



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

18 VAC 145-40 Regulations for the Geology Certification Program
Department of Professional and Occupational Regulation
Town Hall Action/Stage: 6300 / 10509
November 25, 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 1) amend the 30 hours of coursework needed to be certified as a professional geologist to remove the requirement that the coursework be in seven specific geological science subjects, 2) amend the 12 minimum hours of geological science coursework needed to become a geologist in training to replace paleontology with hydrogeology, and 3) stipulate in the regulation how an applicant for certification as a professional geologist may establish ethical character.

Background

The initial impetus for this action was Executive Directive Number One (2022), which 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 Attorney General, and in a manner consistent with the laws of the Commonwealth.”

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.

This regulation establishes rules for individuals who practice or offer to practice as a geologist or in a geological specialty by providing that such individuals may voluntarily obtain certification from the Board as a certified geologist as evidence of qualification to engage in this occupation. Individuals that meet the requirements of certification are authorized to represent themselves to the public as certified geologists. However, a lack of certification does not prohibit the practice of geology. The regulation ensures that individuals who are certified have met the minimum standards (including education, experience, and examination) that have been established by the General Assembly and the Board to practice as a certified geologist.

In order to comply with Executive Directive Number One, the Board primarily proposes changes that would repeal language that is duplicative of statute and non-regulatory in nature. Two other proposed changes aim to reduce regulatory burdens, and one proposed change would provide clarity on how an applicant may establish his/her ethical character, as discussed below.

Estimated Benefits and Costs

The main goal of this regulatory action is to reduce regulatory text that is either duplicative of statute or text that is non-regulatory in nature. In addition, two of the proposed changes would depart from current requirements. One change would remove the requirement that the 30 hours of required courses to sit for the fundamentals of geology exam (needed to apply for certification as a professional geologist) be in seven specific geological science subjects (i.e., stratigraphy, structural geology, mineralogy, paleontology, petrology, geomorphology, and field geology). Another change in this category would amend the requirements for persons applying to be a geologist-in-training by replacing paleontology with hydrogeology as one of the seven qualifying course subjects in (at least four of) which the required 12 minimum hours of geological science courses must be completed. According to the Board, these changes provide more flexibility to those who would take the fundamentals of geology exam and would be less stringent for those who are seeking geologist in training designation. Accordingly, more individuals may qualify to sit for the said exam and obtain certification.

A third change would provide details on how an applicant may establish that he or she is of ethical character. The proposed requirements relate to disclosing prior convictions and disciplinary actions and reflect current practice. Currently, being of an ethical character is

required but the regulation does not describe how the Board makes this determination. Thus, the proposed change may provide clarity.

Businesses and Other Entities Affected

Currently, there are 959 certified professional geologists and 84 geologists-in-training in Virginia. No regulants appear to be disproportionately affected.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.² 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.³ As noted above, the proposed changes do not represent an increase in net cost or reduction in net benefit for any entity. Thus, no adverse impact is indicated.

Small Businesses⁴ Affected:⁵

No adverse impact on small businesses is expected.

Localities⁶ Affected⁷

The proposed amendments do not introduce costs for local governments, nor do they disproportionately affect any locality more than others.

² 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.

³ 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.

⁴ 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.”

⁵ 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.

⁶ “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.

⁷ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

Projected Impact on Employment

As discussed above, one of the proposed changes provides more flexibility to those who would take the fundamentals of geology exam and another change is less stringent for those who is seeking geologist in training certification. Accordingly, more individuals may qualify to sit for the exam and obtain certification. However, whether the proposed changes have the potential to affect total employment is not known.

Effects on the Use and Value of Private Property

Professional geologist certifications are issued to individuals, not business entities. Thus, no direct impact on the use and value of private property or on real estate development costs is expected.