



Final Regulation Agency Background Document

Agency name	DPOR/Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA Board)
Virginia Administrative Code (VAC) citation	18 VAC 10-20
Regulation title	Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA Board) Regulations
Action title	Amend
Date this document prepared	April 3, 2006

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

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

General clarifying changes to the regulation as well as amending the Board's regulation to clarify the Board's requirements relating to "responsible charge" and "direct control and personal supervision."

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

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.

On March 16, 2006, the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects adopted final Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA Board) Regulations.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

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

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 it 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.

General clarifying changes to the regulation as well as amending the Board's regulation to clarify the Board's requirements relating to "responsible charge" and "direct control and personal supervision." Any other changes which may be necessary may also be considered. Failure to adopt these changes will allow unclear language to remain in the regulations. Ensuring that the regulations are as clear as possible will facilitate the regulants complying with the Board's requirements which will better protect the health, safety and welfare of the public.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

General clarifying changes to the regulation as well as amending the Board's regulation to clarify the Board's requirements relating to "responsible charge" and "direct control and personal supervision."

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.

The primary advantage to the public is that the Board’s regulants will have a clearer set of regulations which will facilitate compliance and better protect the public. The only potential disadvantage is that the Board is implementing an open book examination on its regulations and statutes as part of the application process (see 18 VAC 10-20-85). However, the assurance that all applicants are aware of the Board’s regulations and statutes should better protect the public.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

VAC #	SUMMARY OF CHANGES MADE AT FINAL SINCE THE PROPOSED STAGE
[18 VAC 10-20-120.A]	[Update reference to the most recent edition of the NCARB Handbook for Interns and Architects (2005-2006).]
[18 VAC 10-20-120.B]	[Second sentence - change the limit from 10 weeks to 8 weeks to match the current NCARB IDP standards.]
[18 VAC 10-20-140.C]	[Add language to state that passing scores for Divisions of the ARE will be retained in accordance with NCARB procedures (due to the 5 year rolling clock that went into effect on January 1, 2006).]
[18 VAC 10-20-140.E]	[Modify this language to say that Virginia will accept Divisions that "...were taken <u>and passed</u> in accordance with national standards" to match the changes being made to 18 VAC 10-20-140.C for the 5 year rolling clock.]
[18 VAC 10-20-220.B]	[Add the District of Columbia to the list of jurisdictions from which a licensed professional engineer is an acceptable reference.]
[Definition of "professional program approved by the board" in 18 VAC 10-20-460 and 18 VAC 10-20-490]	[Updated references to FIDER in the regulations to include FIDER’s new name – Council for Interior Design Accreditation – so that the references read: the Council for Interior Design Accreditation/CIDA (formerly known as the Foundation for Interior Design Education Research/FIDER).]
[Second paragraph of 18 VAC 10-20-780]	[Change phrasing in the third and fourth lines <i>from</i> " <u>of</u> only one location" and " <u>of</u> more than one location" <i>to</i> " <u>for</u> only one location" and " <u>for</u> more than one location"]

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

The public comment period was September 19, 2005, through December 8, 2005, with a public hearing held on December 8, 2005, for the proposed regulations. During the public comment period and public hearing,

the Board received nine comments from five parties. On March 16, 2006, the Board considered the comments and adopted the following responses:

#	REGULATION #	SUMMARY OF COMMENT(S)
	COMMENTOR'S NAME	BOARD RESPONSE
1	18 VAC 10-20-720, paragraph 1	I recommend deleting the phrase "or which may reasonably be construed as having the effect of intending to influence the awarding of such a contract". This phrase prohibits regulants from contributing to a Virginia politician's campaign if said regulant intends to persue [sic] work in Virginia. Say I give money to someone because I think that person is best for the Commonwealth and its citizens, and say that person is then elected. If my company is awarded a contract by the State, someone could still "reasonably construe" that I made the contribution to gain the contract. This sort of phrasing invariably places a presumption of guilt on the part of those who participate in the political process, regardless of their motives.
	William P. Corish, P.E. Corish Engineering, Front Royal, Virginia, via the Public Comment Forum on the Virginia Regulatory Town Hall (www.townhall.state.va.us) on October 11, 2005.	Do not concur with the suggested change. The Board's proposed language would not prohibit regulants from making a contributing to a political campaign. A campaign contribution would not be "...reasonably construed as having the effect of intending to influence the awarding of such a contract."
2	18 VAC 10-20-120.A	Update reference to the most current edition of the NCARB Handbook for Interns and Architects.
	Robert A. Boynton, FAIA, via e-mail on December 5, 2005.	Concur with the suggested change.
3	18 VAC 10-20-120.B	Second sentence - change the limit from 10 weeks to 8 weeks to match the current NCARB IDP standards.
	Robert A. Boynton, FAIA, via e-mail on December 5, 2005.	Concur with the suggested change.
4	18 VAC 10-20-140.C	Add language to state that passing scores for Divisions of the ARE will be retained in accordance with NCARB procedures (due to the 5 year rolling clock that will go into effect on January 1, 2006).
	Robert A. Boynton, FAIA, via e-mail on December 5, 2005.	Concur with the suggested change.

#	REGULATION #	SUMMARY OF COMMENT(S)
	COMMENTOR'S NAME	BOARD RESPONSE
5	18 VAC 10-20-140.E	Modify this language to say that Virginia will accept Divisions that "...were taken <u>and passed</u> in accordance with national standards" to match the changes being made to 18 VAC 10-20-140.C for the 5 year rolling clock.
	Robert A. Boynton, FAIA, via e-mail on December 5, 2005.	Concur with the suggested change.
6	18 VAC 10-20-760.B	Supports the changes being made to the regulations for Certified Interior Designers including the addition of the image of the seal for Certified Interior Designers to the regulations.
	Kim Schoenadel at the Public Hearing on December 8, 2005.	Concur with the comment.
7	18 VAC 10-20-760.B, 18 VAC 10-20-460, and 18 VAC 10-20-490	Supports the changes being made to the regulations for Certified Interior Designers; especially the clarification regarding a "professional program approved by the board" in regulations 18 VAC 10-20-460 and 18 VAC 10-20-490.
	Patricia Stockdon at the Public Hearing on December 8, 2005.	Concur with the comment.
8	Second paragraph of 18 VAC 10-20-780	Change phrasing in the third and fourth lines from " <u>of</u> only one location" and " <u>of</u> more than one location" to " <u>for</u> only one location" and " <u>for</u> more than one location".
	Stanley C. Harris, via written comment on December 8, 2005.	Concur with the suggested change.
9	18 VAC 10-20-220.B	Add the District of Columbia to the list of jurisdictions from which a licensed professional engineer is an acceptable reference.
	Stanley C. Harris, via written comment on December 8, 2005.	Concur with the suggested change.

Please note that Stanley C. Harris is a member of the APELSCIDLA Board.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

VAC #	SUMMARY OF CHANGES MADE AT FINAL SINCE THE PROPOSED STAGE
[18 VAC 10-20-120.A]	[Update reference to the most recent edition of the NCARB Handbook for Interns and Architects (2005-2006).]
[18 VAC 10-20-120.B]	[Second sentence - change the limit from 10 weeks to 8 weeks to match the current NCARB IDP standards.]
[18 VAC 10-20-140.C]	[Add language to state that passing scores for Divisions of the ARE will be retained in accordance with NCARB procedures (due to the 5 year rolling clock that will go into effect on January 1, 2006).]
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[18 VAC 10-20-220.B]	[Add the District of Columbia to the list of jurisdictions from which a licensed professional engineer is an acceptable reference.]
[Definition of "professional program approved by the board" in 18 VAC 10-20-460 and 18 VAC 10-20-490]	[Updated references to FIDER in the regulations to include FIDER's new name – Council for Interior Design Accreditation – so that the references read: the Council for Interior Design Accreditation/CIDA (formerly known as the Foundation for Interior Design Education Research/FIDER).]
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VAC #	SUMMARY OF CHANGES MADE AT PROPOSED
N/A	Change the title of the regulations by deleting "Rules and" as they are just regulations.
18 VAC 10-20-10	Reference those definitions that are used in the regulations that are contained in the Code of Virginia. Delete the definition of "Board" as it is contained in § 54.1-400 and delete the definition of "responsible charge" as it is being replaced by "responsible person." Add definitions for "application," "certified," "profession," "registrant," and "responsible person." Amend definitions for "comity," "direct control and personal supervision," "good moral character," "landscape architect," "licensed," "place of business," "professional," and "resident."
18 VAC 10-20-17 & 18 VAC 10-20-60	Move the regulation regarding replacement wall certificates from 18 VAC 10-20-60 to 18 VAC 10-20-17 as it is better placed in the General section of the regulations.
18 VAC 10-20-20	Clarify existing language and add language for land surveyors and interior designers which details existing practice.
18 VAC 10-20-25, 18 VAC 10-20-130, and 18 VAC 10-20-220	Move common provisions relating to references to the General Entry Requirements section from 18 VAC 10-20-130 and 18 VAC 10-20-220 to a new regulation 18 VAC 10-20-25.
18 VAC 10-20-30	Delete regulation.
18 VAC 10-20-35	Clarify language.
18 VAC 10-20-40	Clarify language.
18 VAC 10-20-50	Clarify language.
18 VAC 10-20-55	Clarify language.

VAC #	SUMMARY OF CHANGES MADE AT PROPOSED
18 VAC 10-20-70	Clarify language.
18 VAC 10-20-75	Clarify language.
18 VAC 10-20-80, 18 VAC 10-20-90, 18 VAC 10-20-170, 18 VAC 10-20-280, 18 VAC 10-20-400, 18 VAC 10-20-470, 18 VAC 10-20-520, 18 VAC 10-20-580, & 18 VAC 10-20-630,	Delete references to “dishonored checks” from regulations as this requirement is contained in statute (see § 2.2-614.1 of the Code of Virginia)
18 VAC 10-20-85	Add a requirement for an examination on the Board's regulations and statutes as part of the application.
18 VAC 10-20-110	Clarify language.
18 VAC 10-20-120	Clarify language.
18 VAC 10-20-140	Clarify language.
18 VAC 10-20-150	Clarify language.
18 VAC 10-20-160	Clarify language and delete “approved engineering experience” definition as it is incorporated in the revised “qualifying engineering experience” definition. Delete definition of “engineering examination” as not needed. Add definition of “related science curriculum” to better spell out Board's requirements for applicants.
18 VAC 10-20-190	Clarify language.
18 VAC 10-20-200	Clarify language.
18 VAC 10-20-210	Clarify language.
18 VAC 10-20-215	Clarify language.
18 VAC 10-20-220.C	Clarify language.
18 VAC 10-20-230	Clarify language.
18 VAC 10-20-240	Clarify language to better spell out Board's requirements for applicants.
18 VAC 10-20-260	Clarify language.
18 VAC 10-20-270	Clarify language.
18 VAC 10-20-280	Clarify language.
18 VAC 10-20-295	Clarify language to better spell out Board's requirements for applicants (in conjunction with change to 18 VAC 10-20-310).
18 VAC 10-20-300	Clarify language to better spell out Board's requirements for applicants.
18 VAC 10-20-310	Clarify language to better spell out Board's requirements for applicants (in conjunction with change to 18 VAC 10-20-295).
18 VAC 10-20-320	Clarify language.
18 VAC 10-20-320,	Ensure consistent use of the term “direct control and personal supervision” throughout the regulation.
18 VAC 10-20-330	Clarify language.
18 VAC 10-20-340	Clarify language.
18 VAC 10-20-350	Clarify language.
18 VAC 10-20-360	Clarify language.
18 VAC 10-20-370	Clarify language and include requirements that any inconsistencies found between boundaries be disclosed on the plat, that it be disclosed on the plat whether a current title report has been furnished, that it be disclosed on the plat whether any or all easements are shown on the plat, and that information be included on the plat regarding items crossing property lines. Further, a requirement is being added to include the distance to the nearest road intersection or prominent or well known object to assist in locating the property.
18 VAC 10-20-380	Clarify language and include requirements that any inconsistencies found between boundaries be disclosed on the plat.

VAC #	SUMMARY OF CHANGES MADE AT PROPOSED
18 VAC 10-20-390	Clarify language.
18 VAC 10-20-400	Clarify language.
18 VAC 10-20-420	Clarify language.
18 VAC 10-20-440	Clarify language.
18 VAC 10-20-450	Clarify language.
Landscape Architect Equivalency Table	Clarify language.
18 VAC 10-20-460	Clarify language.
18 VAC 10-20-490	Clarify language.
18 VAC 10-20-505	Clarify language.
18 VAC 10-20-510	Clarify language.
18 VAC 10-20-530	Clarify language and replace “responsible charge” with “responsible person” in 18 VAC 10-20-530.G.
18 VAC 10-20-540	Clarify language.
18 VAC 10-20-550	Clarify language.
18 VAC 10-20-560	Replace “responsible charge” with “responsible person.”
18 VAC 10-20-565	Delete as the requirements in this section have been moved to regulation 18 VAC 10-20-670.A.
18 VAC 10-20-570	Clarify language.
18 VAC 10-20-590	Clarify language and replace “responsible charge” with “responsible person” in 18 VAC 10-20-590.F.
18 VAC 10-20-600	Clarify language.
18 VAC 10-20-610	Clarify language.
18 VAC 10-20-620	Clarify language and replace “responsible charge” with “responsible person” in 18 VAC 10-20-620.C.
18 VAC 10-20-625	Delete as the requirements in this section have been moved to regulation 18 VAC 10-20-670.A.
18 VAC 10-20-640	Clarify language and replace “Persons resident and in responsible charge” with “responsible person” in 18 VAC 10-20-640.EF.
18 VAC 10-20-650	Clarify language to use “responsible person.”
18 VAC 10-20-660	Clarify language to use “responsible person.”
18 VAC 10-20-665	Delete as the requirements in this section have been moved to regulation 18 VAC 10-20-670.A.
18 VAC 10-20-670	Move renewal requirements for branch offices from 18 VAC 10-20-565, 18 VAC 10-20-625, and 18 VAC 10-20-665 to here.
18 VAC 10-20-680	Clarify language.
18 VAC 10-20-690	Clarify language.
18 VAC 10-20-700	Clarify language.
18 VAC 10-20-710	Clarify language.
18 VAC 10-20-720	Clarify language.
18 VAC 10-20-730	Clarify language.
18 VAC 10-20-740	Clarify language.
18 VAC 10-20-750	Clarify language.
18 VAC 10-20-760	Clarify language and lessen the requirements for electronic seal, signatures and date in 18 VAC 10-20-760.B to make them more practical. In addition, add a seal design for certified interior designers to 18 VAC 10-20-760.B.6.
18 VAC 10-20-770	Clarify language and substitute language relating to “responsible person” where appropriate.
18 VAC 10-20-780	Clarify language and replace “responsible charge” with “responsible person.”
18 VAC 10-20-790	Clarify language.
18 VAC 10-20-795	Add language stating that a physical address is required.

Regulatory flexibility analysis

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 regulations were developed with consideration that the affected industries consist of small businesses. The Board considers that the regulatory methods implemented were promulgated to accomplish the applicable law while minimizing the adverse impact on small businesses and are consistent with the regulation of small businesses of other professions.

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.

The contemplated changes are not anticipated to have any significant impact on Virginia's families.