



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board for Professional Soil Scientists and Wetland Professionals
Virginia Administrative Code (VAC) citation	18VAC145-20
Regulation title	Professional Soil Scientists Regulations
Action title	The action will transition the soil scientist regulation program from certification to licensure.
Date this document prepared	August 3, 2011

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The action will transition the soil scientist regulation program from certification to licensure pursuant to Chapters 777 and 859 of the 2011 Session of the Virginia General Assembly. Additional changes to regulations will be made as necessary.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

(1) Relevant Laws

HB1734 (Chapter 777) and SB1265 (Chapter 859) of the 2011 Session of the Virginia General Assembly require that the department's regulatory program for soil scientists change from certification to licensure.

§ 54.1-201.5 of the *Code of Virginia* states that the Board has the power and duty “To 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. The regulations shall not be in conflict with the purposes and intent of this chapter or of Chapters 1 (§ 54.1-100 et seq.) and 3 (§ 54.1-300 et seq.) of this title.

(2) Promulgating Entity
Board for Professional Soil Scientists and Wetland Professionals

The authority is mandatory for the agency to comply with the relevant changes to Virginia statutes.

Need

Please detail 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, delineate any potential issues that may need to be addressed as the regulation is developed.

The agency’s determination was made based on solely on the relevant changes to Virginia statutes requiring that the program be changed from certification to licensure. Additional changes to regulations will be made as necessary.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

Changes the will be proposed will consist of modifying the regulation language to remove any instances or variations referring to “certification” and replacing them with the relevant form of “licensure”. The language will become effective July 1, 2013, pursuant to statute. Applicants for licensure, who have been previously certified by the Board or passed the Board’s exam, will be grandfathered into licensure provided their application is made to the Board by July 1, 2015.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

The changes which will be proposed will be as minimal as possible to still achieve the purpose of the newly amended statutes. No alternatives are available.

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 on this notice.

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website, www.townhall.virginia.gov, or by mail, email, or fax to:

Kate Nosbisch, Executive Director
9960 Mayland Dr., Suite 400
Richmond, VA 23233
apelscidla@dpor.virginia.gov
(866) 465-6206 (Fax)

Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last day of the public comment period.

A public hearing will not be held.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, regulatory advisory panels) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

No advisors are anticipated to be involved in the development of the proposed regulation; the changes are not technical as relevant to the profession but instead only require modifying instances of “certified” to “licensed”. However, the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent 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.

No family impact has been identified.