



Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Department of Labor and Industry/Safety and Health Codes Board
Virginia Administrative Code (VAC) citation	16VAC25-35
Regulation title	Regulation Concerning Certified Lead Contractor Notification, Lead Project Permits, and Permit Fees
Action title	Amendments to Regulation Concerning Certified Lead Contractor Notification, Lead Project Permits, and Permit Fees
Final agency action date	May 24, 2012
Document preparation date	June 6, 2012

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The correcting amendments include the following:

- Replacing the term “certified” with “licensed” in both the title and text of the regulation to match the referenced regulation of the Department of Professional and Occupational Regulation’s (DPOR) Lead-based Paint Activities Regulations;
- Updating the definition of “certified contractor” to “licensed lead abatement or lead contractor” and related reference to the individual contractor’s identification and authorization from “certification number” to “license number”;
- Replacing the term “residential building” with “residential dwelling” to match the referenced regulation of the Department of Professional and Occupational Regulation’s (DPOR) Lead-based Paint Activities Regulations;

- Changing the referenced licensor of such contractors from DPOR to the Virginia Board for Asbestos, Lead, and Home Inspectors, the specific policy board affiliated with DPOR which is mandated under the *Code of Virginia* to regulate such lead contractors;
- Updating outdated or incorrect regulatory cites relating to DPOR regulations at 18VAC15-30; and
- Making grammatical corrections, including typographical errors and certain instances of plurality or capitalization.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On May 24, 2012, the Safety and Health Codes Board adopted the Correcting Amendments to the Regulation Concerning Certified Lead Contractors Notification, Lead Project Permits, and Permit Fees, 16VAC25-35-10, *et seq.*, as authorized by Virginia Code §§40.1-22(5) and 2.2-4006.A.3., with an effective date of September 15, 2012.

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

This regulatory action will have no impact on the institution of the family and family stability.

**Regulation Concerning ~~Certified~~ Licensed Lead Contractors Notification,
Lead Project Permits, and Permit Fees
(16VAC25-35-10, *et seq.*)
As Adopted by the**

Safety and Health Codes Board

Date: May 24, 2012



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: September 15, 2012

**Regulation Concerning ~~Certified~~ Licensed Lead Contractors Notification,
Lead Project Permits, and Permit Fees, 16VAC25-35-10, *et seq.***

16 VAC25-35-10. Definitions.

The following words and terms when used in this chapter shall have the following meaning unless the context clearly indicates otherwise:

~~"Certified Licensed lead abatement contractor"~~ or ~~"lead contractor"~~ is defined in the Virginia Board for Asbestos, and Lead's Virginia **Lead, and Home Inspectors'** Lead-Based Paint Activities Regulation, [18VAC15-30-10 20](#).

~~"Department"~~ means the Department of Labor and Industry.

~~"Lead project"~~ means any lead-related activity which requires the contractor performing such activity to be licensed or certified by the Department of Professional and Occupational Regulation **Virginia Board for Asbestos, Lead, and Home Inspectors**.

~~"Residential building dwelling"~~ is defined in the Virginia Board for Asbestos, and Lead's **Lead, and Home Inspectors'** Lead-Based Paint Activities Regulation, [18VAC15-30-10 20](#).

16 VAC25-35-20. Authority and application.

- A. This regulation is established in accordance with § [40.1-51.20](#) of the Code of Virginia.
- B. This regulation shall apply to all contractors in the performance of lead-related activities which require such contractors to be licensed or certified by the Department of Professional and Occupational Regulation **Virginia Board for Asbestos, Lead, and Home Inspectors**.
- C. This regulation shall not affect the reporting requirements under § [40.1-51.20](#) C of the Code of Virginia or any other notices or inspection requirements under any other provision of the Code of Virginia.

16 VAC25-35-30. Notification and permit fee.

- A. Written notification of any lead project, the contract price of which is \$2,000 or more, shall be made to the department on a department form. Such notification shall be sent by facsimile transmission as set out in subsection J of this section, by certified mail, or hand-delivered to the department. Notification shall be postmarked or made at least 20 days before the beginning of any lead project.

- B. The department form shall include the following information:
1. Name, address, telephone number, and the certification number of each person intending to engage in a lead project.
 2. Name, address, and telephone number of the owner or operator of the facility in which the lead project is to take place.
 3. Type of notification: amended, emergency, renovation or demolition.
 4. Description of facility in which the lead project is to take place, including address, size, and number of floors.
 5. Estimate of amount of lead and method of estimation.
 6. Amount of the lead project fee submitted.
 7. Scheduled setup date, removal date or dates, and completion date and times during which lead-related activity will take place.
 8. Name and ~~certificate~~ license number of the supervisor on site.
 9. Name, address, telephone number, contact person, and landfill permit number of the waste disposal site or sites where the lead-containing material will be disposed.
 10. Detailed description of the methods to be used in performing the lead project.
 11. Procedures and equipment used to control the emission of lead-contaminated dust, to contain or encapsulate lead-based paint, and to replace lead-painted surfaces or fixtures in order to protect public health during performance of the lead project.
 12. If a facsimile transmission is to be made pursuant to subsection J of this section, the credit card number, expiration date, and signature of cardholder.
 13. Any other information requested on the department form.
- C. A lead project permit fee shall be submitted with the completed project notification form. The fee shall be in accordance with the following schedule:

1. The greater of \$100 or 1.0% of the contract price, with a maximum of \$500.
 2. If, at any time, the Commissioner of Labor and Industry determines that projected revenues from lead project permit fees may exceed projected administrative expenses related to the lead program by at least 10%, the ~~commissioner~~ Commissioner may reduce the minimum and maximum fees and contract price percentage set forth in subdivision 1 of this subsection.
- D. A blanket notification, valid for a period of one year, may be granted to a contractor who enters into a contract for a lead project on a specific site which is expected to last for one year or longer.
1. The contractor shall submit the notification required in subsection A of this section to the department at least 20 days prior to the start of the requested blanket notification period. The notification submitted shall contain the following additional information:
 - a. The dates of work required by subdivision B 7 of this section shall be every work day during the blanket notification period, excluding weekends and state holidays.
 - b. The estimate of lead to be removed required under subdivision B 5 of this section shall be signed by the owner and the owner's signature authenticated by a notary.
 - c. A copy of the contract shall be submitted with the notification.
 2. The lead project permit fee for blanket notifications shall be as set forth in subsection C of this section.
 3. The contractor shall submit an amended notification at least one day prior to each time the contractor will not be present at the site. The fee for each amended notification will be \$15.
 4. Cancellation of a blanket notification may be made at any time by submitting a notarized notice of cancellation signed by the owner. The notice of cancellation must include the actual amount of lead removed and the actual amount of payments made

under the contract. The refund shall be the difference between the original lead permit fee paid and 1.0% of the actual amount of payments made under the contract.

- E. Notification of fewer than 20 days may be allowed in case of an emergency involving protection of life, health or property. In such cases, notification and the lead permit fee shall be submitted within five working days after the start of the emergency lead project. A description of the emergency situation shall be included when filing an emergency notification.
- F. A notification shall not be effective unless a complete form is submitted and the proper permit fee is enclosed with the completed form. A notification made by facsimile transmission pursuant to subsection J of this section shall not be effective if the accompanying credit card payment is not approved.
- G. On the basis of the information submitted in the lead notification, the department shall issue a permit to the contractor within seven working days of the receipt of a completed notification form and permit fee.
 - 1. The permit shall be effective for the dates entered on the notification.
 - 2. The permit or a copy of the permit shall be kept on site during work on the project.
- H. Amended notifications may be submitted for modifications of subdivisions B 3 through B 11 of this section. No amendments to subdivision B 1 or B 2 of this section shall be allowed. A copy of the original notification form with the amended items circled and the permit number entered shall be submitted at any time prior to the removal date on the original notification.
 - 1. No amended notification shall be effective if an incomplete form is submitted or if the proper permit amendment fee is not enclosed with the completed notification.
 - 2. A permit amendment fee shall be submitted with the amended notification form. The fee shall be in accordance with the following schedule:
 - a. For modifications to subdivisions B 3, B 4, and B 6 through B 10 of this section, \$15.
 - b. For modifications to subdivision B 5 of this section, the difference between the permit fee in subsection C of this section for the amended amount of lead and the original permit fee submitted, plus \$15.

3. Modifications to the completion date may be made at any time up to the completion date on the original notification.
 4. If the amended notification is complete and the required fee is included, the department will issue an amended permit if necessary.
- I. The department must be notified prior to any cancellation. A copy of the original notification form marked "canceled" must be received no later than the scheduled removal date. Cancellation of a project may also be done by facsimile transmission. Refunds of the lead project permit fee will be made for timely cancellations when a notarized notice of cancellation signed by the owner is submitted.
- The following amounts will be deducted from the refund payment: \$15 for processing of the original notification, \$15 for each amendment filed, and \$15 for processing the refund payment.
- J. Notification for any lead project, emergency notification, or amendment to notification may be done by facsimile transmission if the required fees are paid by credit card.

16VAC25-35-40. Exemption.

No lead project fees will be required for residential ~~buildings~~ **dwelling**s. Notification for lead projects shall otherwise be in accordance with applicable portions of this chapter.

FORMS ([16VAC25-35](#))