



Economic Impact Analysis Virginia Department of Planning and Budget

9 VAC 20-160 – Voluntary Remediation Regulations
Department of Environmental Quality
August 12, 2010

Summary of the Proposed Amendments to Regulation

As a result of a periodic review of regulations, the Waste Management Board (Board) proposes to amend its Voluntary Remediation Regulations. The Board proposes to make many clarifying changes to the requirements of these regulations and also proposes to change the language for fees so that affected entities will pay \$5,000 at the start of their remediation project and may apply for a refund of any unowed monies at the end.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

DEQ's voluntary remediation program allows land owners (mostly business land owners) to voluntarily clean up polluted land that is not so polluted that clean up would be mandated under state or federal regulations. Most entities that participate in this program are in the process of trying to sell their land and would take part in the program in hopes of increasing the value and, therefore, the sale price of the affected holding. The Board last updated its Voluntary Remediation Regulations in 2002. As a result of a periodic review of these regulations, the Board now proposes to make many clarifying changes as well as one change that may have a significant economic impact of the entities that choose to participate. The clarifying changes that are being proposed for these regulations will not change the practices employed by the program and, so, should not increase costs for any affected entities. To the extent that these changes streamline processes and/or make these regulations easier to understand, affected entities will likely benefit.

Current regulations allow participating entities to pay, at the time of initial registration, a fee of one percent of the anticipated costs of their remediation projects, up to a statutory maximum of \$5,000. At the end of the project, DEQ will currently bill a participant for the actual costs of administering the project, minus the amount they have already paid, up to the statutory maximum. DEQ can withhold the certificate of completion for a project until that bill is paid but has no recourse for recouping its costs if a participant drops out of the program before his project is completed or just has no interest in obtaining the certificate. As a consequence, DEQ has had some projects where participants have only paid several hundred dollars when the actual program administration costs are many thousands of dollars. DEQ reports that the average costs for administering a remediation project is approximately \$40,000.

The Board proposes to amend the fees structure in these regulations so that program participants will pay the statutory maximum (\$5,000) at the time of initial registration. Participants will be able to request a refund upon project completion if the actual costs of administering their projects are less than the collected fee. Some project participants, particularly participants who drop out before project completion, will likely pay a larger fee on account of this regulatory change. Because participation in this program is voluntary, these costs are likely to be outweighed by the benefits that will accrue to any entities that choose to participate. DEQ, and taxpayers, will benefit from this change as it will allow DEQ to recoup more of the costs of administering this program from the program participants (its most immediate beneficiaries).

Businesses and Entities Affected

The Department of Environmental Quality (DEQ) reports that approximately 20 entities (individuals or businesses) per year initiate a voluntary remediation project. DEQ estimates that approximately 90% of these entities would be classified as small businesses.

Localities Particularly Affected

No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment

This regulatory action will likely have no impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property

This regulatory action will likely have minimal effects on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects

Since participation is voluntary, small businesses in the Commonwealth are unlikely to take part in DEQ's voluntary remediation program unless they expect the benefits that they will accrue to outweigh the costs.

Small Businesses: Alternative Method that Minimizes Adverse Impact

There are likely no other methods that DEQ could have employed that would both have allowed DEQ to guarantee it would recoup more of its costs (up to the statutory maximum) and further minimized costs for affected small businesses.

Real Estate Development Costs

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H 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. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a

description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.