



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

18 VAC 145-20 Professional Soil Scientists Regulation
Department of Professional and Occupational Regulation
Town Hall Action/Stage: 6298 / 10495
November 8, 2024

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.¹

Summary of the Proposed Amendments to Regulation

The Board for Professional Soil Scientists, Wetland Professionals, and Geologists (Board) proposes to amend the *Professional Soil Scientists Regulations* to update and clarify the provisions of the regulation and ensure that it conforms to statute. In response to Executive Order 19 (2022) and Executive Directive 1 (2022), the Board also seeks to reduce certain requirements, while still protecting public health, safety, and welfare. This action proposes changes to (i) requirements for initial licensure, and (ii) provisions for the renewal and reinstatement of licenses, including continuing education requirements.

Background

Executive Directive 1 (2022) directs executive branch entities under the authority of the Governor “...to initiate regulatory processes to reduce by at least 25 percent the number of regulations not mandated by federal or state statute, in consultation with the Office of the

¹ 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.

Attorney General, and in a manner consistent with the laws of the Commonwealth.”²

Accordingly, the Board proposes to increase provide additional time to reinstate a lapsed license, by increasing the timeframe from one to two years. Other changes are intended to update and clarify language and to reflect current practice. The most substantive changes are summarized as follows:

- Section 91 (Core course requirements) would be amended to remove a provision that allows applicants to petition the Board to review the syllabus for a course not listed in that section. The Department of Professional and Occupational Regulation (DPOR) reports that no such requests have been received in at least 16 years, and that the courses listed in that section are standard courses.
- Section 145 (Continuing education requirements) would be amended to remove a current requirement that CE courses be taught by “instructors who are competent in the subject matter, either by education or experience” because it places an undue burden on regulants to vet providers. This section would also be amended to remove a subsection regarding the computation of credit, which currently specifies that (i) 50 minutes of instruction count as an hour of credit, (ii) the hours of credit be pre-determined by the course sponsor, (iii) partial completion of a course does not receive partial credit, and (iv) a licensee applying for renewal or reinstatement would not receive credit for completing a CE activity with the same content more than once during the time period prior to the renewal or reinstatement. DPOR reports that the first three provisions of this subsection are unnecessary as they are standard across all professional boards under DPOR; the fourth provision would be moved to Section 130, which pertains to procedures for renewal of a license. Thus these changes would not affect current practice, but would only remove or move regulatory text.

Estimated Benefits and Costs

The proposed amendments largely serve to clarify and update the regulation and are not expected to create new costs. Applicants for license reinstatement whose license expired more than a year prior, but within the past two years, would benefit from not having to re-apply for a

² See <https://www.governor.virginia.gov/media/governorvirginiagov/governor-of-virginia/pdf/ed/ED-1-Regulatory-Reduction.pdf>

new license. The removal of the subsection pertaining to the computation of CE credits may generate some questions or reduce the clarity of the regulation with respect to this issue, to the degree that the topics addressed by the deleted text are not widely understood. However, there are only 81 currently licensed soil scientists, and the Board could consider any questions individually or add pertinent information to the Frequently Asked Questions section on their website.³

Businesses and Other Entities Affected

The proposed amendments would affect the 81 currently licensed soil scientists as well as future licensees. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁴ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁵ As the proposed amendments neither increase net costs nor reduce net benefits, no adverse impact is indicated.

Small Businesses⁶ Affected:⁷

The proposed amendments do not adversely affect small businesses.

³ See <https://www.dpor.virginia.gov/Boards/SSWPG/>.

⁴ 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.

⁵ 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.

⁶ 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.”

⁷ 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.

Localities⁸ Affected⁹

The proposed amendments do not disproportionately affect particularly localities or affect costs for local governments.

Projected Impact on Employment

The proposed amendments do not affect total employment.

Effects on the Use and Value of Private Property

The proposed amendments neither affect the use and value of private property nor real estate development costs.

⁸ “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.

⁹ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.