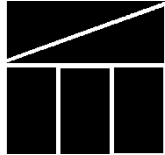


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

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

12 VAC 5-135 Recreational Water Advisories
Virginia Department of Health
Town Hall Action/Stage: 5209 / 8505
February 12, 2019

Summary of the Proposed Amendments to Regulation

The State Board of Health (Board) proposes to promulgate a new regulation concerning the issuance and lifting of beach advisories and beach warnings for public beaches.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

The Virginia Department of Health (VDH) Beach Monitoring and Notification Program is funded by the United States Environmental Protection Agency (EPA)'s BEACH Act Grant.¹ Under the program, staff from VDH regional offices collect public beach water samples on a weekly basis from mid-May through September at the various public beaches² in the Commonwealth. The samples are tested for the presence of enterococci.³ If the concentration of enterococci is equal to or above 104 colony forming units per 100 milliliter (beach action value),

¹ <https://www.epa.gov/beach-tech/about-beach-act>

² "Public Beach" is defined as "a sandy beach located on a tidal shoreline adjacent to water that is suitable for swimming and that remains open and accessible for public use."

³ See <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3510518/>

VDH issues a beach advisory for the tested beach. A beach advisory is a public announcement that the beach action value of enterococci has been met or exceeded, and that there is a higher risk of illness when swimming. After the issuing of the beach advisory, if the results of subsequent testing of samples are below the beach action value, the agency lifts the beach advisory.

VDH issues beach warnings whenever it is not possible for agency staff to collect samples of the public beach water on the scheduled day as a result of practical or safety concerns, or if the proximity of other imminent hazards, such as those of a chemical spill, pose a health risk to public beach water users. A beach warning is a public announcement issued as a result of VDH suspecting a public beach water hazard to be present, such as during extreme weather events or chemical spills, or when the agency staff have been unable to test public beach water as scheduled. When the event or imminent health hazard has passed or public beach water sampling has resumed, the warning is lifted.

Currently, these specifications and other details of the program are in neither statute nor regulation. The Board proposes to put these specifications, procedures for monitoring, definitions, and other information in regulation. According to VDH, promulgation of this regulation would not result in any changes to the current practice of issuing and lifting advisories and warnings. Further, the proposed regulation contains no requirements for local governments, private entities, or anyone else outside of VDH. Thus, the proposed regulation is beneficial in that it provides clarity to the public, but otherwise would not likely have a significant effect.

Businesses and Entities Affected

Beach advisories and beach warnings affect businesses that are dependent on beach attendance, such as nearby restaurants and retail stores. Placing specifications and other details of the VDH Beach Monitoring and Notification Program in regulation, but not changing the actual practice of issuing and lifting advisories and warning, does not significantly affect these entities, though.

Localities Particularly Affected

The proposed regulation particularly applies to Gloucester, Mathews, Hampton, Newport News, York, Norfolk, Virginia Beach, Northumberland, and Accomack.⁴

⁴ Source: Virginia Department of Health

Projected Impact on Employment

The proposed regulation would not likely affect employment.

Effects on the Use and Value of Private Property

The proposed regulation would not likely significantly affect the use and value of private property.

Real Estate Development Costs

The proposed regulation would not likely affect real estate development costs.

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 regulation would not likely significantly affect costs for small businesses.

Alternative Method that Minimizes Adverse Impact

The proposed regulation does not adversely affect small businesses.

Adverse Impacts:**Businesses:**

The proposed regulation does not adversely affect businesses.

Localities:

The proposed regulation does not adversely affect localities.

Other Entities:

The proposed regulation does 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 14 (as amended, July 16, 2018). 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.