

Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes  Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



## Virginia Department of Planning and Budget Economic Impact Analysis

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**18 VAC 50-22 Board for Contractors Regulations**  
**Department of Professional Occupational Regulation**  
**Town Hall Action/Stage: 4540/7823**  
March 13, 2017

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### **Summary of the Proposed Amendments to Regulation**

Pursuant to Chapter 527 of the 2016 Acts of Assembly, the Board of Contractors proposes to establish a contracting specialty for remediation of properties formerly used to manufacture methamphetamine.

### **Result of Analysis**

The benefits likely exceed the costs for the proposed regulation absent excessive training requirements. A different design specifying content and length of the training would reduce the uncertainty on the magnitude of the potential training costs.

### **Estimated Economic Impact**

Methamphetamine is a potent central nervous system stimulant. It is sometimes illegally produced in makeshift labs commonly referred to as “meth labs.” The production uses a variety of chemicals including pseudoephedrine, acetone, phosphine, and materials such as drain cleaners, paint thinners, ammonia, lye, engine starting fluid, and more. These hazardous contaminants permeate into drywall, carpet, and flooring. Contaminants may be found in waste water and heating, ventilation, and air conditioning systems. Exposure to even small amounts of some of these chemicals can pose serious health risks. Structures formerly used as meth labs are treated as hazardous material sites, which require the donning of protective clothing and special

remediation techniques. However, prior to this regulatory action, there had been no requirement that contractors remediating such properties have any special training or experience.

Chapter 527 of the 2016 Acts of Assembly<sup>1</sup> added the remediation of former meth labs to the definition of “contractor” found in § 54.1-1100 of the Code of Virginia. In response to the amendment, the Board of Contractors (Board) proposes to establish a new contracting specialty for remediation of such properties. Currently, there are 47 other contracting classifications or specialties. In general, a firm wishing to perform a specialty contracting is required to designate a qualified individual who has two years of experience in the specialty and who must disclose financial and criminal background information with the application. The Board also proposes to require that the qualified individual take an approved remediation course and pass an examination for the proposed drug lab remediation specialty. The work performed by the specialty contractor is required to conform to the remediation standards set forth by state and federal agencies charged with overseeing such activity.

According to the Department of Professional Occupational Regulation (DPOR), there are twenty-five states that regulate remediation of former meth labs. Furthermore, DPOR reports that based on U.S. Drug Enforcement Agency, in 2014, there were 309 meth lab incidents in Virginia (defined as labs, dumpsites, or chemical and glassware seizures). It is estimated that approximately 50 contractors may be interested in seeking drug lab remediation specialty.

One of the economic effects of the proposed regulation is the added cost of acquiring the required experience, training, taking the exam, and taking continuing education classes. Experience may be gained in other types of remediation activities such as lead or mold remediation. Qualified individual must have Board approved training in remediation and pass an exam. However, the regulation does not specify the details of the required training such as its content or the length. The Board staff anticipates that a 40-hour Hazardous Waste Operations and Emergency Response (HAZWOPER) training followed by a two-day training on drug lab remediation will likely be required. The examinations are given in Richmond, Virginia Beach, Fairfax, Falls Church, Charlottesville, and Roanoke and will likely have a 120-minute time limit to complete. Furthermore, to stay current in HAZWOPER or remediation certification, the qualified individual will likely be required to take refresher training periodically. The combined

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<sup>1</sup> <http://leg1.state.va.us/cgi-bin/legp504.exe?161+ful+CHAP0527>

course fee for the initial certifications for HAZWOPER and drug lab remediation is estimated to be in \$900-\$1,100 range. The cost of the exam is estimated to be about \$85. The cost of the periodic refresher training estimated to be in \$30-\$50 range. In addition to the training, exam, and continuing education fees, the value of the qualified individual's time spent acquiring the required training must be considered.

While the magnitude of the anticipated training costs seems reasonable, the regulation does not specify the content or the length of the required coursework. Without the specific language in the regulation, the Board may choose to require an entirely different training design. Thus, the ultimate cost of the training may vary from what is now anticipated. It should also be noted that while training may come at a cost, the proposed regulation would require hiring of a qualified individual improving his job prospects. On balance, an individual would not be interested in gaining experience or training if the expected benefits did not exceed the costs.

Another economic effect is having to pay a fee to add a specialty. During the initial contractor licensure, a firm may designate as many specialties as they wish without an extra fee provided it pay the contractor licensing fee which is \$210 for class C, \$345 for class B, and \$360 for class A license. Therefore, a contractor may add the drug lab remediation specialty without an added cost if it is obtaining the license for the first time. However, a contractor must pay a one-time \$110 fee to add a specialty to its existing license later on. In addition, the firm would have to hire a qualified individual who satisfy the criteria. Similar to the qualified individual, a firm would not be interested hiring a qualified individual and pay additional fees if the expected benefits did not exceed the costs.

The proposed regulation will also provide an additional layer of protection to future residents of former drug labs by ensuring that remediation is done properly as licensed contractors performing the work would be aware of the special steps that must be taken to detect, remove, encapsulate, and dispose of the contaminated materials.

While the proposed regulation introduces additional compliance costs, it appears that exposure to methamphetamine residue or by-products poses significant health risks. Thus, the public health benefits of the proposed drug lab remediation specialty appear to justify the additional costs of compliance assuming that the Board will not establish excessive training requirements.

**Businesses and Entities Affected**

DPOR estimates that approximately 50 businesses may be interested in pursuing a specialty license in drug lab remediation.

**Localities Particularly Affected**

The proposed regulation applies statewide. The Board notes that majority of properties formerly used to manufacture methamphetamine were found in the Southwest and Hampton Roads regions while recognizing that such properties are discovered in every area of the Commonwealth.

**Projected Impact on Employment**

The proposed regulation is unlikely to significantly affect the number of former meth labs remediated. Thus, no significant impact on employment is expected. However, under the proposed regulation, some individuals or contractors may no longer be able to perform drug lab remediation if they do not comply with the experience and training requirements. In addition, the proposed regulation would increase the demand for HAZWOPER and drug lab remediation training.

**Effects on the Use and Value of Private Property**

Remediation of private property formerly used as a meth lab by trained and qualified contractors should minimize potential health risks and add to its value relative to what its value would be if such work was performed by untrained contractors.

**Real Estate Development Costs**

No impact on real estate development costs is expected.

**Small Businesses:****Definition**

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

**Costs and Other Effects**

Most of the contractors pursuing remediation specialty are expected to be small businesses. The economic effects discussed above apply to them.

### **Alternative Method that Minimizes Adverse Impact**

The proposed regulation establishes a specialty designation instead of establishment of new license type to avoid higher licensing fees and administrative costs. There is no known alternative to reduce compliance costs to perform meth lab remediation work while accomplishing the same goals.

#### **Adverse Impacts:**

##### **Businesses:**

The proposed regulation is not anticipated to have an adverse impact on non-small businesses.

##### **Localities:**

The proposed regulation is not anticipated to have an adverse impact on localities.

##### **Other Entities:**

The proposed amendments will not adversely affect other entities.

#### **Legal Mandates**

**General:** The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

**Adverse impacts:** Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.