



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

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### **18 VAC 70-20 – Board for Geology Regulations Department of Professional and Occupational Regulation March 31, 2004**

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The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

### **Summary of the Proposed Regulation**

The Board for Geology (board) proposes to 1) insert language from the Code of Virginia directly into the regulations to help inform the public, 2) eliminate a requirement that effectively requires the board to meet and vote on every certification application, 3) eliminate the requirement that reinstatement applicants state why they let their certification expire, 4) amend the language describing when reinstated certificates expire, 5) specify course subject areas within the geological sciences, 6) specify areas of work considered to be geology work, 7) specify the numbers of hours of work necessary to constitute a work year, and 8) specify that the board may discipline an individual who used fraud or deceit to renew his certification.

### **Estimated Economic Impact**

The current regulations require that "In determining the qualifications of an applicant for certification, a majority vote of members of the board shall be required." The board proposes to remove this language from the regulations. This will permit the board to delegate clear-cut

decisions on applicant qualifications to Department of Professional and Occupational Regulation (department) staff. This may allow the board to meet one or two fewer times per year. The board currently meets four times per year. The department estimates that board meetings cost on average \$886. The costs of board meetings are paid through fees for certificate holders. Thus, this proposal could potentially save Virginia geologists up to \$1,772 per year.

Under the current regulations, a certification reinstatement applicant must state why she let her certification expire. The board proposes to eliminate this requirement. The board makes certification reinstatement decisions based on the applicant's qualifications at the time of reinstatement application, and does not in practice use the explanation for certification expiration as a consideration. There will be no cost to eliminating this requirement, and the applicant will save the time associated with formulating and explaining why her certification expired without renewal.

The current regulations state that reinstated certifications "shall be assigned an expiration date two years from the previous expiration date of the certification." If more than two years have passed since the previous expiration date of the certification, then the reinstated certification will be immediately out-of-date (expired). To prevent this from happening, the board proposes to amend the regulations to state that the reinstated certifications "shall expire on August 31 of the odd-numbered year following the date of reinstatement." According to the department, reinstated certifications have been dated this way in practice. The proposal to amend the determination of expiration dates for reinstated certifications will create a net benefit, since otherwise reinstated certifications could never be made current (assuming that the regulations were followed in practice).

Section § 54.1-1403 of the Code of Virginia states that in order to be eligible for certification as a professional geologist, the applicant must "Have a baccalaureate or higher degree from an accredited college or university with either a major in geology, engineering geology, geological engineering, or related geological sciences; or have completed at least thirty semester hours or the equivalent in geological science courses leading to a major in geology."<sup>1</sup> The current regulations do not specify what course subjects qualify as geological science courses that lead to a major in geology. The proposed regulations state that at least 12 of the required 30

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<sup>1</sup> There are additional eligibility requirements.

semester hours be completed in four of seven subjects listed. The seven subjects are: 1) stratigraphy, 2) structural geology, 3) mineralogy, 4) paleontology, 5) petrology, 6) geomorphology, and 7) field geology. According to the department, this represents what the board has required in practice. Thus, the proposed additional language is useful for clarity, but does not otherwise have a significant impact.

Section § 54.1-1403 of the Code of Virginia further requires the following for certification eligibility:

at least seven years of geological work which shall include either a minimum of three years of geological work under the supervision of a qualified or certified professional geologist, or a minimum of three years of experience in responsible charge of geological work. The adequacy of the position and the required supervision and experience shall be determined by the Board in accordance with standards set forth in its regulations.

The current regulations do not set forth standards for required supervision and experience. The board proposes to define “supervision” to mean “quality control review of all significant data collection, interpretation and conclusions,” and “responsible charge” to mean “the direct control and supervision of the practice of geology.” These definitions are consistent with how the board has interpreted the terms in practice. Thus, expressing the definitions directly in the regulations is beneficial for the sake of clarity, but otherwise will not have a significant impact.

The board also proposes to require that the geology work experience “include, but not be limited to, one or more ...” of seven listed areas<sup>2</sup> of geology. The proposed regulations include work descriptions for each area. This proposed requirement is quite flexible. In effect, it just requires that some of the seven years of work experience be within one of the seven listed categories. The proposed additional language will not likely have a significant effect beyond providing clarity since: 1) the board already determines whether an applicant’s work experience qualifies as geology work, and 2) given the broad nature of the seven work area descriptions, it

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<sup>2</sup> Work areas: 1) mineralogy, 2) petrography/petrology, 3) geochemistry, 4) hydrogeology, 5) engineering geology, 6) mining geology, and 7) petroleum geology.

appears unlikely that a geologist would be unable to find an activity description that matches part of her work experience.

The current regulations are silent in terms of how many days or hours constitute a year of work. The board proposes to specify that:

A year of full-time employment is a minimum of 1,760 hours or 220 workdays in a 12-month period. More than 1,760 hours or 220 workdays during a 12-month period shall not be considered as more than one year of full-time experience. Partial credit may be given for actual hours of work or workdays experience if the applicant works as a geologist less than full time.

Expressing how much work time comprises a work year in the regulations is beneficial for clarity and consistency. The public can be better assured that applicants will be treated equally in terms of amount of qualifying work experience, and will become more aware of how much work per year is needed in practice to meet the board's certification standard.

The current regulations state that the board may suspend, revoke, or refuse to renew the certification of any geologist who is found to have committed fraud or deceit in obtaining certification. The current regulations do not specify that the board may take disciplinary action if the geologist is found to have committed fraud or deceit in *renewing* certification. The board proposes to add language to allow disciplinary action to be taken if fraud or deceit is found to have been committed in certification renewal, as well as in initial certification. This has been the board's intent all along. By inserting the new language the board may lessen the probability that a geologist who has obtained certification renewal through fraud or deceit may successfully avoid board discipline through a court challenge to the board's legal right to enforce discipline in renewal cases. According to the department, this situation has yet to occur. It is not likely to occur in the future either, since: 1) certification is not required in order to receive payment for geological services in Virginia, and 2) individuals may use the title of geologist without certification. Lacking certification only restricts an individual from calling herself a "Virginia certified professional geologist." Thus, this proposed amendment will likely not have any impact.

## **Businesses and Entities Affected**

The proposed regulations affect the 850<sup>3</sup> professional geologists certified in Virginia.

## **Localities Particularly Affected**

The proposed regulations affect all Virginia localities.

## **Projected Impact on Employment**

The proposed changes are not projected to significantly affect employment.

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

The proposed changes are unlikely to significantly affect the use and value of private property.

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<sup>3</sup> Source: Department of Professional and Occupational Regulation