



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

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**16 VAC 5-80 Adjudication**  
**Virginia Employment Commission**  
**Town Hall Action/Stage: 6652 / 10588**  
December 31, 2024

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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.<sup>1</sup>

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

In response to the Executive Order 19 (2022) (EO 19),<sup>2</sup> the Virginia Employment Commission (Commission) proposes to update the regulation to conform to the Commission’s current practices for conducting first level appeals and Commission reviews, to update language to clarify practices, and also update agency names to be consistent with statute.

## **Background**

EO 19 requires all executive branch agencies to reduce regulatory requirements by 25 percent. The Commission proposes several changes that would primarily reduce the length of the regulatory text while aiming to clarify current policies and practices.

For example, the current text lays out the factors the Commission considers when granting a split hearing (where one party participates through the internet and the other party participates in-person) or an in-person hearing. These factors include access to a telephone, the

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<sup>1</sup> 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.

<sup>2</sup> <https://townhall.virginia.gov/EO-19-Development-and-Review-of-State-Agency-Regulations.pdf>

number of witnesses involved, the length of documents, time requests made, etc. The Commission proposes to remove the specific factors from the text of the regulation and proposes to instead insert “*The Commission may grant timely requests for split hearings or in-person hearings at its discretion.*” According to the Commission, the new text would leave the decision up to agency discretion, which would allow for changes in technology and processes under the proposal. Additionally, this change would reduce the length of the text.

The Commission also proposes to remove the current requirement to include the last four digits of a social security number because the agency is moving away from utilizing such information in order to improve data security; and to remove the current requirement for a signature as it is not required in practice and because appeals may be considered via all formats, some of which do not allow for signature.

Other changes include clarifying that appeals are considered filed on the date of the postmark or, if no date is stamped, on the date received by the Commission; and that a hearing “may” be conducted when a reopening request is received because it is discretionary under current practice.

Finally, the proposal would add language to address procedures for conducting a hearing and issuing a decision when an appellant does not participate in the hearing.

### **Estimated Benefits and Costs**

To the extent that the changes reflect the Commission’s current practices and are consistent with statute regarding the rights and responsibilities of participants pertaining to first level appeals and Commission reviews, no significant economic impact is expected from this proposed regulatory action.

### **Businesses and Other Entities Affected**

According to the Commission, there were 16,313 first level appeals received in 2023.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>3</sup> An adverse impact is indicated if there is any increase in net cost or

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<sup>3</sup> 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.

reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.<sup>4</sup> As noted above, the proposed changes are editorial in nature and are not expected to increase costs or reduce revenues for any entity. Thus, an adverse impact is not indicated.

### **Small Businesses<sup>5</sup> Affected:<sup>6</sup>**

The proposed amendments do not appear to adversely affect small businesses.

### **Localities<sup>7</sup> Affected<sup>8</sup>**

The proposed amendments do not appear to disproportionately affect any localities or introduce costs for local governments.

### **Projected Impact on Employment**

No impact on total employment is expected.

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

No impact on the use and value of private property nor on real estate development costs is expected.

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<sup>4</sup> 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.

<sup>5</sup> 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.”

<sup>6</sup> 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.

<sup>7</sup> “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.

<sup>8</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.