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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	DPOR - Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	18 VAC 10-20
<b>VAC Chapter title(s)</b>	Regulations Governing Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects
<b>Action title</b>	Revisions to Licensure Regulations
<b>Date this document prepared</b>	12/01/2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), 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, 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 the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

Due to unforeseen circumstances when the regulations were amended in 2021, some regulations were eliminated that created barriers to licensure. The Board wishes to reinsert entry requirements for professional engineers. In addition, land surveyor regulations have been updated for clarification purposes.

### Acronyms and Definitions

*Define all acronyms or technical definitions used in this form.*

There are no acronyms, abbreviations, or technical definitions.

## 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, 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the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”*

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This regulatory change is not the result of a mandate.

This regulatory change is prompted by (i) feedback received by the agency from members of the public, (ii) agency staff review of the regulation, and (iii) and board members.

Sources of public feedback have included formal comments received during meetings of the Board and informal comments received by agency staff from licensees and applicants for licensure.

Both the public and agency staff have identified areas where the regulation would benefit from revision or clarification to better ensure the regulation achieves its intended purpose to protect the public welfare by ensuring only those individuals who are properly qualified engage in the profession, while also reducing or mitigating regulatory burdens on applicants seeking to obtain a license and licensees who maintain a license.

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.*

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### **§54.1-201. Powers and duties of regulatory boards.**

5. 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. The regulations shall not be in conflict with the purposes and intent of this chapter or of Chapters 1 (§ [54.1-100](#) et seq.) and 3 (§ [54.1-300](#) et seq.) of this title.

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

A. 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.

## Purpose

*Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.*

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This regulatory change is prompted by (i) feedback received by the agency from members of the public and board members and (ii) agency staff review of the regulation.

Sources of public feedback have included formal comments received during meetings of the Board and informal comments received by agency staff from licensees and applicants for licensure.

Both the public and agency staff have identified areas where the regulation would benefit from revision or clarification to better ensure the regulation achieves its intended purpose to protect the public welfare by ensuring only those individuals who are properly qualified engage in the profession, while also reducing or mitigating regulatory burdens on applicants seeking to obtain a license and licensees who maintain a license.

## Substance

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

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**After review, the Board with counsel input, recommended these changes on the basis of correcting and clarifying the requirements of the September 2, 2021 promulgated regulations.**

18VAC-20-310 of the regulations provides detail on the requirements of the land surveyor or surveyor photogrammetrist seeking to obtain licensure. The requirements were corrected.

18VAC-20-370 of the regulations provides detail on the minimum standards and procedures for land boundary surveying practice. A standard was clarified.

18VAC-20-380 of the regulations provides detail on the minimum standards and procedures for surveys determining the locating of physical improvements; field procedures; and office procedures. The standards were updated and clarified.

18VAC-20-382 of the regulations provides detail on the minimum standards and procedures for surveys determining topography; field procedures; and office procedures. The standards were updated and clarified.

18VAC-20-210 of the regulations provides detail on the requirements for the principles and practice of engineering. The 20 years of experience requirement was previously deleted from regulation and has now been added back into the regulation to reduce burden to licensure.

18VAC-20-190 of the regulations provides detail on the requirements for an engineer-in—training designation. The table of educational and experience requirements was previously deleted from regulation and has now been added back into the regulation.

18VAC-20-200 of the regulations has been repealed because it has been revised as stated above.

## Alternatives to Regulation

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

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No viable alternatives have been identified.

### **Periodic Review and Small Business Impact Review Announcement**

*If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and the ORM procedures), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify it as necessary for your agency.*

This NOIRA is not being used to announce a periodic review or a small business impact review.

### **Public Participation**

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.*

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The Board is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>.

Comments may also be submitted by mail:

**Bonnie Davis, Regulatory Operations Administrator**

Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects  
Department of Professional and Occupational Regulation  
9960 Mayland Drive, Suite 400  
Richmond, VA 23233

**By E-MAIL to:** [APELSCIDLA@dpor.virginia.gov](mailto:APELSCIDLA@dpor.virginia.gov)

**By FAX to:** (866) 465-6206

In order to be considered, comments must be received by 11:59 pm 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.