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## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	Board for Professional Soil Scientists, Wetland Professionals, and Geologists
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	18VAC145-30
<b>VAC Chapter title(s)</b>	Regulations Governing Certified Professional Wetland Delineators
<b>Date this document prepared</b>	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.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency Response</b>
CommentID: 218726 John Galbraith, Va Tech	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID: 219071 R. Harold Jones, PWS Emeritus, ODU, Sigma Environmental Services, Inc.	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID: 219421 Daniel 'Eli' Wright, PWD, PWS	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219425 David Mergen, City of Chesapeake	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219434 John Brooks	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.

CommentID 219446 Ben Rosner, Wetland Studies and Solutions, Inc.	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219448 Mike Blake, PWD, Rappahannock Environmental Group	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219449 Thaddeus Kraska, PWS, PWD - Townes Site Engineering, PC	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219455 Jennifer Favela (Wetland Studies and Solutions, Inc.)	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219480 Sean Sipple, Coastal Resources, Inc.	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219482 John C. Douglass	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219493 Matt Neely, PWD, Timmons Group	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219495 Alexi Weber, PWS, PWD, CE, Wetland Studies and Solutions, Inc.	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219496 Alison Robinson, WSSI	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219497 Allison Austin, Virginia Waters and Wetlands, Inc.	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219501 Reid Anderson, MS, PWS, Timmons Group	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219502 Jennifer Van Houten, Davey Mitigation	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219504 Robin Bedenbaugh	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219505 Emily Salkind, LPSS, PWD, Balzer and Associates, Inc.	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation

		should be repealed, amended, or retained in its current form.
CommentID 219506 Emily Drahos, WRA	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219509 Kelsey Gray, RES	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219511 Tim Kellerman	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219512 James Hatcher, VDOT	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219514 Ryan Ward, AllStar Ecology LLC	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219515 Jillian Moore, TNT Environmental Inc.	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219516 Paul Pitera, PWD, RES, LLC	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219517 Lauren Conner, InterAgency, Inc.	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219526 Robert Kerr	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219550 Becky Wilk	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219563 Amy M. Connelly, PWS, PWD, LEED AP Wetland Studies and Solutions, Inc.	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219568 Robert Wright, Sr. PWS, PWD, CNRP, WSSI	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219584 James Parker, New Leaf Mitigation LLC	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.

CommentID 219586 Austin Ziletti, Clearwater Ventures LLC	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219587 Greg Kouri, Clearwater Ventures LLC	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219597 Michael Rolband, Director, Department of Environmental Quality	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219667 Mark Headly, PWD, PWS Emeritus Wetland Studies and Solutions, Inc (Retired)	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID W. Michael Lane PWD #056, PWS #185 Lane Environmental Consultants	Supports retention of regulations in its current form.	Thank you for your comments regarding whether this regulation should be repealed, amended, or retained in its current form.
CommentID 219697 Justin Brown, PWD, PWS	Supports retention of regulations in its current form.	Thank you for your comments 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 to 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.*

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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 comment 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 Governing Certified Professional Wetland Delineators 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.

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