with the regulations will likely produce a net benefit.

Format of communication

The board proposes to amend these regulations to state that "Notifications and training program participant lists shall be submitted electronically in the manner established by the board specifically to receive this documentation using a sample form designed by and available from the board. Any variation upon this procedure shall be approved by the board prior to submission." According to the department, those without access to the necessary equipment to submit electronically will be permitted to submit notifications and training program participant lists by alternative means. The proposed standard electronic method of submitting notifications and training program participant lists will enable the department to process the information more rapidly. The saved staff time can thus be used more productively on other work.

Training program participant list identity data

These regulations require that the manager of accredited lead training programs provide to the board a list of program participants no later than ten business days following the training program completion. Under the current regulations, the list must include identifying information for each participant, including date of birth. The board proposes to eliminate the requirement for date of birth and add a requirement for social security number. Since different individuals share dates of birth, but no two individuals share social security numbers, the proposed amendment will decrease the probability that program participants are misidentified. Also, the department has found that social security numbers help speed data processing and license issuance.

Some individuals may have concerns about giving out their social security number. But, licensure applicants already submit their social security numbers. Section § 54.1-116 of the Code of Virginia specifies that:

Every applicant for a license, certificate, registration or other authorization to engage in a business, trade, profession or occupation issued by the Commonwealth pursuant to this title, and every applicant for renewal thereof, shall provide on the application either his social security number or control number issued by the Department of Motor Vehicles pursuant to § [46.2-342](#).

Consistent with the above Code section, the department has stated that it will accept a control number issued by the Department of Motor Vehicles (DMV) in lieu of a social security number. Thus, the proposed amendment will produce a small net benefit in that it will reduce the probability of misidentification and speed data processing, while not producing significant security concerns since a control number issued by the DMV can be used in lieu of the social security number.

Businesses and Entities Affected

The proposed amendments affect the 421 licensed lead-paint workers, 204 licensed lead-paint supervisors, 96 licensed lead-paint inspectors, 245 licensed lead-paint risk assessors, 57 licensed lead-paint project designers, 145 licensed lead-paint contractors, the 21 firms that are

accredited to provide lead-based paint activities training, as well as property owners and the public.²

Localities Particularly Affected

The proposed regulations apply to all Virginia localities.

Projected Impact on Employment

The proposed amendments are unlikely to significantly affect employment.

Effects on the Use and Value of Private Property

The proposed amendments will not significantly affect the use and value of honest and competent lead-based paint businesses. A small number of firms or individuals who having had their license revoked or license application denied, have found others who have not been so disciplined or denied to apply for and become licensed or approved, may not be able to operate, and hence lose value, due to the proposal to add “acting as or being an ostensible licensee for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the licensee’s business” as grounds for discipline.

Small Businesses: Costs and Other Effects

The proposed amendments do not produce additional costs for legitimate small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact

Since the proposed amendments do not produce additional costs for legitimate small businesses, there is no alternative method that minimizes adverse impact.

² Source for numbers of license holders: Department of Professional and Occupational Regulation. Numbers were current as of August 31, 2005.