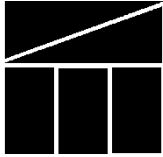


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

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 25-31 Reclamation Regulations for Mineral Mining
Department of Mines, Minerals and Energy
Town Hall Action/Stage: 5193 / 8489
January 30, 2019

Summary of the Proposed Amendments to Regulation

Pursuant to a periodic review,¹ the Department of Mines, Minerals and Energy (DMME) proposes to 1) require mine operators to cover on site generated mine waste used as a fill by an “adequate” cover instead of requiring coverage by four inches of top soil, 2) require operators to send a copy of the permit notification to DMME at the time they are mailed to those who must be noticed, and 3) make changes to clarify numerous other requirements or delete redundant language.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

One of the proposed substantive changes is requiring mine operators to cover mine waste used as a fill by “adequate” cover as opposed to requiring four inches of top soil cover in every case for reclamation purposes. According to DMME, using mine waste as fill is a site-specific exercise that should not be regulated in a one-size-fits-all fashion. This change would provide greater flexibility to the mine operators in terms of choosing the type and the amount of cover. The proposed change is essentially replacing a prescriptive criterion by a performance criterion.

¹ <http://townhall.virginia.gov/ViewPReview.cfm?PRid=1678>

Generally, performance criteria lead to better allocation of scarce resources with proper enforcement. While some operators may incur greater cost to provide “adequate” cover than the cost of four-inches of top soil cover and in other cases may incur less, this change should help prevent unnecessary use of cover material overall. Under the proposed change, only the just right type and amount of cover would be required while maintaining “adequate” cover. DMME notes however, any savings or costs from this change would be minor, but is unable to quantify the likely magnitude as it depends on the site, the materials, frequency of the work, etc.

Another proposed change would require operators to send a copy of a permit notification to DMME at the time they are mailed to those who must be noticed. According to DMME, this will serve as a heads up to the agency that it will soon receive a permit application and may increase efficiency. The cost of this change would be sending an additional copy of an already existing notice to DMME, which should be very small.

The remaining changes include numerous clarifications of long-standing agency practices and removal of fees set by statute from this regulation. These changes are not expected to create any significant economic impact beyond improving the clarity of the requirements and language.

Businesses and Entities Affected

According to DMME, there are approximately 440 permitted mineral mine sites operated by 278 entities across the Commonwealth. Approximately 90% of these operators 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

The proposed amendments may increase or decrease demand for labor at different sites by a small margin depending on whether adequate coverage can be achieved by more or less coverage than the currently required four inches of top soil.

Effects on the Use and Value of Private Property

The proposed amendments could have a positive or negative impact on the asset values of the affected operators by a small margin depending on whether their site-specific compliance costs increase or decrease.

Real Estate Development Costs

The proposed amendments should not significantly 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 costs and other impact on mine operators that are small businesses are the same as discussed above.

Alternative Method that Minimizes Adverse Impact

There is no known alternative that would minimize the likely small adverse impact in some cases while accomplishing the same goals.

Adverse Impacts:**Businesses:**

The likely small adverse impact for some mine operators will depend on the specific site conditions as discussed above.

Localities:

The proposed amendments would not adversely affect localities.

Other Entities:

The proposed amendments would 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.