



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

18 VAC 50-22 Board for Contractors Regulations
Department of Professional and Occupational Regulation
Town Hall Action/Stage: 6128 / 10436
September 10, 2024

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 1) to expand the scope of certain license classes or specialty designations; 2) to allow contractors for the framing specialty service to act as a prime contractor; 3) to expand the requirement for a contractor to obtain a signed acknowledgment from a residential consumer that he has been provided with and read the statement of protection available through the Board to all contracts; 4) to reduce the required length for a pre-license education course from eight hours to six hours; 5) and to make several administrative changes, including: no longer requiring training providers to post certificates for approved pre-license courses at their location, extending the period of time in which a regulant must report a change of qualified individual to the Board from 45 days to 60 days, and removing a requirement that student records for pre-license education courses include a student’s social security number.

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.

Background

The initial impetus for this action is Executive Directive Number One (2022), which directs Executive Branch entities under the authority of the Governor "...to initiate regulatory processes to reduce by at least 25 percent the number of regulations not mandated by federal or state statute, in consultation with the Office of the Attorney General, and in a manner consistent with the laws of the Commonwealth."²

This regulation applies to those who engage, or offer to engage, in contracting work by requiring that such persons obtain a contractor license from the Board. According to the Board, offering and performing of contracting work by those who lack sufficient expertise, competence, integrity, and financial responsibility poses a risk to the public health, safety, and welfare. Risks include damage to property, personal injury, or loss of life as the result of work that is improperly performed; financial harm to consumers as the result of construction that is not properly managed or performed; and harm to consumers as the result of those who lack the character and integrity to offer and engage in contracting work. This regulation protects the public health, safety, and welfare, in part, by establishing the minimum qualifications for entry into the contracting.

Estimated Benefits and Costs

One of the proposed changes would expand the scope of certain license classes or specialty designations. The regulation specifies the specialty service each license classification or specialty designation is allowed to perform. The Board proposes to expand the stipulated scope of work for five contracting classifications/specialty designations (the count of licenses for each classification/specialty is noted in parentheses) as follows:

- Allow highway/heavy contractors (4,514) to also perform i) environmental monitoring well contracting (96), ii) environmental specialties contracting (253), iii) masonry contracting (1,262), iv) recreational facility contracting (325), v) steel erection contracting (97), and vi) swimming pool construction contracting (297),
- Allow residential building contractors (22,706) to also perform farm improvement contracting (517),

² <https://www.governor.virginia.gov/media/governorviriniagov/governor-of-virginia/pdf/ed/ED-1-Regulatory-Reduction.pdf>

- Allow water well/pump contractors to also perform environmental monitoring well contracting (213),
- Allow commercial improvement contractors (6,840) to also perform landscape service contracting (2,201),
- Allow home improvement contractors (12,457) to also perform landscape service contracting (2,201).

One of the main benefits of this change would be to permit certain contractors to perform other specialty services without having to pay the fees associated with adding a specialty service. Normally, the one-time cost for a qualified contractor to add a specialty service designation not stipulated by the regulation is \$195, consisting of an application fee of \$110 and an \$85 fee for the qualified individual specialty examination.

If all of the 4,514 highway/heavy contractors were to add all six specialty designations that would now be available to them, the total required fees would amount to \$5.3 million (i.e., 4,514 contractors x 6 designations x \$195 application and exam fee). While it is unlikely that all 4,514 highway/heavy contractors would have applied to add all six specialty service designations to their license even if there were no fees, it is likely that at least some of these contractors may have been discouraged by the current fees. Thus, the estimated \$5.3 million in fee savings should be considered as the maximum amount of fee savings this proposed change may generate for all 4,514 highway/heavy contractors. In contrast, if only ten percent of the highway/heavy contractors were to add a single specialty designation, the fee savings would be \$88,023 (i.e., 451 x \$195). Thus, the range for potential fee savings are quite large (i.e., \$88,023 - \$5.3 million). Similarly, the proposed change may generate potential fee savings of up to \$4.4 million (i.e., 22,706 x \$195) for residential building contractors; up to \$41,535 (i.e., 213 x \$195) for water well/pump contractors; up to \$1.3 million (i.e., 6,840 x \$195) for commercial improvement contractors; and up to \$2.4 million (i.e., 12,457 x \$195) for home improvement contractors.

Additionally, to the extent this change reduces a barrier to entry into the specialty services market and increases competition, it would have a potentially adverse effect on incumbent specialty service providers. Conversely, an increase in competition would lead to a reduction in prices that may be expected to benefit consumers.

Another proposed change would amend the scope of practice for the framing subcontractor specialty service to allow such contractors to perform work in the specialty without having to be a subcontractor to a prime contractor. This change would allow 58 such contractors to be the prime contractor if they are able and interested in performing work in that capacity.

An additional change would expand the requirement for residential service contractors to obtain a signed acknowledgment from the consumer that the consumer has been provided with and read the statement of protection available through the Board. The requirement would no longer apply only to contracts resulting from a door-to-door solicitations but to all contracts for residential work. Requiring that each contract include a consumer's signed acknowledgment regarding receiving and reading a statement of protection may impose additional administrative costs on contracting firms. The Board reports that both electronic and paper versions of contracts are used throughout the industry. Thus, there may be a small cost to contractor businesses and entities associated with paper and printing should a contract be delivered by such method. Notably, the statement of protection is made available by the Board and is not a document that a contractor firm must develop. On the other hand, consumers who contract for residential contracting services that are provided with the statement of protection would have additional information and may be less likely to have a negative experience when contracting with a licensed contractor. Consumers that are knowledgeable about contractual transactions and requirements of licensed contractors may have an overall better experience when working with a licensed contractor, which may result in fewer complaints filed against licensed contractors.

Another proposed change would reduce the required length for a pre-license education course from eight hours to six hours. The Board believes it is unlikely that this proposal would reduce the fee for such courses, but it would provide two hours of time savings to the trainees as well as the trainers. The agency reports that information necessary to monetize the value of this benefit is not available.

The regulatory action also proposes other changes that would: remove an unnecessary requirement that certificates for approved pre-license courses be posted at the location where an approved course is taught; extend the period of time in which a regulant must report a change of qualified individual to the Board from 45 days to 60 days; and remove a requirement that student

records for pre-license education courses include a student's social security number. These proposed amendments would provide small administrative benefits to the regulants.

The remaining changes are mainly editorial to reflect current practices, align the text with statute and improve clarity in general. Notable among these proposed changes is the repeal of the fees associated with the qualified individual exam (\$20), Class B exam (\$40), and Class A exam (\$60). According to the Board, these exams have not been administered since the 1990s and consequently the removal of their fees is not expected to create an economic impact other than clarifying that these fees no longer apply.

Businesses and Other Entities Affected

The proposed amendments apply to contractors. As of June 1, 2024, the Board for Contractors licensed 33,282 Class A Contractors, 9,260 Class B Contractors, and 12,199 Class C Contractors. Additionally, there are 60 Residential Building Energy Analyst firms currently licensed with the Board. All licensed entities would be affected by the proposed regulatory changes.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.³ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁴ As noted above, this action would introduce small administrative costs on contractors associated with obtaining a signed acknowledgement from consumers. However, not only are these costs expected to be small, but they would also likely be more than offset by other changes providing administrative cost savings. The only adverse impact appears to be indicated for the incumbent specialty service contractors who would face additional competition as described above.

³ 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.

⁴ 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. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

Small Businesses⁵ Affected:⁶

Types and Estimated Number of Small Businesses Affected

According to the Board, contractor licenses are issued to entities, which undoubtedly includes numerous small businesses. It is reasonable to assume that all entities holding Class C and Class B licenses meet the definition of "small business" as defined in § 2.2-4007.1 of the Code of Virginia. This is likely the case for Residential Building Energy Analyst firms. It is also possible that many entities holding a Class A license fall into the same category.

Costs and Other Effects

The proposed amendments include numerous changes some increasing administrative costs and some offsetting such costs. The only adverse impact appears to be on incumbent specialty service contractors who would face additional competition as described above. Thus, the adverse impact on such contractors meeting the definition of a small business would be expected.

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 goals.

Localities⁷ Affected⁸

There are no anticipated costs to localities because of the regulatory changes.

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 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 may increase the demand for labor in provision of specialty services whose scope is being expanded to other contractors. However, whether this increased demand would lead to an effect on total employment is not known.

Effects on the Use and Value of Private Property

Asset values of contractors may be positively affected from small, expected net savings in administrative costs and from being able to perform additional specialty services. On the other hand, the asset values of incumbent specialty service contractors that may face additional competition may be negatively affected. The proposed amendments do not affect real estate development costs.