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## Periodic Review and Small Business Impact Findings Where Result is "Retain the Regulation As Is"

<b>Agency name</b>	Board for Professional Soil Scientists, Wetland Professionals, and Geologists
<b>Virginia Administrative Code (VAC) citation</b>	18VAC145-40
<b>Regulation title</b>	Board for Professional Soil Scientists, Wetland Professionals, and Geologists Regulations Governing Geologists
<b>Date</b>	December 23, 2015

This information is required pursuant to Executive Order 17 (2014).

### Legal basis

*Please identify the state and/or federal legal authority for the regulation, including: 1) the most relevant law and/or regulation; and 2) promulgating entity, i.e., agency, board, or person.*

#### (1) Relevant Laws

[§ 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.

[§ 54.1-404.A](#) of the *Code of Virginia* authorizes the board as follows: "The Board shall promulgate regulations not inconsistent with this chapter governing its own organization, the professional qualifications of applicants, the requirements necessary for passing examinations in whole or in part, the proper conduct of its examinations, the implementation of exemptions from license requirements, and the proper discharge of its duties."

The imperative form of the verb “shall” is used, making the Board’s authority to regulate mandatory rather than discretionary. Executive Order 17 (2014) states, in part, “Each existing regulation in the state shall be reviewed at least once every four years by the promulgating agency unless specifically exempted from periodic review by the Governor.”

(2) Promulgating Entity

Board for Professional Soil Scientists, Wetland Professionals, and Geologists.

### Alternatives

*Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.*

No viable alternative has been identified. The current regulations establish minimum requirements for the certification of geologists. The regulations establish requirements for a certificate program (not a licensure program); therefore, the regulations do not affect the practice of geology by non-certified individuals.

### Public comment

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

Commenter	Comment	Agency response
No comments were received during the public comment period.		

### Effectiveness

*Please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.*

The regulations are consistent with the criteria of Executive Order 17 (2014) in that they are necessary for the establishment of minimum standards for certification but do not preclude the practice of geology by non-certified individuals.

### Result

*Please state that the reason why the agency is recommending that the regulation should stay in effect without change.*

The agency recommends that the regulations remain in effect and unchanged.

### Small business impact

*In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: 1) the continued need for the regulation; 2) the nature of complaints or comments received concerning the regulation from the public; 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, include a discussion of the basis for the agency's determination to retain the regulation as is, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.*

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1. The current regulations establish minimum requirements for the certification of geologists; however, because the regulations establish requirements for a certificate program (not a licensure program), the regulations do not affect the practice of geology by non-certified individuals.
2. No comments were received during the public comment period.
3. The regulations are not complex in nature.
4. The regulations do not overlap, duplicate, or conflict with federal or state laws or regulations but instead work in concert with them.
5. The last periodic review concluded January, 2012. There were further changes to the regulations that became effective January 1, 2015.

No small business impact has been identified.