



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

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### **2 VAC 5-675 Regulations Governing the Pesticide Fees Charged By the Department of Agriculture and Consumer Services**

### **2 VAC 5-685 Regulations Governing Pesticide Applicator Certification under Authority of Virginia Pesticide Control Act**

**Department of Agriculture and Consumer Services**

**Town Hall Action/Stage: 5817 / 9389**

December 14, 2021

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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 14 (as amended, July 16, 2018). The analysis presented below represents DPB's best estimate of these economic impacts.<sup>1</sup>

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

The Board of Agriculture and Consumer Services (Board) proposes to remove the biennial renewal fees for commercial pesticide applicator<sup>2</sup> certifications (\$100) and registered pesticide technician<sup>3</sup> certifications (\$50).

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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> Code § 3.2-3900 defines "commercial applicator" as "any person who has completed the requirements for certification to use or supervise the use of any pesticide for any purpose or on any property other than as provided in the definition of private applicator."

<sup>3</sup> Code § 3.2-3900 defines "registered technician" as "an individual who has satisfactorily completed the Board requirements for certification to apply general use pesticides, and to apply restricted use pesticides while under the direct supervision of a certified commercial applicator. Registered technicians render services similar to those of a certified commercial applicator, but have not completed all the requirements to be eligible for certification as a commercial applicator."

## **Background**

The Virginia Department of Agriculture and Consumer Services' (VDACS) pesticide programs protect human health and the environment by ensuring the proper use of pesticides used to control pests that adversely affect crops, structures, health, and domestic animals. Pesticide program activities include the certification of approximately 24,000 pesticide applicators, licensing of approximately 3,000 pesticide businesses, registration of approximately 16,000 pesticide products, and conducting routine inspections and investigations.<sup>4</sup>

VDACS has determined that current fees provide more than adequate funding for its pesticide programs. The agency states that it is able to ensure compliance with all applicable laws and regulations related to the use of pesticides, while eliminating the fees for the specified certification renewals.

## **Estimated Benefits and Costs**

VDACS estimates that the proposed removal of renewal fees would result in an annual revenue loss of approximately \$600,000; however, their long-term projection is that the remaining revenue is sufficient to carry out the program's mission. Commercial pesticide applicators and registered pesticide technicians would benefit by saving \$100 and \$50 biennially, respectively.

## **Businesses and Other Entities Affected**

The proposed amendments would affect the approximate 3,000 licensed pesticide businesses and 17,000 certified pesticide applicators, including commercial applicators and registered technicians, in Virginia.<sup>5</sup>

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>6</sup> With one exception, an adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the

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<sup>4</sup> Source: VDACS

<sup>5</sup> Data source: VDACS

<sup>6</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. 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.

costs for all entities combined. The exception is when agencies choose to reduce their fees since revenues are projected to exceed their needs. Thus, no adverse impact is indicated.

### **Small Businesses<sup>7</sup> Affected:<sup>8</sup>**

The proposed amendments do not adversely affect small businesses.

### **Localities<sup>9</sup> Affected<sup>10</sup>**

The proposed amendments potentially affect all localities, but may particularly affect those that are agriculturally oriented. Since § 3.2-3931 of the Code provides an exemption from certification fees for government entities, the proposal would not directly affect local governments and their costs.

### **Projected Impact on Employment**

The proposed amendments are unlikely to substantively affect total employment.

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

The proposed amendments modestly reduce costs for pesticide applicators, which may commensurately increase the value of their businesses. The proposed amendments do not affect real estate development costs.

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<sup>7</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>8</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>9</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>10</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.