

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**

18 VAC 50-22 Board for Contractors Regulations
Department of Professional and Occupational Regulation
Town Hall Action/Stage: 4869/8239
May 14, 2018

Summary of the Proposed Amendments to Regulation

The Board for Contractors (Board) proposes to create an additional contracting specialty.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Virginia Code § 54.1-1103 prohibits performing contracting work without a license. In order to issue a contractors license, the Board designates at least one of the specialties (e.g. roofing, plumbing, painting, etc.) listed in the regulation. Currently there are more than 50 classifications/specialties. Generally, passing of a technical exam is required for a specialty designation. However, the Board has recently had individuals whose scope of work has been limited to a single activity within a specialty; and therefore had struggled to pass the specialty exam because they did not have the broad knowledge and experience associated with all aspects of that specialty. These individuals wanted to be able to perform contracting work in the very narrow scope of work they are familiar with, and had no interest in performing other work in the broader scope of that specialty. The examples of such individuals included someone who wanted to install only theatre curtains without obtaining a commercial improvement contracting

specialty designation, and someone who wanted to install only guardrails without having any interest in performing any other highway construction work.

In order to accommodate individuals in those situations, the Board proposes to create a Miscellaneous Specialty. This proposed specialty would be used in those instances where the work being performed by the contractor is restricted to a single activity, and that activity is more limited than the functions provided by any other specialty offered by the Board. This specialty however, may not be used for work that would fall under the electric, heating and cooling, plumbing, gas fitting, liquefied petroleum, natural gas fitting, elevator/escalator, water well/pump, accessibility service, lead abatement, or asbestos classifications and specialties.

Under the proposed language, an individual will be allowed to apply to the Board for a Miscellaneous Specialty and their scope of work will be limited to what they declare to the Board. There will be no specialty exam. Applicants for this type of contractor license will have their application reviewed by the Board in the same way that other non-routine applications are currently processed. Most of these applications are sent first to the board's Application Review Committee, who will typically approve an application between 80 and 90 percent of the time. Applications that are not approved are sent to the board for an informal fact finding (IFF) procedure pursuant to Virginia Code § 2.2-4019. The presiding officer at the IFF can either approve the application or make a recommendation to the full board, who then makes a case decision to either approve or deny the application. If an applicant is dissatisfied with the board's denial, that appeal would be made to Circuit Court. The Board estimates that over the past two years, approximately twelve contractors might have been eligible to apply for the specialty classification under this procedure, and of those twelve, perhaps half would have been granted.

The proposed regulation would benefit the applicants for Miscellaneous Specialty in that they would be allowed to obtain a license, perform contracting work, and participate in business. They would also avoid paying \$85 for the specialty examination and spending their time to complete the examination as there would be no exam required, and they would likely avoid taking it multiple times due to their inability to pass the exam for any of the current specialties.

Issuing additional licenses would add to the administrative costs of the Department of Professional and Occupational Regulation (DPOR). Administrative costs are likely to be low in most cases because most applications would be determined by the Application Review

Committee that already meets on a regular basis. Only if the application goes to an IFF, would there be an additional administrative cost. This amount would likely vary between \$150-\$300, depending on the complexity of the proceeding. The license fees are \$385 for a Class A license, \$370 for a Class B license, or \$235 for a Class C license. These fees would be used to cover the administrative costs associated with issuing such licenses.

DPOR does not expect any additional health or safety risks due to issuing licenses with the Miscellaneous Specialty. According to DPOR, a contractor applying for the Miscellaneous Specialty would be required to provide the Board with significant documentation indicating that they possess the knowledge, skills, and ability to perform the work for which they wish to be licensed. Because the proposed regulation benefits Miscellaneous Specialty applicants without a likely increase in health and safety risks, it should produce a net economic benefit.

Businesses and Entities Affected

DPOR estimates that there would be 50-100 applications for the Miscellaneous Specialty contractors license.

Localities Particularly Affected

The proposed amendment does not affect any particular locality more than others.

Projected Impact on Employment

The proposed regulation would allow an estimated 50-100 individuals to obtain a Miscellaneous Specialty contractors license and provide their services. There would also be an increased workload at DPOR. Thus, the proposed regulation should have a positive impact on employment.

Effects on the Use and Value of Private Property

The proposed regulation would enable 50-100 individuals to establish a licensed contracting business. Thus, a positive impact on the use and value of private property is expected.

Real Estate Development Costs

No 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 amendment does not impose costs small businesses.

Alternative Method that Minimizes Adverse Impact

The proposed amendment does not have adverse effects on small businesses.

Adverse Impacts:**Businesses:**

The proposed amendment does not have adverse impacts on businesses.

Localities:

The proposed amendment will not adversely affect localities.

Other Entities:

The proposed amendment 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.