



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

4 VAC 50-85 Nutrient Management Training and Certification Regulations
Department of Conservation and Recreation
Town Hall Action/Stage: 5878 / 9484
January 11, 2022

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 14 (as amended, July 16, 2018). The analysis presented below represents DPB's best estimate of these economic impacts.¹

Summary of the Proposed Amendments to Regulation

As the result of a 2021 periodic review, the Soil and Water Conservation Board (Board) proposes to provide an additional option for individuals to meet the eligibility criteria for certification as a nutrient management planner.

Background

Certified nutrient management planners assist agricultural producers, state agencies, localities, institutions of higher learning, and other entities with the development and implementation of nutrient management plans. These plans address nutrient applications to both urban landscapes and agricultural operations, and improve and protect water quality using best management practices such as timing, rate and placement of fertilizer, manure and biosolids for agricultural and urban purposes. The Board collects a \$100 exam fee for initial certification and \$100 every two years thereafter for recertification.

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.

During the 2021 periodic review,² the Board received comments requesting that the regulation be amended to decrease the education and experience requirements needed for certification. Currently, this regulation provides two pathways: 1) A four year degree with a major in an agriculturally related area with coursework in the area of nutrient management such as soils, soil fertility, and plant science, and one year of practical experience related to nutrient management planning or implementation of nutrient management concepts and principles acceptable to the Department of Conservation and Recreation (DCR); and 2) A combination of education to include nutrient management related educational courses or training [over an unspecified time period] and a minimum of three years of practical experience related to nutrient management planning or implementation of nutrient management concepts and principles acceptable to DCR. In this second pathway, no college degree is required and necessary educational courses or training are mostly obtained through the training courses provided by DCR.

As a direct result of the comments, the Board proposes to add a third pathway to certification that would allow a two-year college degree in an agriculturally-related area and one and a half years of practical experience.

Estimated Benefits and Costs

DCR reports that there are currently 415 certified planners in Virginia. Of these, approximately 25 percent are certified under the first pathway and 75 percent are certified through the second pathway.

The proposed new pathway to certification would require a two-year college degree and 1.5 years of experience. The proposal appears to represent a middle-of-the-way approach regarding education (proposed two-year college degree vs. four-year degree or no degree) and experience requirements (proposed 1.5 years of experience vs. one or three year(s) of experience) between the two current pathways. By reducing the maximum education and training required under the two current pathways, the proposal would expand the pool of eligible individuals for certification. The Board notes that this new pathway reflects the increased number of colleges offering two-year degrees in agricultural studies and the value of practical in-field experience. Thus, this change would benefit the public and persons working in this field to

² <https://townhall.virginia.gov/l/ViewPReview.cfm?PRid=2042>

the degree that the education provided under the new pathway is commensurate with the education that is received under the two existing pathways.

Currently, Virginia Tech is the only college that offers a two-year degree that would be eligible for certification under this proposal. Additionally, other institutions of higher education may choose to offer two-year degrees in the future that would also qualify. However, the magnitude of the expected increase in the pool of eligible candidates and eventual certifications cannot be assessed at this time.

DCR states that Virginia's Phase III Chesapeake Bay Watershed Implementation Plan would result in an increased need for nutrient management plans across the Commonwealth and therefore an increase in the number of certified planners is necessary to meet Virginia's water quality goals. More specifically, while currently 717,831 acres are under active nutrient management plans, DCR estimates that approximately 951,395 acres would need to be under nutrient management plans by the end of 2025, representing a 33 percent increase. This proposed action would help meet to some extent the expected increase in the demand for services offered by certified nutrient management planners. Greater supply of planners would help mitigate a potential increase in market prices for these plans given the expected planner shortage in the absence of the proposed expansion in eligibility.

Also, an increase in certifications would result in DCR collecting additional fees to cover the additional administrative costs of regulating a greater number of planners.

Businesses and Other Entities Affected

The proposed new pathway to nutrient management certification is expected to increase the pool of eligible candidates by an unknown amount. Currently, there are 415 certified planners in Virginia.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.³ An adverse impact is indicated if there is any increase in net cost or

³ 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. 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.

reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As noted above, the proposal would expand the pool of eligible individuals for certification and may indirectly mitigate potential price hikes and indirectly may benefit the entities required to develop plans. A direct adverse impact is not indicated.

Small Businesses⁴ Affected:⁵

Although some of the planners may operate as a small business and may be prevented from charging higher prices and some small businesses may be subject to develop and implement nutrient management plans and may indirectly benefit from a greater pool of planners to choose from, the proposed amendments do not appear to adversely affect small businesses directly.

Localities⁶ Affected⁷

Although some localities may be required by permit to develop and implement nutrient management plans and may indirectly benefit from a greater pool of planners to choose from, the proposed action does not disproportionately affect particular localities and does not introduce costs for local governments.

Projected Impact on Employment

The proposed new pathway to become a certified planner may present a new career opportunity for those who have the required education and experience under the proposal. There is not enough information to assess whether there would be an effect on total employment.

Effects on the Use and Value of Private Property

Although being indirectly prevented from charging higher prices may also mitigate any potential increase in asset values of nutrient management and planning businesses, the proposed

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.

changes do not appear to have a direct impact on the use and value of private property or the real estate development costs.