



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

2 VAC 5-680 Regulations Governing Licensing of Pesticide Businesses Operating under Authority of the Virginia Pesticide Control Act

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: 6411 / 10567

May 1, 2026 (revised May 15, 2026)

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 of Agriculture and Consumer Services (Board) proposes to amend *Regulations Governing Licensing of Pesticide Businesses Operating under Authority of the Virginia Pesticide Control Act (2 VAC 5-680) and Regulations Governing Pesticide Applicator Certification under Authority of Virginia Pesticide Control Act (2 VAC 5-685)* to conform to the 2017 revisions of the U.S. Environmental Protection Agency's (EPA) Certification of Pesticide Applicators Rule (2017 rule). Additionally, the Board proposes amendments to increase clarity.

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.

Background

The 2017 rule sets forth the minimum requirements for certification of applicators who apply restricted use pesticides, including both commercial² and private³ pesticide applicators. The revisions required the nation's 68 certifying authorities with existing EPA-approved certification plans to submit proposed modifications to their current plans by March 4, 2020, to comply with the newly-revised federal standards.⁴ In Virginia, the Department of Agriculture and Consumer Services (VDACS) is the certifying authority of pesticide applicators. According to VDACS, Virginia's plan was submitted on time; however, EPA approval was not granted until October 2023.

Certification Categories

All commercial and private applicators must be certified in one or more categories. Under the proposal some certification categories are narrowed such that the categories that currently cover sodium cyanide, sodium fluoroacetate, fumigation, and aerial applications using unmanned aerial vehicles (UAVs) or unmanned aerial systems (UASs) would no longer do so. Consequently, some commercial and private applicators who perform such applications in addition to other applications that remain in their certification category may need to apply for an additional certification.

Categories 86 and 87, which are specific to private applicators, would be eliminated.

Category 86 is defined as:

Single product certification. Includes private applicator applicants who are seeking authorization to apply a single identified restricted use product or related restricted use products with the same active ingredient and with a similar formulation and use. This category is intended for limited use under special or emergency circumstances as identified by the board.

² "Commercial applicator" is defined as "any applicator who has completed the requirements as determined by the board, including appropriate training and time in service, to apply for a certification, and who uses or supervises the use of any pesticide for any purpose or on any property, other than as provided in the definition of private applicator."

³ "Private applicator" is defined as "an applicator who uses or supervises the use of any pesticide that is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person."

⁴ Source: Virginia Department of Agriculture and Consumer Services.

Category 87 is defined as:

Limited certificate - single product or single use. Includes private applicator applicants who are seeking authorization to apply a single restricted use pesticide for a single identified purpose. This category is intended for limited use under special or emergency circumstances as identified by the board on a case-by-case basis.

Private applicators would no longer have either of these categories as an option and would need to find a different category for certification.

Recordkeeping

The current regulations contain recordkeeping requirements for pesticide businesses and pesticide applicators. For pesticide businesses that apply pesticide (versus sell pesticide), the proposal would require that the following elements be additionally kept in records: 1) time of day the application occurred, 2) type of commodity or stored product to which the pesticide is applied, and 3) total amount of pesticides applied per site per application. Consistent with existing requirements, these records would be required to be maintained for two years.

Under the current regulation, concerning recordkeeping requirements for commercial applicators not for hire⁵ and registered technicians⁶ not for hire,⁷ it is stated that the certification number of the supervising certified applicator should be recorded if a registered technician makes the application. The proposal adds that the name of the registered technician should be also recorded, along with the 1) time of day the application occurred, 2) type of commodity or stored product to which the pesticide is applied, and 3) total amount of pesticides applied per site per application regardless of who makes the application.

⁵ “Commercial applicator not for hire” is defined as “any commercial applicator who uses or supervises the use of pesticides as part of his job duties only on property owned or leased by him or his employer. It also applies to governmental employees who use or supervise the use of pesticides, whether on property owned or leased by them or their employers or not, in the performance of their official duties.”

⁶ “Registered technician” is defined as “an individual who renders services similar to those of a certified commercial applicator, but who has not completed all the training or time in service requirements to be eligible for examination for certification as a commercial applicator and is limited to application of general use pesticides. However, if he applies restricted use pesticides he shall do so only under the direct supervision of a certified commercial or private applicator. ...”

⁷ “Registered technician not for hire” is defined as “any registered technician who uses or supervises the use of pesticides as part of his job duties only on property owned or leased by him or his employer. It also applies to governmental employees who use or supervise the use of pesticides, whether on property owned or leased by them or their employers or not, in the performance of their official duties.”

Pursuant to the revisions to the 2017 rule, the Board also proposes new recordkeeping requirements concerning noncertified applicators⁸ supervised by private applicators. A private applicator must maintain records documenting that a noncertified applicator who applies a restricted use pesticide under the direct supervision of the private applicator has been trained in accordance with the requirements for a noncertified applicator training program as established by specified federal regulations. Training records maintained for noncertified applicators trained in accordance with federal requirements must contain the following information: 1) noncertified applicator's printed name and signature, 2) date of the training, 3) name and certification number of the person who conducted the training, and 4) title or a description of the training completed.

The proposal also newly states that private applicators must maintain training records for handlers, as that term is defined in 40 CFR § 170.3.⁹ Those training records must contain the information required in 40 CFR § 170.501(d).¹⁰

Age-related

The current *Regulations Governing Pesticide Applicator Certification under Authority of Virginia Pesticide Control Act* does not address the minimum age for pesticide applicator certification. The proposed regulation specifies that all persons desiring certification as pesticide applicators must be 18 years of age or older.

In order to comply with revisions to the 2017 rule, the Board proposes to add the following to the list of persons exempt from certification:

An individual 18 years of age or older who applies a restricted use pesticide under the direct supervision of a private applicator. However, an individual 16 years of age or older who applies a restricted use pesticide under the direct supervision of a private applicator who is a member of the individual's immediate family and on property owned or leased by the private applicator is also exempt from certification if (i) the restricted use pesticide is not a fumigant, sodium cyanide, or sodium fluoroacetate and (ii) the individual is not applying the restricted use pesticide aerially.

⁸ “Noncertified applicator” is defined as “a person who is not certified in accordance with this chapter to use or supervise the use of a restricted use pesticide in the category appropriate to the type of application being conducted in the pertinent jurisdiction, but who is using a restricted use pesticide under the direct supervision of a person certified as a commercial or private applicator in accordance with this chapter.”

⁹ See <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-170/subpart-A/section-170.3>.

¹⁰ See <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-170/subpart-F/section-170.501>.

Currently, registered technicians can apply restricted use pesticides under the direct supervision of a certified commercial applicator, but not a certified private applicator.

Estimated Benefits and Costs

Certification Categories

As described above, some commercial and private applicators whose work involves sodium cyanide, sodium fluoroacetate, fumigation, UAVs or UASs, in addition to other applications that remain in their certification category, may need to apply for an additional certification. Applying for an additional certification would require passing an additional examination and an additional \$25 fee for commercial applicators. Certifications must be renewed every two years and require attending a Board-approved recertification course that covers the certification category.¹¹ Unless one Board-approved recertification course covers both certification categories, having an additional certification would require an additional Board-approved recertification course every two years. Board-approved recertification courses can be obtained for \$75 and taken online.¹² In addition to the fees, the certified applicators would be required to expend additional time in preparing for and taking the additional examination and taking the additional recertification course (if there is not one course that covers both categories).¹³

By eliminating Category 86 “Single product certification” and Category 87 “Limited certificate,” private applicators interested in just having one of these certifications would likely instead need to obtain certification in a category that requires knowledge in a wider area. This could require that such private applicators expend more time and perhaps financial resources needed to pass the examination in the broader certification category. However, it should be noted that according to VDACS, currently no private applicator is certified in Category 86 or 87.

¹¹ According to VDACS, a pesticide applicator may alternatively elect to retest in a certification category rather than complete a recertification course.

¹² Board-approved recertification courses are listed here: <https://www.vdacs.virginia.gov/pdf/recertcourses.pdf>. Websites for four of the Board-approved providers were accessed on April 29, 2026. Three of the providers charged \$75 per course and one provider charged \$100 per course.

¹³ There is no specified time requirement for recertification courses.

Recordkeeping

All of the proposed recordkeeping amendments mentioned above would entail that additional time be expended recording and maintaining information. The proposed new recordkeeping requirements concerning noncertified applicators and handlers supervised by private applicators may be the most onerous addition as no such requirements appear to be in the current regulation. However, the additional required records can be beneficial for public health and safety in helping ensure that pesticide workers are properly trained and that if problems occur, relevant information can be obtained to help determine the extent of the potential problem and who may be involved.

Age-related

According to VDACS, though current regulations do not specify a minimum age requirement, certification in practice is limited to individuals 18 years of age or older. The proposed regulatory revision would formalize this requirement.

The current *Regulations Governing Pesticide Applicator Certification under Authority of Virginia Pesticide Control Act* allows registered technicians to apply restricted use pesticides under the direct supervision of a certified commercial applicator. The proposal would allow registered technicians to apply restricted use pesticides under the direct supervision of a certified private applicator as well. This would be beneficial for private applicators and registered technicians in that it could potentially increase their productivity.

Businesses and Other Entities Affected

The proposed amendments affect the 8,652 certified commercial applicators, 4,179 certified private applicators, 11,882 registered technicians, and 2,225 licensed pesticide businesses in the Commonwealth.¹⁴

The Code requires DPB to assess whether an adverse impact may result from the proposed regulation.¹⁵ An adverse impact is indicated if there is any increase in net cost or

¹⁴ Data source: VDACS.

¹⁵ 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.¹⁶ As noted above there are increased costs, but they are due to complying with federal requirements. Thus, no adverse impact is indicated.

Small Businesses¹⁷ Affected:¹⁸

Types and Estimated Number of Small Businesses Affected

Information is not available to determine how many of the 2,225 licensed pesticide businesses are small businesses. It seems likely that most would qualify as small businesses.

Costs and Other Effects

The proposed recordkeeping amendments would increase costs for small pesticide businesses. To the extent that certification costs for individual applicators affect the firms that employ them, the proposed narrowing of certification categories could also increase costs for the small businesses that employ affected applicators.

Alternative Method that Minimizes Adverse Impact

There are no clear alternative methods as the proposed amendments are required to comply with federal regulation.

¹⁶ 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.

¹⁷ 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.”

¹⁸ 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.

Localities¹⁹ Affected²⁰

The proposed amendments potentially affect all localities but may particularly affect those that are agriculturally oriented. Localities that employ certified commercial applicators may have moderately increased costs as described above.

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 new recordkeeping requirements may moderately increase costs for pesticide businesses. To the extent that certification costs for individual applicators affect the firms that employ them, the proposed narrowing of certification categories could also increase costs for pesticide businesses that employ affected certified applicators. In any case, the potential increase costs are small and would have only a small potential impact on firm value.

The proposals to allow non-certified individuals to apply a restricted use pesticide under the direct supervision of a private applicator may increase available labor for private applicators such as farmers. This could increase the value of such businesses.

The proposed amendments are unlikely to substantively affect costs related to the development of real estate.

¹⁹ “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.

²⁰ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.