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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Board for Professional Soil Scientists, Wetland Professionals, and Geologists
Virginia Administrative Code (VAC) Chapter citation(s)	18VAC145-40
VAC Chapter title(s)	Regulations for the Geology Certification Program
Date this document prepared	February 2, 2024

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

There are no acronyms or technical terms used in this report.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The promulgating agency is the Board for Professional Soil Scientists, Wetland Professionals, and Geologists ("the Board").

Code of Virginia § 54.1-201(A)(1) gives the Board the power and duty to “establish the qualifications of applicants for certification or licensure by any such board, provided that all qualifications shall be necessary to ensure either competence or integrity to engage in such profession or occupation.”

Code of Virginia § 54.1-201(A)(5) gives authority to the Board to promulgate regulations. It states, in part, that the Board has the power and duty “[t]o 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.”

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

No alternatives were considered as part of this periodic review. The regulation enables the Board to fulfill the statutory requirements established in Chapters 2 and 22 of Title 54.1 of the Code of Virginia. Further, the regulation is necessary to ensure that the Board’s statutory requirements are executed in the least burdensome and most efficient and cost-effective manner possible while protecting the health, safety, and welfare of the citizens of Virginia.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency’s response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment Agency Response	Comment Agency Response
CommentID: 218180 Noah Fleischer, ECS Mid-Atlantic, LLC	Supports licensure of geologists.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218181 Christina Sullivan	Supports retention of regulations in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218183 Thomas A. Herbert, PhD, PG	Supports licensure of geologists.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 21898 Phyllis V. Buff, CPG,	Supports licensure of geologists	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218212 R. Drew Thomas, C.P.G.	Supports licensure of geologists.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.

CommentID 218215 Alberto A. Gutierrez	Supports a mandatory program.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID Brian J. Olson P.Geo, C.E.G	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218219 Michael Brown	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218221 Barry Franz, Gemini Engineering LLC	Supports a mandatory program.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218249 Laura Cook, PG	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218252 Anonymous	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218253 Dan Centofanti	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218254 Montgomery S. Bennett, P.G., RSM Haley & Aldrich, Inc.	Supports a mandatory program.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218260 Anonymous	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218265 James Emery-Emery & Garrett Groundwater Investigations a Division of GZA	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218268 Amanda L. Reynolds, P.G.	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218273 Ronn Beebe	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218298 Nick Bass, CPG, PE	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218312 THOMAS HOUSTON	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218316 Steven R. Edlavitch	Supports a mandatory program.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.

CommentID 218328 Bill DiGuseppi, Jacobs Engineering	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218333 Anthony W. Creech, P.G.	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218338 Michelle Wharton	Supports a mandatory program.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218371 Andrew R. (Drew) Shontz, P.G./ ECS Mid-Atlantic, LLC	Supports a mandatory program.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218462 Steven P. Pond, P.G.	Supports a mandatory program.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218477 Eric Bruce Rehwoldt, P.E., C.P.G.	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218481 Bryant Mountjoy, PG	Supports a mandatory program.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218581 John T. Popp, CPG	Supports a mandatory program.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218591 Joshua Holloman	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218638 Krista J. Tetrack, PG, PWS	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218663 Bruce Mills	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218676 Mike Lawless	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218684 Brian Bruckno	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218685 Andrew Owens, PG	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218755 Ron A James, CPG, CEM	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.

CommentID 218759 Brent Johnson P.G., P.E./Koontz Bryant Johnson Williams Inc.	Supports a mandatory program.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218760 Kristopher McCandless	Supports a mandatory program.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218763 Eric Seavey	Supports a mandatory program.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218774 Michael G. Jones, PG	Supports a mandatory program.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218785 Daniel P Jackson	Supports a mandatory program.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218810 Sue Young	Supports a mandatory program.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218813 G. V. Burbach, PhD, PG	Supports a mandatory program.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218837 Shannon George	Supports a mandatory program.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 218862 Sarah Stinger	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219092 Matthew F. Holbrook, CPG/ St. John Properties, Inc.	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219178 Andrew Harrison, PG, Schnabel Engineering	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219183 David Berry, PG	Supports a mandatory program.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219294 Martin J. Woodard, PhD PG PE	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219296 Eric Wollmann	Supports a mandatory program.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219311 Ashley Lunsford, PG	Supports retaining the regulation in its current form.	Thank you for your comment regarding whether this regulation should be repealed, amended, or retained in its current form.

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

The regulation meets the criteria set forth in the Office of Regulatory Management procedures. The regulation contains the requirements for obtaining a certificate, renewal and reinstatement of certificates, standards of professional conduct, to ensure competence and integrity of all certificate holders, and administer the regulatory program in accordance with Chapters 2 and 22 of Title 54.1 of the Code of Virginia. The regulation is necessary for the protection of public health, safety, and welfare and is clearly written and understandable.

Decision

Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.

On January 19, 2024, the Board voted to retain the regulation “as is” without any change, as explained further in the “Small Business Impact” section. In accordance with the Governor’s Executive Directive Number One (2022), the Board is currently undertaking a separate action to perform a comprehensive line-by-line review of this regulation.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (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, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

Code of Virginia §§ 54.1-201(A)(1) and 54.1-201(A)(5) mandate the Board 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 Board provides protection to the safety and welfare of the citizens of the Commonwealth by ensuring that only those individuals that meet specific criteria set forth in the statutes and regulations are certified. The Board is also tasked with ensuring that its regulants meet standards of practice that are set forth in the regulations.

Based on the comments received during the public comment period, there does not appear to be a reason to repeal the regulation. There also does not appear to be a reason to amend the regulation at this time. The Regulations for the Geology Certification Program are clearly written, easily understandable, and do not overlap, duplicate or conflict with federal or state law or regulation.

The most recent periodic review of the regulation occurred in 2019. Currently, the Board is conducting a comprehensive review of the regulation.

