



**Virginia
Regulatory
Town Hall**

**Notice of Intended Regulatory Action
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 Rules and Regulations
Action Title:	Amending
Date:	April 14, 2000

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

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

General clarifying changes to the regulation as well amending the Board's regulation to permit use of electronic seals, signatures and dates so that documents may be filed electronically.

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

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory

action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

§§ 54.1-404, 54.1-411.C. 13.1-549 and 13.-1111 of the Code of Virginia authorizes 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.

§ 54.1-404. Regulations; code of professional practice and conduct.

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 regulations may include a code of professional practice and conduct, the provisions of which shall serve any or all of the following purposes:

1. The protection of the public health, safety and welfare;
2. The maintenance of standards of objectivity, truthfulness and reliability in public statements by professionals;
3. The avoidance by professionals of conflicts of interests;
4. The prohibition of solicitation or acceptance of work by professionals on any basis other than their qualifications for the work offered;
5. The restriction by the professional in the conduct of his professional activity from association with any person engaging in illegal or dishonest activities; or
6. The limitation of professional service to the area of competence of each professional.

§ 54.1-411. Organization for practice; registration.

C. The Board shall adopt regulations governing the registration of persons, corporations, partnerships, limited liability companies, sole proprietors and other entities as required in subsections A and B which:

1. Provide for procedural requirements to obtain and renew registration on a periodic basis;
2. Establish fees for the application and renewal of registration sufficient to cover costs;
3. Assure that regulated services are rendered and controlled by persons authorized to do so;
and
4. Ensure that conflicts of interests are disclosed.

§ 13.1-549. Qualifications of shareholders; special provisions for corporations rendering services of architects, professional engineers, land surveyors and certified landscape architects.

A corporation rendering the services of architects, professional engineers, land surveyors and certified landscape architects, or any combination thereof, shall issue not less than two-thirds of its capital stock to individuals duly licensed or otherwise legally authorized to render the services of architect, professional engineer, land surveyor or certified landscape architect, and the remainder of said stock may be issued only to and held by individuals who are employees of the corporation whether or not such employees are licensed or otherwise authorized to render professional services. No other professional corporation may issue any of its capital stock to anyone other than an individual who is duly licensed or otherwise legally authorized to render the same specific professional services as those for which the corporation was incorporated. Notwithstanding the above limitations a professional corporation may issue its stock to a partnership each of the partners of which is duly licensed or otherwise legally authorized to render the same professional services as those for which the corporation was incorporated.

It is further provided, as an additional prerequisite for a corporation engaging in the practice of the professions of architecture, professional engineering, land surveying, or certified landscape

architecture or any combination thereof, that such corporation shall secure a certificate of authority, which may be renewable and may be either general or limited, from the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects. Such certificate of authority shall be issued or renewed by the Board when in its discretion such corporation is in compliance with rules and regulations which shall be promulgated by the said Board consistent with its jurisdiction to provide adequate safeguards for the public's health, welfare and safety. The fees for a certificate of authority as described above shall be the same fees as provided for in Chapter 4 (§ 54.1-600 et seq.) of Title 54.1.

§ 13.1-1111. Qualifications of members and managers; special provisions for limited liability companies rendering service of architects, professional engineers, land surveyors and certified landscape architects.

Not less than two-thirds of the membership interests of a professional limited liability company rendering the services of architects, professional engineers, land surveyors and certified landscape architects, or any combination thereof, shall be held by individuals or professional business entities duly licensed or otherwise legally authorized to render the services of architects, professional engineers, land surveyors or certified landscape architects, and the remainder of the membership interests may be held only by individuals who are employees of the professional limited liability company whether or not those employees are licensed or otherwise authorized to render professional services. No other professional limited liability company may have as a member anyone other than an individual or a professional business entity that is duly licensed or otherwise legally authorized to render the same professional services as those for which the professional limited liability company was organized.

As an additional prerequisite for a professional limited liability company's engaging in the practice of the professions of architecture, professional engineering, land surveying, or certified landscape architecture, or any combination thereof, that professional limited liability company shall secure a certificate of authority, which may be renewable and may be either general or limited, from the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects. The certificate of authority shall be issued or

renewed by the Board when in its discretion the professional limited liability company is in compliance with rules and regulations which shall be promulgated by the Board consistent with its jurisdiction to provide adequate safeguards for the public's health, welfare and safety. The fees for a certificate of authority as described above shall be the same fees as provided for in Chapter 4 (§ 54.1-400 et seq.) of Title 54.1.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

VAC # and SUMMARY

18 VAC 10-20-10 “Professional” removed from “engineering” in the term “Place of business.” In addition, the definition of “Place of business” and “Professional” were amended. Language added to clarify the term “Responsible charge.” Definition of “Licensed” included.

18 VAC 10-20-20.A Section added that “All applicants must be of good moral character” (removed from individual sections, Parts III – VII, and relocated here).

18 VAC 10-20-20.B Specific time frame removed; changed to “date established by the board.” In addition, 18 VAC 10-20-20.B was restructured.

18 VAC 10-20-30 Wording simplified to clarify regulation on “Determining qualifications of applicants.”

18 VAC 10-20-55 Wording added regarding “Language and comprehension” for all professions (previously Professional Engineers were the only ones with this requirement).

18 VAC 10-20-75 Section on conduct at examination site added (removed from individual sections, Parts III, IV and VI, and relocated here).

18 VAC 10-20-100 Section regarding “Character” removed from here as it has been included in the general section (see 18 VAC 10-20-20.A).

18 VAC 10-20-110 & 120 Clarify wording to accurately reflect the board’s intent.

18 VAC 10-20-130 Clarify that references may not also verify experience.

18 VAC 10-20-140.G Wording regarding conduct at examination site removed as it is now located in the general section (see 18 VAC 10-20-75). In addition, clarify wording that NCARB procedures are to be followed at the examination site, as they are responsible for administering the examination.

18 VAC 10-20-150.A Clarifying wording added to first sentence.

18 VAC 10-20-160 Wording added to, and deleted from, the following terms to clarify: “Approved engineering curriculum,” “Approved engineering technology curriculum,” “Qualifying engineering experience,” and “Engineering examination.”

18 VAC 10-20-180 Section regarding “Character” removed from here as it has been included in the general section (see 18 VAC 10-20-20.A).

18 VAC 10-20-190.2 Wording modified to match the change to the definition of “Approved engineering technology curriculum” made in 18 VAC 10-20-160.

18 VAC 10-20-190.5 Wording clarified regarding self-study.

18 VAC 10-20-200 Wording clarified.

18 VAC 10-20-210.2 & 210.4 Wording clarified (change made to 18 VAC 10-20-210.4 to be in sync with the change to 18 VAC 10-20-190.5).

18 VAC 10-20-220 Wording clarified regarding the requirements for references.

18 VAC 10-20-240 Wording modified to refer to “qualifying experience” instead of “professional experience.”

18 VAC 10-20-250 Section regarding “Language and comprehension” removed from here, as it has been included in the general section (see 18 VAC 10-20-55).

18 VAC 10-20-260.F & 260.I Wording in 18 VAC 10-20-260.F deleted as wording regarding conduct at examination site is now located in the general section (see 18 VAC 10-20-75). In addition, clarifying language added to 18 VAC 10-20-260.I.

18 VAC 10-20-270 Change the word “vigorous” to “rigorous.”

18 VAC 10-20-290 Section regarding “Character” removed from here as it has been included in the general section (see 18 VAC 10-20-20.A).

18 VAC 10-20-295 Definition of “Approved land surveying experience” moved to here from 18 VAC 10-20-340.

18 VAC 10-20-300.3 & 300.4 The difference between the experience requirements in these two sections needs to be clarified.

18 VAC 10-20-300.1 through 300.6 Wording clarified.

18 VAC 10-20-310 Wording clarified.

18 VAC 10-20-320 Wording clarified.

18 VAC 10-20-340 Definition of “Approved land surveying experience” moved from here to 18 VAC 10-20-295.

18 VAC 10-20-350.A & E Wording clarified.

18 VAC 10-20-360 Wording clarified.

18 VAC 10-20-370 & 380 The word “land” was added to the word “boundary” throughout.

18 VAC 10-20-370.B.3 Add an accuracy standard for GPS.

18 VAC 10-20-370.C.2.f Add the requirement that adequate curve data be included.

18 VAC 10-20-370.C.2.p Add the option of noting the registered business on the plat instead of the land surveyor.

18 VAC 10-20-380.C.17 Add the requirement that the name and address of the land surveyor or the registered business be included on a house location survey to make it consistent with the requirements for a land boundary survey.

18 VAC 10-20-380.D &E Update the citations to the Code of Virginia.

18 VAC 10-20-400 Clarify the wording regarding the CLARB examination.

18 VAC 10-20-410 Section regarding "Character" removed from here as it has been included in the general section (see 18 VAC 10-20-20.A).

18 VAC 10-20-420 Wording clarified to accurately reflect the Board's intent.

18 VAC 10-20-430 Wording modified to refer to "qualifying" instead of "professional."

18 VAC 10-20-440.C, E & F In 18 VAC 10-20-440.C, clarify the wording regarding the CLARB examination to match the change made in 18 VAC 10-20-400. In 18 VAC 10-20-440.E, specific time frame removed; changed to date established by the board. Wording in 18 VAC 10-20-440.F deleted as wording regarding conduct at examination site is now located in the general section (see 18 VAC 10-20-75).

18 VAC 10-20-445 This section added to clarify that references are required.

TABLE II Name of Table changed to prepare the regulations for the removal of Table I from the regulations at a later date. Language changed to reflect the change made in 18 VAC 10-20-430. The last sentence of B-2.1 removed, as it is not needed.

18 VAC 10-20-480 Section regarding "Character" removed from here as it has been included in the general section (see 18 VAC 10-20-20.A).

18 VAC 10-20-490.2 Wording clarified.

18 VAC 10-20-505 Wording clarified.

18 VAC 10-20-530.C & 530.D Wording modified to permit certified interior designers to form, and require them to register, professional corporations with the Board due to HB1428 which was passed during the 2000 General Assembly session. Wording clarified in 18 VAC 10-20-530.D to accurately reflect statutory language.

18 VAC 10-20-540 Wording modified to permit certified interior designers to form, and require them to register, professional corporations with the Board due to HB1428 which was passed during the 2000 General Assembly session. Wording clarified to accurately reflect statutory language.

18 VAC 10-20-550 Wording modified to permit certified interior designers to form, and require them to register, professional corporations with the Board due to HB1428 which was passed during the 2000 General Assembly session. Other wording clarified.

18 VAC 10-20-560.C Clarify wording and change regulation to require regulants to notify the Board office when they leave as the responsible professional of a professional corporation.

18 VAC 10-20-570 Clarify wording in the definition of "Manager" and "Professional Limited Liability Company." Wording modified to permit certified interior designers to form, and require them to register, professional limited liability companies with the Board due to HB1428 which was passed during the 2000 General Assembly session.

18 VAC 10-20-590.C.2 & C.3 Wording modified to permit certified interior designers to form, and require them to register, professional limited liability companies with the Board due to

HB1428 which was passed during the 2000 General Assembly session. Other wording clarified in 18 VAC 10-20-590.C.3.

18 VAC 10-20-600 Wording modified to permit certified interior designers to form, and require them to register, professional limited liability companies with the Board due to HB1428 which was passed during the 2000 General Assembly session.

18 VAC 10-20-610 Wording modified to permit certified interior designers to form, and require them to register, professional limited liability companies with the Board due to HB1428 which was passed during the 2000 General Assembly session. Other wording clarified.

18 VAC 10-20-620.C Clarify wording and change regulation to require regulants to notify the Board office when they leave as the responsible professional of a professional limited liability company.

18 VAC 10-20-640.B Clarify that professional services offered through a partnership shall be under the supervision and control of a licensed/certified professional.

18 VAC 10-20-650 Wording modified to permit certified interior designers to require them to register businesses other than PC's or PLLC's with the Board due to HB1428 that was passed during the 2000 General Assembly session. Other wording clarified.

18 VAC 10-20-660 Clarify wording and change regulation to require regulants to notify the Board office when they leave as the responsible professional of a business entity other than a PC or PLLC.

18 VAC 10-20-680.B Delete the requirement that reinstatement applicants (whose license or certificate has been expired for 5 years or more) must meet current entry requirements.

18 VAC 10-20-680.E Clarify wording.

18 VAC 10-20-720 Clarify wording.

18 VAC 10-20-740.B Clarify wording to clearly indicate that a regulant is responsible for reporting any violation (including their own) of the Board's regulations or statutes.

18 VAC 10-20-740.D, E & F Wording clarified to more accurately reflect the Board's intent regarding the use of another's work product.

18 VAC 10-20-750 Clarify wording to use a more appropriate term.

18 VAC 10-20-760.B Amend the regulation to permit the use of electronic seals, signatures and dates. Other wording clarified.

18 VAC 10-20-760.B.4 Clarify wording regarding exempted work. The issue of whether work performed pursuant to § 54.1-401 of the Code of Virginia needs to be sealed needs to be resolved.

18 VAC 10-20-780 Wording modified as a result of HB1428, which requires certified interior designers to register their businesses with the Board, which was passed during the 2000 General Assembly session.

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

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

Failure to adopt these changes will deprive the Board's regulants of the ability to file their documents electronically which is becoming more of a standard operating procedure as well as being a more efficient process as the business world evolves towards e-commerce. In addition, failure to adopt the other changes will permit the Board's regulation to not be as clear as it could be.

The Board will certainly consider any and all comments received during the comment periods as to any proposed alternatives. In addition, anyone may petition the Board to consider a regulatory change at any time in accordance with the Board's Public Participation Guidelines.

Family Impact Statement

Please provide a preliminary analysis of 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.

The contemplated changes are expected to have no impact on families.