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## Fast Track Proposed Regulation Agency Background Document

<b>Agency name</b>	Department of Professional and Occupational Regulation
<b>Virginia Administrative Code (VAC) citation</b>	18VAC145-30-40
<b>Regulation title</b>	Qualification for examination
<b>Action title</b>	Remove the requirement for experience to be under the supervision of a certified professional wetland delineator
<b>Date this document prepared</b>	January 22, 2014

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*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.*

The only change is to remove the language “under the supervisor of a certified professional wetland delineator” from 18VAC145-30-40 A.1, 2 and delete all of C as the waiver for the requirement for a reference from a certified professional wetland delineator expired July 13, 2010.

### Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the “Definition” section of the regulations.*

There are no acronyms used in the Agency Background Document.

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

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The Board for Professional Soil Scientists, Wetland Professionals, and Geologists unanimously voted at its January 9, 2014 meeting to approve the proposed changes and submit it as a Fast Track.

**Legal basis**

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.*

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The language was stricken from §54.1-2206.2 of the code of Virginia in the 2013 Session of the General Assembly.

**Purpose**

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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Removing the requirement that experience be gained under a certified professional wetland delineator removes a burden to certification as there are only 110 certified professional wetland delineators in the Commonwealth.

**Rationale for using fast track process**

*Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?*

*Please note: If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.*

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There is no expectation this change will be considered controversial as it is not changing the amount of experience required, only who the experience can be obtained under.

**Substance**

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.) Please be sure to define any acronyms.*

Removing the requirement that experience be gained under a certified professional wetland delineator makes it easier for applicants to meet the four year experience requirement.

**Issues**

*Please identify the issues associated with the proposed regulatory action, including:*  
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 indicate.*

There are no disadvantage to private citizens, businesses, or the Commonwealth. There is an advantage to those seeking certification as a professional wetland delineator because it will ease the burden of gaining experience under one of the 110 certified professional wetland delineators in the Commonwealth.

**Requirements more restrictive than federal**

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

This regulatory change is less restrictive that what is currently in place.

**Localities particularly affected**

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

There is no locality particularly affected by the proposed regulation.

**Regulatory flexibility analysis**

*Pursuant to §2.2-4007.1B of the Code of Virginia, please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will*

*accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

The proposed regulation is less stringent as it eliminates who experience must be gained under making it easier for individuals seeking to practice as a certified professional wetland delineator to meet the experience requirement but does not affect the health, safety, environmental, and economic welfare of the citizens of the Commonwealth.

To not implement the change would require individuals seeking certification to seek their experience under one of the 110 certified professional wetland delineators which limits their options.

**Economic impact**

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact. Please keep in mind that we are looking at the impact of the proposed changes to the status quo.*

<b>Description of the individuals, businesses or other entities likely to be affected (positively or negatively) by this regulatory proposal.</b> Think broadly, e.g., these entities may or may not be regulated by this board	This change will positively impact individuals seeking certification as a wetland delineator.
<b>Agency’s best estimate of the number of (1) entities that will be affected, including (2) small businesses affected.</b> Small business means a business, including affiliates, that is independently owned and operated, employs fewer than 500 full-time employees, or has gross annual sales of less than \$6 million.	Less than six individuals per year.
<b>Benefits expected as a result of this regulatory proposal.</b>	It will make it easier for individuals seeking certification to meet their experience requirements.
<b>Projected cost to the <u>state</u> to implement and enforce this regulatory proposal.</b>	None.
<b>Projected cost to <u>localities</u> to implement and enforce this regulatory proposal.</b>	None.
<b>All projected costs of this regulatory proposal for <u>affected individuals, businesses, or other entities</u>.</b> Please be specific and include all costs, including projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses, and costs related to real estate development.	None.

**Alternatives**

*Please describe any viable 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. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

The regulation could be left as it is thus requiring applicants to continue to seek experience under one of the 110 certified wetland delineators in the Commonwealth or leave the Commonwealth to gain their experience and then return.

**Family impact**

*Please assess the 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.*

There is no family impact.

**Detail of changes**

*Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all differences between the pre-emergency regulation and this proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulation(s) or regulations that are being repealed and replaced, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement Four years of experience in wetland delineation which meets the requirements of	Proposed change, intent, rationale, and likely impact of proposed requirements Four years of experience in wetland delineation, which meets the
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18VAC145-30-40		subdivision 1 or 2 of 18VAC145-30-50, under the supervision of a certified professional wetland delineator, the quality of which demonstrates to the board that the applicant is competent to practice as a certified professional wetland delineator; or	requirements of subdivision 1 or 2 of 18VAC145-30-50, the quality of which demonstrates to the board that the applicant is competent to practice as a certified professional wetland delineator; or

If a new regulation is being promulgated, use this chart:

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements

Enter any other statement here