

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

4 VAC 25-40 Safety and Health Regulations for Mineral Mining
Department of Mines, Minerals, and Energy
Town Hall Action/Stage: 5001/8215
March 19, 2018

Summary of the Proposed Amendments to Regulation

The Department of Mines, Minerals and Energy (DMME) proposes to make minor changes to document retention requirements and allow options for work to be performed by competent trained employees when appropriate rather than only by certain certified workers. Further, DMME proposes to update and clarify language to align with federal requirements and to reflect current practices.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

One of the proposed amendments would require that employee training records be kept at the mine site for the duration of the miners employment and for 60 days after termination of employment. The current language requires the records to be kept for two years or for 60 days after termination. The proposed change will make sure that training records will be available up to 60 days post-employment rather than for only two years following training.

Another proposed change would require mine operators to keep a report of all accidents and occupational injuries occurring on the mine property for review for only three years instead of five years as currently required.

The proposed amendments would also provide options for work to be performed by competent trained employees when appropriate rather than only by certain certified workers. For example, any unsafe condition could be reported to a competent person when a certified foreman is not required to be onsite.

The net impact of these changes on mine operators would be negligible. Any additional costs due to the increased training record retention requirement should be offset by the reduced retention requirement for accident and occupational injury records and by allowing additional flexibility for work to be done by competent rather than certified individuals when appropriate.

The remaining proposed changes update and clarify language to align with federal requirements and to reflect current practices. These changes are not expected to create any significant economic impact other than improving the clarity of the regulation.

Businesses and Entities Affected

There are approximately 443 mineral operations in Virginia. Approximately 90 percent of these would qualify as small business.

Localities Particularly Affected

The proposed amendments would affect all localities in the Commonwealth that have mineral mines. According to DMME, 91% of Virginia's counties have mineral mines governed by these regulations.

Projected Impact on Employment

No significant impact on employment is expected.

Effects on the Use and Value of Private Property

No significant impact on the use and value of private property is expected.

Real Estate Development Costs

No significant 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

The proposed amendments do not significantly affect costs for small businesses.

Alternative Method that Minimizes Adverse Impact

No significant adverse impact on small businesses is expected.

Adverse Impacts:

Businesses:

The proposed amendments do not have a significant adverse impact on businesses.

Localities:

The proposed amendments will not adversely affect 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.