



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	10
VAC Chapter Number:	20
Regulation Title:	Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA Board) Regulations
Action Title:	Amend
Date:	August 2, 2004

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The purpose of the proposal is to make the following changes:

General clarifying changes to the regulation as well as amending the Board's regulation to clarify the Board's requirements relating to "responsible charge" and "direct control and personal supervision."

Other changes which may be necessary pursuant to the Board's periodic review of its regulation, and any other changes, will also be considered.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

§§ 54.1-404, 54.1-411.C. 13.1-549 and 13.-1111 of the Code of Virginia authorize the Board to promulgate regulations for a regulatory system. While the Board is mandated to establish regulations, the content of the regulations is up to the discretion of the Board.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

General clarifying changes to the regulation as well as amending the Board’s regulation to clarify the Board’s requirements relating to “responsible charge” and “direct control and personal supervision.” Any other changes which may be necessary may also be considered. Failure to adopt these changes will allow unclear language to remain in the regulations. Ensuring that the regulations are as clear as possible will facilitate the regulants complying with the Board’s requirements which will better protect the health, safety and welfare of the public.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action’s changes.

VAC #	SUMMARY
N/A	Change the title of the regulations by deleting “Rules and” as they are just regulations.

VAC #	SUMMARY
18 VAC 10-20-10	Reference those definitions that are used in the regulations that are contained in the Code of Virginia. Delete the definition of “Board” as it is contained in § 54.1-400 and delete the definition of “responsible charge” as it is being replaced by “responsible person.” Add definitions for “application,” “certified,” “profession,” “registrant,” and “responsible person.” Amend definitions for “comity,” “direct control and personal supervision,” “good moral character,” “landscape architect,” “licensed,” “place of business,” “professional,” and “resident.”
18 VAC 10-20-17 & 18 VAC 10-20-60	Move the regulation regarding replacement wall certificates from 18 VAC 10-20-60 to 18 VAC 10-20-17 as it is better placed in the General section of the regulations.
18 VAC 10-20-20	Clarify existing language and add language for land surveyors and interior designers which details existing practice.
18 VAC 10-20-25, 18 VAC 10-20-130, and 18 VAC 10-20-220	Move common provisions relating to references to the General Entry Requirements section from 18 VAC 10-20-130 and 18 VAC 10-20-220 to a new regulation 18 VAC 10-20-25.
18 VAC 10-20-30	Delete regulation.
18 VAC 10-20-35	Clarify language.
18 VAC 10-20-40	Clarify language.
18 VAC 10-20-50	Clarify language.
18 VAC 10-20-55	Clarify language.
18 VAC 10-20-70	Clarify language.
18 VAC 10-20-75	Clarify language.
18 VAC 10-20-80, 18 VAC 10-20-90, 18 VAC 10-20-170, 18 VAC 10-20-280, 18 VAC 10-20-400, 18 VAC 10-20-470, 18 VAC 10-20-520, 18 VAC 10-20-580, & 18 VAC 10-20-630,	Delete references to “dishonored checks” from regulations as this requirement is contained in statute (see § 2.2-614.1 of the Code of Virginia)
18 VAC 10-20-85	Add a requirement for an examination on the Board’s regulations and statutes as part of the application.
18 VAC 10-20-110	Clarify language.
18 VAC 10-20-120	Clarify language.
18 VAC 10-20-140	Clarify language.
18 VAC 10-20-150	Clarify language.

VAC #	SUMMARY
18 VAC 10-20-160	Clarify language and delete “approved engineering experience” definition as it is incorporated in the revised “qualifying engineering experience” definition. Delete definition of “engineering examination” as not needed. Add definition of “related science curriculum” to better spell out Board’s requirements for applicants.
18 VAC 10-20-190	Clarify language.
18 VAC 10-20-200	Clarify language.
18 VAC 10-20-210	Clarify language.
18 VAC 10-20-215	Clarify language.
18 VAC 10-20-220.C	Clarify language.
18 VAC 10-20-230	Clarify language.
18 VAC 10-20-240	Clarify language to better spell out Board’s requirements for applicants.
18 VAC 10-20-260	Clarify language.
18 VAC 10-20-270	Clarify language.
18 VAC 10-20-280	Clarify language.
18 VAC 10-20-295	Clarify language to better spell out Board’s requirements for applicants (in conjunction with change to 18 VAC 10-20-310).
18 VAC 10-20-300	Clarify language to better spell out Board’s requirements for applicants.
18 VAC 10-20-310	Clarify language to better spell out Board’s requirements for applicants (in conjunction with change to 18 VAC 10-20-295).
18 VAC 10-20-320	Clarify language.
18 VAC 10-20-320,	Ensure consistent use of the term “direct control and personal supervision” throughout the regulation.
18 VAC 10-20-330	Clarify language.
18 VAC 10-20-340	Clarify language.
18 VAC 10-20-350	Clarify language.
18 VAC 10-20-360	Clarify language.
18 VAC 10-20-370	Clarify language and include requirements that any inconsistencies found between boundaries be disclosed on the plat, that it be disclosed on the plat whether a current title report has been furnished, that it be disclosed on the plat whether any or all easements are shown on the plat, and that information be included on the plat regarding items crossing property lines. Further, a requirement is being added to include the distance to the nearest road intersection or prominent or well known object to assist in locating the property.
18 VAC 10-20-380	Clarify language and include requirements that any inconsistencies found between boundaries be disclosed on the plat.
18 VAC 10-20-390	Clarify language.
18 VAC 10-20-400	Clarify language.
18 VAC 10-20-420	Clarify language.
18 VAC 10-20-440	Clarify language.
18 VAC 10-20-450	Clarify language.

VAC #	SUMMARY
Landscape Architect Equivalency Table	Clarify language.
18 VAC 10-20-460	Clarify language.
18 VAC 10-20-490	Clarify language.
18 VAC 10-20-505	Clarify language.
18 VAC 10-20-510	Clarify language.
18 VAC 10-20-530	Clarify language and replace “responsible charge” with “responsible person” in 18 VAC 10-20-530.G.
18 VAC 10-20-540	Clarify language.
18 VAC 10-20-550	Clarify language.
18 VAC 10-20-560	Replace “responsible charge” with “responsible person.”
18 VAC 10-20-565	Delete as the requirements in this section have been moved to regulation 18 VAC 10-20-670.A.
18 VAC 10-20-570	Clarify language.
18 VAC 10-20-590	Clarify language and replace “responsible charge” with “responsible person” in 18 VAC 10-20-590.F.
18 VAC 10-20-600	Clarify language.
18 VAC 10-20-610	Clarify language.
18 VAC 10-20-620	Clarify language and replace “responsible charge” with “responsible person” in 18 VAC 10-20-620.C.
18 VAC 10-20-625	Delete as the requirements in this section have been moved to regulation 18 VAC 10-20-670.A.
18 VAC 10-20-640	Clarify language and replace “Persons resident and in responsible charge” with “responsible person” in 18 VAC 10-20-640.EF.
18 VAC 10-20-650	Clarify language to use “responsible person.”
18 VAC 10-20-660	Clarify language to use “responsible person.”
18 VAC 10-20-665	Delete as the requirements in this section have been moved to regulation 18 VAC 10-20-670.A.
18 VAC 10-20-670	Move renewal requirements for branch offices from 18 VAC 10-20-565, 18 VAC 10-20-625, and 18 VAC 10-20-665 to here.
18 VAC 10-20-680	Clarify language.
18 VAC 10-20-690	Clarify language.
18 VAC 10-20-700	Clarify language.
18 VAC 10-20-710	Clarify language.
18 VAC 10-20-720	Clarify language.
18 VAC 10-20-730	Clarify language.
18 VAC 10-20-740	Clarify language.
18 VAC 10-20-750	Clarify language.
18 VAC 10-20-760	Clarify language and lessen the requirements for electronic seal, signatures and date in 18 VAC 10-20-760.B to make them more practical. In addition, add a seal design for certified interior designers to 18 VAC 10-20-760.B.6.

VAC #	SUMMARY
18 VAC 10-20-770	Clarify language and substitute language relating to “responsible person” where appropriate.
18 VAC 10-20-780	Clarify language and replace “responsible charge” with “responsible person.”
18 VAC 10-20-790	Clarify language.
18 VAC 10-20-795	Add language stating that a physical address is required.

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term “issues” means: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The primary advantage to the public is that the Board’s regulants will have a clearer set of regulations which will facilitate compliance and better protect the public. The only potential disadvantage is that the Board is implementing an open book examination on its regulations and statutes as part of the application process (see 18 VAC 10-20-85). However, the assurance that all applicants are aware of the Board’s regulations and statutes should better protect the public.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency’s best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

APELSCIDLA
Fiscal Impact of Proposed Regulation

Summary:

All costs incurred in support of board activities and regulatory operations are paid by the department and funded through fees paid by applicants and licensees. All boards within the Department of Professional and Occupational Regulation must operate within the Code provisions of the Callahan Act (54.1-113), and the general provisions of 54.1-201. Each regulatory program's revenues must be adequate to support both its direct costs and a proportional share of agency operating costs. The department allocates costs to its regulatory

programs based on consistent, equitable, and cost-effective methodologies. The board has no other source of income.

Fiscal Impact:

	FY 2004	FY 2005	FY2006	FY2007
Fund	NGF (0900)	NGF (0900)	NGF (0900)	NGF (0900)
Program/Subprogram	560 44	560 44	560 44	560 44

Impact of Regulatory Changes:				
One-Time Costs	0	0	0	0
Ongoing Costs	0	0	0	0
Total Fiscal Impact	0	0	0	0
FTE	0.00	0.00	0.00	0.00

Description of Costs:

One-Time: There are no one-time costs associated with the proposed regulations.

Ongoing: There are no ongoing costs associated with the proposed regulations.

Cost to Localities: None anticipated.

Description of Individuals, Businesses, or Other Entities Impacted: Individuals and businesses in the practice of architecture, professional engineering, land surveying, landscape architecture, and interior design.

Estimated Number of Regulators: Approximately 33,100 individuals and businesses.

Projected Cost to Regulators: Fee adjustments are currently in process for this board, and are expected to become effective in FY05. No changes to proposed fees are anticipated as a result of these regulatory changes.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

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18 VAC 10-20-760	Clarify language and lessen the requirements for electronic seal, signatures and date in 18 VAC 10-20-760.B to make them more practical. In addition, add a seal design for certified interior designers to 18 VAC 10-20-760.B.6.

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Alternatives

Please describe the specific 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.

Failure to adopt these changes will permit the Board’s regulation to not be as clear as it could be. The Board will consider any and all comments received during the comment periods as to any proposed alternatives.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

None received.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

Based on the fact that no comments have been received regarding this issue, and based on the Board’s review, the regulation is clearly written and easily understandable by the affected individuals.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

The regulations will be reviewed during the Board's normal course of regulatory review that in no case shall exceed three years from the effective date of these regulations.

The Board's regulations will be evaluated based on comments received in writing and at public hearings scheduled to receive comments on the Board's regulations. Any other items noted by the Board that need to be addressed during the course of the Board conducting its business will be noted and retained on file by staff for consideration by the Board during regulatory review.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The contemplated changes are not anticipated to have any significant impact on Virginia's families.