

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 25 -160 Virginia Gas and Oil Board Regulations
Department of Mines, Minerals and Energy
Town Hall Action/Stage: 4782 / 7873
April 28, 2017

Summary of the Proposed Amendments to Regulation

As the result of a 2016 periodic review,¹ the Virginia Gas and Oil Board (Board) proposes to: 1) specify that documents submitted to the Board or the Department of Mines, Minerals and Energy (DMME) be sent electronically rather than as paper copies, 2) allow for additional methods of communication when certain notifications are required to be sent to other resource owners, 3) allow for when the location of a prospective gas or oil well is required to be published in a newspaper that the notice can include either a map or a description of the location, and no longer would need both, and 4) amend other language for improved clarity.

Result of Analysis

The benefits exceed the costs for all proposed changes.

Estimated Economic Impact

The Virginia Gas and Oil Board Regulations govern gas and oil operations in the Commonwealth.

The current regulation requires paper copies of certain information including exhibits in support of applications be sent to DMME. The Board proposes to amend the language to specify

¹ More information about the 2016 periodic review can be found on the Virginia Regulatory Town Hall at <http://townhall.virginia.gov/L/ViewPReview.cfm?PRid=1539>

that the submissions be done electronically. In practice, firms regulated by the Board have submitted such documents electronically. Thus, this proposed amendment will have no impact beyond clarifying what actually occurs in practice.

The current regulation specifies that each applicant for a hearing to establish an exception to statewide spacing of oil and gas wells is to:

provide notice by certified mail, return receipt requested, to all gas, oil, coal or mineral owners having an interest underlying any tract located within the distances provided in § 45.1-361.17 of the Code of Virginia or the distance to the nearest well completed in the same pool, whichever is less.

The Board proposes to allow additional options, beyond certified mail, for the notification. Specifically, the Board proposes to also allow the notice be by another commercial carrier including but not limited to FedEx and UPS, return receipt requested, and electronic mail. The proposal to allow these alternate methods may moderately reduce costs for notifications, while still proving for proper notification. Thus the proposal likely would produce a net benefit.

When the identity or location of any person to whom notice is required to be given is unknown, the applicant (for the hearing to establish an exception to statewide spacing) is required to publish in a newspaper of general circulation in the locality where the land which is the subject of the application is located. Under the current regulation the notice must include a map showing the general location of the area that would be affected by the proposed action **and** a description that clearly describes the location or boundaries of the area that would be affected by the proposed action sufficient to enable local residents to identify the area. The Board proposes to amend the requirement to be that the notice published in a newspaper must include either a map or a description of the location but need not be both, as under the current regulation. This proposal would likely save applicants a moderate amount of cost in payment to a newspaper, while presumably still providing enough information for the location of the proposed well to be reasonably identifiable. Thus, this proposal will likely produce a net benefit.

Businesses and Entities Affected

The proposed amendments potentially affect the 20 natural gas operators and approximately 200 contractors and subcontractors. DMME believes that the majority of the contractors and subcontractors would meet the definition of a small business.

Localities Particularly Affected

The proposed amendments do not particularly affect specific localities.

Projected Impact on Employment

The proposed amendments would not affect employment.

Effects on the Use and Value of Private Property

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

Real Estate Development Costs

The proposed amendments would not significantly 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 proposals to allow for additional methods of communication when certain notifications are required to be sent to other resource owners and to allow the required newspaper notifications to include either a map or a description of the location may moderately reduce costs for some small firms.

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 Number 17 (2014). 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.

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