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Exempt Action: Final Regulation Agency Background Document

Agency name	Board for Professional Soil Scientists, Wetland Professionals, and Geologists
Virginia Administrative Code (VAC) Chapter citation(s)	18VAC145-40
VAC Chapter title(s)	Regulations Governing Certified Professional Wetland Delineators
Action title	HB 1182 Amendment
Final agency action date	June 11, 2024
Date this document prepared	July 11, 2024

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This action amends the Regulations Governing Certified Professional Wetland Delineators to conform to changes resulting from the enactment of Chapter 545 of the 2024 Acts of Assembly.

The legislation replaces the requirement that an applicant with a bachelor's degree in a relevant field have four years of relevant experience to be certified as a professional wetland delineator with three years of such experience. For applicants seeking certification through experience, the legislation reduces to three years the required experience that the applicant must have in wetland science research or as a teacher of wetlands curriculum in an accredited institution of higher education in order to be certified.

This action amends 18VAC145-30-40 to:

- Reduce from four (4) years to three (3) years the amount of required experience in wetland delineation for individuals seeking certification as a wetland delineator who hold a bachelor's degree and have completed a Board-approved course of instruction in state and federal wetland delineation methods; and
- Reduce from four (4) years to three (3) years the amount of required experience for individuals seeking certification as a wetland delineator based on experience in wetland science research or as a teacher of a wetlands curriculum in an accredited institution of higher education.

This action is exempt from the Administrative Process Act under § 2.2-4006(A)(4)(a) of the Code of Virginia, which states, in part:

A. The following agency actions otherwise subject to this chapter and § 2.2-4103 of the Virginia Register Act shall be exempted from the operation of this article:

4. Regulations that are:

a. Necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

In April 2024, the Governor approved Chapter 545 (HB1182) of the 2024 Acts of the Assembly, reducing certain experience qualifications for individuals seeking to qualify for the examination to certified as a professional wetland delineator certification. The legislation became effective July 1, 2024.

The purpose of this regulatory change is to amend the Regulations Governing Certified Professional Wetland Delineators to comport with the revised requirements in the statute.

Statement of Final Agency Action

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 June 11, 2024, the Board for Professional Soil Scientists, Wetland Professionals, and Geologists adopted the amendments to the Regulations Governing Certified Professional Wetland Delineators.