



Virginia
Regulatory
Town Hall

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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals
Virginia Administrative Code (VAC) citation	18 VAC160-20
Regulation title	Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals
Action title	General Review
Date this document prepared	July 11, 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*.

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 Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals (Board) will conduct a general review of the regulations. Chapters 892 and 924 of the Acts of the 2007 General Assembly, which were the result of House Bill 3134 and Senate Bill 1270 respectively, required the Board to establish a program for licensing individuals as onsite soil evaluators, onsite sewage system installers and onsite sewage system operators. Said program was incorporated into the regulations which govern waterworks and wastewater works operators. As the regulations have not undergone cumulative review since the inclusion of the onsite sewage program in 2009, a thorough review is necessary to ensure that the regulation complements the current Virginia law, provides minimal burdens on regulants while still protecting the public, and reflects current procedures and policies of the Department of Professional and Occupational Regulation (Department).

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.

§ 54.1-201.5 of the *Code of Virginia* (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-201>) 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."

§54.1-2301 B of the *Code of Virginia* (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-2301>) states that, "The Board shall examine waterworks and wastewater works operators and issue licenses. The licenses may be issued in specific operator classifications to attest to the competency of an operator to supervise and operate waterworks and wastewater works while protecting the public health, welfare and property and conserving and protecting the water resources of the Commonwealth."

§ 54.1-2301.D of the *Code of Virginia* (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-2301>) states that, "The Board, in consultation with the Board of Health, shall adopt regulations for the licensure of (i) onsite soil evaluators; (ii) installers of alternative onsite sewage systems, as defined in § 32.1-163; and (iii) operators of alternative onsite sewage systems, as defined in § 32.1-163. Such regulations shall include requirements for (a) minimum education and training, including approved training courses; (b) relevant work experience; (c) demonstrated knowledge and skill; (d) application fees to cover the costs of the program, renewal fees, and schedules; (e) the division of onsite soil evaluators into classes, one of which shall be restricted to the design of conventional onsite sewage systems; (f) the division of sewage system installers into classes, one of which shall be restricted to the installation of conventional onsite sewage systems; and (g) other criteria the Board deems necessary."

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 regulations have not undergone a thorough and complete review since the inclusion of the onsite sewage system professional regulations in 2009. The periodic review is necessary to ensure the current regulatory standards are consistent with current industry and legal standards. The regulations will also be reviewed to ensure they achieve their intended objective in the most efficient, cost-effective manner, and are clearly written and understandable.

Substance

Please detail any changes that will be proposed. Be sure to define all acronyms. 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.

At this time, there are no proposed changes. The Board is proposing to perform a general review of the existing regulations. Proposed changes are intended to improve the clarity of the regulations, ensure

consistency with current practices and legal requirements, and to minimize regulatory burdens while ensuring protection of the health, safety, and welfare of citizens of the Commonwealth.

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.

While the licensure of waterworks and wastewater works operators and onsite sewage system professionals is mandatory per §§ 54.1-2301.B and D, the contents of the regulation is determined by the board within the constraints provided by law. The board will consider reasonable alternatives to existing requirements which do not compromise the publics' health, safety or welfare during the general review states in part, the Board shall examine waterworks and wastewater works operators and issue licenses in specific operator classifications which shall attest to the competency of an operator to supervise and operate waterworks and wastewater works while protecting the public health, welfare and property and conserving and protecting the water resources of the Commonwealth.

Section 54.1-2301.D states in part that the Board, in consultation with the Board for Health, shall adopt regulations which shall include but not be limited to requirements for education, experience, training and examination, provisions for operating procedures; the division of specific licensees in classes, and other rules as are necessary and proper to accomplish the purposes of Chapter 23 of Title 54.1 of the Code of Virginia.

In addition, this general review is necessary to comply with Executive Order 17 (2014). Alternatives may be considered after the review of any submissions during the public comment period.

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.

Please also indicate pursuant to your Public Participation Guidelines whether a panel will be appointed to assist in the development of the proposed regulation. Please state one of the following: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is seeking comments on this regulatory action, including but not limited to 1) ideas to be considered in the development of this 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) the probable effect of the regulation on affected small businesses, and 3) the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to Trisha Henshaw, Executive Director, Board for Waterworks and Wastewater Works Operator and Onsite Sewage System Professional, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, email WaterWasteOper@dpor.virginia.gov, phone (804) 367-0362, or fax (866) 350-5354. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.

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 impact on families in Virginia has been identified as resulting from the proposed amendment to the regulation.