

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

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**16 VAC 25 •11 Public Participation Guidelines**  
**Department of Labor and Industry**  
**Town Hall Action/Stage: 4661 / 7699**  
October 4, 2016

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### **Summary of the Proposed Amendments to Regulation**

Pursuant to Chapter 795 of the 2012 Acts of the Assembly,<sup>1</sup> the Safety and Health Codes Board (Board) proposes to specify in this regulation that interested persons shall be afforded an opportunity to be accompanied by and represented by counsel or other representative when submitting data, views, and arguments, either orally or in writing, to the agency.

### **Result of Analysis**

The benefits likely exceed the costs for all proposed changes.

### **Estimated Economic Impact**

The current Public Participation Guidelines state that: “In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency.” The Board proposes to append “and (ii) be accompanied by and represented by counsel or other representative.”

Chapter 795 of the 2012 Acts of the Assembly added to the Code of Virginia § 2.2-4007.02. “Public participation guidelines” that interested persons also be afforded an opportunity

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<sup>1</sup> See <http://leg1.state.va.us/cgi-bin/legp504.exe?121+ful+CHAP0795+hil>

to be accompanied by and represented by counsel or other representative. Since the Code of Virginia already specifies that interested persons shall be afforded an opportunity to be accompanied by and represented by counsel or other representative, the Board's proposal to add this language to the regulation will not change the law in effect, but will be beneficial in that it will inform interested parties who read this regulation but not the statute of their legal rights concerning representation.

### **Businesses and Entities Affected**

The proposed amendment potentially affects all individuals who comment on pending regulatory changes.

### **Localities Particularly Affected**

The proposed amendment does not disproportionately affect particular localities.

### **Projected Impact on Employment**

The proposed amendment does not significantly affect employment.

### **Effects on the Use and Value of Private Property**

The proposed amendment does not affect the use and value of private property.

### **Real Estate Development Costs**

The proposed amendment does not 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 amendment does not affect costs for small businesses.

#### **Alternative Method that Minimizes Adverse Impact**

The proposed amendment does not adversely affect small businesses.

**Adverse Impacts:****Businesses:**

The proposed amendment does not adversely affect businesses.

**Localities:**

The proposed amendment does not adversely affect localities.

**Other Entities:**

The proposed amendment 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 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.

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