



Virginia Department of Planning and Budget **Economic Impact Analysis**

18 VAC 50-30 Individual License and Certification Regulations
Department of Professional and Occupational Regulation
Town Hall Action/Stage: 6018 / 10043
August 24, 2023

The Department of Planning and Budget (DPB) 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 19. The analysis presented below represents DPB’s best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

The Board of Contractors (Board) proposes to 1) eliminate “inactive” licensure status, 2) allow continuing education providers to start teaching material prior to full Board approval, and 3) make several clarifying changes to the regulatory language.

Background

As a result of Executive Order 19,² the Board started this regulatory action with the intent of repealing any continuing education requirements that are not required by statute for all professions regulated by the Board, which include tradesman licensed to perform electrical, plumbing, heating, ventilation, and cooling, gas fitting, liquefied petroleum gas fitting, and natural gas fitting work. However, after receiving public comments in opposition, the Board has decided to not take any action on the continuing education requirements.

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis 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.

² <https://townhall.virginia.gov/EO-19-Development-and-Review-of-State-Agency-Regulations.pdf>.

Of the remaining changes in this action, two would represent a change from current practices. These include 1) removal of language pertaining to activation and inactivation of tradesman licenses; and 2) removal of the provision which requires a training provider to receive Board approval of the training course subject prior to offering the course.

All of the other remaining changes in this action are clarifications of existing requirements reflecting current practices, including a) clarification that individuals who failed to reinstate a license are deemed eligible to re-take the license examination in the same category and specialty as the expired license; b) repeal of the posting requirement for continuing education providers that course certificates of approval be available at the location a course is taught as the Board determined that the requirements of this section are unnecessary and burdensome; and c) addition of a new section providing that the Board may conduct an audit of any Board-approved education course to ensure compliance with the regulation. According to the Board, it has the inherent authority to audit approved training courses.

Another clarifying change involves removal of the requirement that continuing education student records and course completion information that is sent to the Board contain a student's social security number. The Board reports that a public comment was received from an individual who was concerned about the transmission of full social security numbers from education providers to the Board. Following the comment, Board staff determined as of August 2021 that education providers no longer need to submit social security numbers, but instead should provide either (i) the student's Board issued license number; (ii) a driver's license number; or (iii) Department of Motor Vehicles control number to identify the student. In essence, this proposed change conforms the regulation to current agency practice.

Estimated Benefits and Costs

As mentioned above, one of the proposed changes would repeal language pertaining to activation and inactivation of tradesman licenses, which would eliminate the currently available "inactive" license status. Under the current language, the Department of Occupational Professional Regulation (DPOR) reports that an individual license may be on inactive status for a maximum of three years. The main benefits of the inactive status are that the tradesman does not have to pay certain costs: (a) the renewal fee, which is \$135 for tradesman and \$90 for all other

occupations (e.g. fitters, mechanics, etc.), and (b) the cost of continuing education, which is estimated to cost approximately \$90 per renewal cycle.

According to DPOR, Chapter 750 of the 2018 Acts of Assembly³ changed the license renewal cycle from two-years to three-years. DPOR states that this legislative change reduced the benefit of being on inactive status by reducing the number of renewal cycles a tradesman could be on inactive status. For example, with the previous two-year renewal cycle, a tradesman benefitted from inactive status by avoiding these costs for three years, which was 1.5 renewal cycles. But with the new three-year renewal cycle, a tradesman could avoid these costs for only one renewal cycle.

This change would remove the option to place a license on inactive status and would likely force some tradesman to renew their licenses and pay the renewal fee plus the cost of continuing education. DPOR reports that since August 1, 2020, there have only been ten transactions where a license was placed on inactive status and there are currently seven tradesman licenses that are in a “current” but “inactive” status. In addition to the additional revenue DPOR would receive from renewal fees, and the revenue continuing education providers would receive from those who would have been on inactive status, this change would likely provide some administrative savings to the agency because the process for inactive license status would be eliminated.

The second change that would depart from current practice is the removal of the provision which requires a training provider to receive Board approval of the training course subject prior to offering the course. Under the current regulation, an education provider is not permitted to provide instruction until the course is approved by the Board. The proposed change would permit an education provider to begin providing instruction pending Board approval.

The approval process starts with staff review followed by presentation of the application to the Board subcommittee that reviews education applications. Once the subcommittee is ready to recommend the application to the full Board, final consideration takes place. According to DPOR, the proposed change would allow education providers to start teaching a new class about two to three months prior to the full Board approval. However, in exchange for the additional

³ <https://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+CHAP0750&181+ful+CHAP0750>

flexibility to start teaching a class earlier than otherwise would be, the education provider and students would be taking a risk in the event the Board does not follow the subcommittee recommendation. However, the Board staff states that would be very unlikely and the Board has never denied an application for approval. Moreover, the proposed amendment allows but does not require the education providers to start teaching material prior to the Board approval.

All of the remaining changes appear to be clarifications of current requirements and existing practices and are not expected to create any significant economic impact other than improving the clarity of the regulatory language.

Businesses and Other Entities Affected

This regulation applies to 30,188 licensed individuals and 287 education providers based on data as of May 1, 2023. The education providers include community colleges and private providers that offer continuing education. None of the entities appear to be disproportionately affected.

The Code of Virginia requires the DPB to assess whether an adverse impact may result from the proposed regulation.⁴ An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As noted above, one of the proposed changes would remove the option to place a license on inactive status and may force a small number of licensees (approximately seven out of 30,188 licensees) to pay the \$90 or \$135 license renewal fee plus the \$90 continuing education costs every three years. Thus, an adverse impact is indicated.

Small Businesses⁵ Affected:⁶

According to Board staff, licenses and certifications issued under this regulation are issued to individuals, and not to business entities. However, many licensees and certificate

⁴ Pursuant to Code § 2.2-4007.04(D): 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. Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

⁵ 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.”

⁶ 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

holders are likely owners or employees of business entities that meet the definition of “small business” in § 2.2-4007.1 of the Code of Virginia. In addition, continuing education providers are likely business entities that meet the definition of “small business” in § 2.2-4007.1 of the Code of Virginia. The actual number cannot be determined, and DPOR does not have any information on whether their regulants meet the definition of a small business.

The same as for non-small businesses, one of the proposed changes would remove the option to place a license on inactive status and may force a small number of licensees (approximately seven out of 30,188 licensees) to pay the \$90 or \$135 license renewal fee plus the \$90 continuing education costs every three years. Thus, to the extent one or more of those seven licensees may be a small business, an adverse impact on them would be indicated.

Types and Estimated Number of Small Businesses Affected

DPOR does not have any data on whether any of the seven licenses on inactive status are small businesses.

Costs and Other Effects

One of the proposed amendments would remove the option to place a license on inactive status, which would force the licensee to renew the license at a cost of \$90 or \$135 and absorb \$90 in continuing education costs every three years.

Alternative Method that Minimizes Adverse Impact

There does not appear to be a clear alternative method that both reduces adverse impact and meets the intended policy goal.

Localities⁷ Affected⁸

The proposed amendments do not introduce costs for local governments, nor do they impose a disproportional impact.

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.

⁷ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

⁸ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

Projected Impact on Employment

The proposed amendments do not appear to affect total employment.

Effects on the Use and Value of Private Property

No effect on the use and value of private property nor on the real estate development costs is expected.