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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) citation(s)	9VAC25-870
Regulation title(s)	Virginia Stormwater Management Program (VSMP) Regulation
Action title	Appropriate Signing of Certain Documents
Date this document prepared	May 7, 2017

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The intent of this proposed regulatory action is to provide language in the regulation that would require that all final plan elements, specifications, or calculations whose preparation requires a license under Chapter 4 (§ 54.1-400 et seq.) or 22 (§ 54.1-2200 et seq.) of Title 54.1 be appropriately signed and sealed by a professional who is licensed to engage in practice in the Commonwealth. This action is required by Chapters 10 (HB2076) and 163 (SB1127) of the 2017 Acts of Assembly.

Legal basis

Please identify (1) the agency (includes any type of promulgating entity) and (2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Section 62.1-44.15:28 authorizes the State Water Control Board to adopt regulations that specify minimum technical criteria and administrative procedures for Virginia Stormwater Management Programs. Chapters 10 and 183 of the 2017 Acts of Assembly directs the State Water Control Board to adopt regulations requiring that all final plan elements, specifications, or calculations whose preparation requires a license in engineering, architecture, soil science, or a related profession be signed and sealed by a licensed professional. Further the Acts require that a Notice of Intended Regulatory Action be published and a 60-day public comment period on the necessary amendments be held prior to the Board's adoption of the regulations; and that the regulations be effective no later than July 1, 2018.

Purpose

Please describe 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, please explain any potential issues that may need to be addressed as the regulation is developed.

The amendments protect the health, safety, or welfare of citizens by ensuring that final plan elements, specifications, or calculations whose preparation require a license under Chapter 4 (§ 54.1-400 et seq.) or 22 (§ 54.1-2200 et seq.) of Title 54.1 are appropriately signed and sealed by a professional who is licensed to engage in practice in the Commonwealth.

Substance

Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

The amendment revises 9VAC25-870-55 C and 9VAC25-870-160 D 7..

9VAC25-870-55.C Stormwater Management Plans would be revised as follows:

~~C. Elements of the stormwater management plans that include activities regulated under Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia. All final plan elements, specifications, or calculations whose preparation requires a license under Chapter 4 (§ 54.1-400 et seq.) or 22 (§ 54.1-2200 et seq.) of Title 54.1 shall be appropriately signed and sealed by a professional who is licensed to engage in practice in the Commonwealth of Virginia. Nothing in this subsection shall authorize any person to engage in practice outside his area of professional competence.~~

9VAC25-870-160.D.7 Technical Criteria and Requirements for State Projects would be revised as follows:

~~7. All stormwater management and erosion and sediment control plans associated with a state permit application shall be appropriately sealed and signed by a professional in adherence to all minimum standards and requirements pertaining to the practice of that profession in accordance~~

~~with Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 of the Code of Virginia and attendant regulations. All final plan elements, specifications, or calculations whose preparation requires a license under Chapter 4 (§ 54.1-400 et seq.) or 22 (§ 54.1-2200 et seq.) of Title 54.1 shall be appropriately signed and sealed by a professional who is licensed to engage in practice in the Commonwealth of Virginia. Nothing in this subsection shall authorize any person to engage in practice outside his area of professional competence~~

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.

The agency is seeking comments on this regulatory action as required in Chapters 10 and 163 of the 2017 Acts of Assembly. 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: projected reporting, recordkeeping and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to William K. Norris, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218; 804.698.4022. Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site (<http://www.townhall.virginia.gov>). Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 a.m. on October 6, 2017.

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.

There is no anticipated impact of the regulatory action on the institution of the family and family stability.