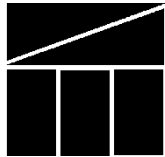


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

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**

4 VAC 5-30 Virginia State Park Regulations
Department of Conservation and Recreation
Town Hall Action/Stage: 5136 / 8402
November 13, 2018

Summary of the Proposed Amendments to Regulation

The Department of Conservation and Recreation (DCR) proposes to add language prohibiting public urination or defecation on properties subject to its purview and to make numerous clarifications to reflect current statutes, practices, and policies.

Result of Analysis

The benefits likely exceed the costs for the proposed regulation.

Estimated Economic Impact

This regulation governs the behavior of all individuals visiting DCR owned or operated properties including all state parks, historical and natural areas, natural area preserves, and other recreational areas in the Commonwealth. The regulation also controls the types of activities allowed on those properties.

DCR proposes to add regulatory language prohibiting public urination or defecation on properties subject to this regulation in order to avoid dire consequences on offenders. Currently, an individual arrested for public urination or defecation by a DCR officer, even though there may have been no intentional obscene display, would be charged in accordance with §18.2-387 (indecent exposure) of the Code of Virginia. Under §18.2-387, the individual could be found guilty of a Class 1 misdemeanor and required to register on Virginia's Sex Offender and Crimes

Against Minors Registry. Section 10.1-104.B of the Code of Virginia, on the other hand, calls for a Class 3 misdemeanor charge for any violation of this regulation. Class 3 misdemeanors may be resolved without a pre-trial and may allow for prepayment of the violation by the individual. DCR believes that, in some situations, charging an individual with a Class 3 misdemeanor is more appropriate for this type of behavior than charging an individual under §18.2-387. This proposed change will allow for a Class 3 misdemeanor charge where appropriate. This change does not prevent DCR from bringing other charges in accordance with other sections of the Code of Virginia for more significant or serious violations.

The main economic impact of this particular change is avoidance of possibly life-long significant adverse consequences of having an indecent exposure conviction on an individual's past who has no ill intentions, but who simply has to relieve himself. Under the proposed change, DCR officers will have the flexibility to bring a lesser charge as appropriate.

The remaining proposed changes are mainly clarifications of existing laws, practice, or policy. Most significant of these include that the use of generators is prohibited at all times, not just during quiet hours (from 10:00 p.m. until 6:00 a.m.); that the portion of Breaks Interstate Park on Virginia soil is subject to this regulation; that the use of drones and unmanned aerial systems are prohibited; that the use of electronic vaporizing devices are prohibited; that the use of wheelchairs and other power-driven mobility devices on trails, paths, and other designated areas are allowed. These clarifications are beneficial in that they will better inform visitors on what is prohibited or allowed and will likely improve compliance and avoid possible misinterpretation of the regulation.

Businesses and Entities Affected

The proposed regulation applies to all visitors to Virginia State Parks and Natural Area Preserves. Virginia State Parks had 10,474,134 visitors during 2017. There were two summons issued for indecent exposure (due to urinating in public) in the last 3 years.

Localities Particularly Affected

The proposed regulation does not disproportionately affect particular localities.

Projected Impact on Employment

The proposed regulation does not have a direct impact on employment. However, a few individuals who has to relieve themselves in state parks or natural preserves but has no intention

of indecent exposure would avoid having a criminal conviction on their record and maintain being employable for all employment opportunities they otherwise qualify for.

Effects on the Use and Value of Private Property

The proposed amendments do not affect the use and value of private property.

Real Estate Development Costs

The proposed amendments do 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 amendments do not affect costs for small businesses.

Alternative Method that Minimizes Adverse Impact

The proposed amendments do not adversely affect small businesses.

Adverse Impacts:

Businesses:

The proposed amendments do not adversely affect businesses.

Localities:

The proposed amendments do not adversely affect localities.

Other Entities:

The proposed amendments do 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 14 (as amended, July 16, 2018). 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.