



Economic Impact Analysis Virginia Department of Planning and Budget

9 VAC 20-110 – Department of Environmental Quality Regulations Governing the Transportation of Hazardous Materials May 24, 2002

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 9-6.14:7.1.G of the Administrative Process Act and Executive Order Number 25 (98). Section 9-6.14:7.1.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 proposed regulations will update the reference to federal hazardous material transportation regulations with the most recent version, repeal the section on issuing variances from physical qualification requirements for drivers transporting hazardous materials, and make a number of other changes to clarify and update the language and increase the awareness of federal regulations.

Estimated Economic Impact

These regulations contain rules for transportation of hazardous materials, which cover activities such as loading, unloading, packing, identifying, marking, placarding, and storing. Hazardous materials have the potential to create danger to health, life, or property through contact, exposure, inhalation, fire, explosion, or environmental pollution. Examples of hazardous materials include fuels, corrosive or flammable chemicals, compressed gases, some cleaning supplies, and hazardous wastes.

Virginia regulations incorporate the federal hazardous material transportation regulations by reference. The proposed changes will update the referenced federal regulations in Title 49 of the Code of Federal Regulations that were effective on March 18, 1994 with the most recent version that became effective October 1, 2001. Referenced sections address exemptions, registration of transporters, general requirements and carriage types, specifications for packaging and tank cars, package maintenance, and motor carrier safety. The Department of Environmental Quality (DEQ) indicates that transporters of hazardous materials are required to comply with federal regulations and the most recent version of the federal regulations are already being enforced by law enforcement authorities in the Commonwealth. Thus, no significant economic effect is expected from the proposed update. However, the consistency between the federal and state regulations governing the transportation of hazardous materials is expected to reduce the potential for creating confusion for law enforcement authorities and regulated hazardous materials transporters. For example, the most significant difference between the federal regulations in effect March 18, 1994 and the federal regulations currently in effect is the universe of transporters being regulated. The regulations in effect March 18, 1994 only addressed interstate transportation and the current federal regulations now regulate interstate and intrastate transportation of hazardous materials. Such discrepancies have the potential to cause some confusion if the most recent version of the regulations currently enforced is not referenced. Since DEQ is not aware of any problems currently experienced by enforcement officers or the regulated community, the significance of this expected benefit is not known.

Also, the proposed changes will repeal the section on issuing variances from physical qualification requirements for drivers transporting hazardous materials. Current language in the regulations charges the Director of DEQ with issuing variances to drivers with physical impairments such as visual acuity, diabetes, having use of only one arm, hand, foot, or leg to allow them to transport hazardous materials. The language requires the applicant to provide information on company name, address, telephone number, description of duties and years of service and copies of driving record, physician report for visual impairment or diabetes, and the road test for drivers with missing or impaired limbs. Enactments to §46.2-341.9:1 Code of Virginia in 1997 require the Commissioner of Department of Motor Vehicles (DMV) to issue variances. After the statutory change, the variances have been issued under the regulations

promulgated by DMV.¹ Thus, the proposed change will have no impact on current practice of issuing variances and is not expected to have any significant economic effects. Additionally, the requirements in these regulations and the requirements currently enforced by DMV are similar in large part except for the road test requirement. Current language in these regulations requires administering a road test to drivers with disabilities seeking a variance. The regulations currently enforced by DMV on the other hand, still require a physician evaluation of the driver to determine if the driver is capable of operating a commercial vehicle, but do not require administration of the road test. Although discrepancies between the two sets of regulations are minor, the proposed change has the potential to produce small benefits to hazardous waste transporters seeking variance from physical qualifications in terms of reducing communication costs that may stem from confusions caused by outdated and inaccurate current regulatory language.

Finally, several other changes are proposed to clarify and update the regulatory language and increase the awareness of federal regulations. These changes include the following: Virginia Department of Emergency Services will be replaced by Virginia Department of Emergency Management as this agency changed its name, citation to Administrative Process Act will be updated to reflect most recent coding changes, sections of federal regulations requiring transporters of hazardous materials to register with federal government and pay a registration fee will be referenced to increase awareness, the reference to federal regulations on criteria for issuing commercial driver's licenses will be deleted since DMV adopted new criteria for this purpose, it will be clarified that registration of shippers and monitoring transportation of hazardous materials are required for those materials that may constitute a significant potential danger to the citizens of the Commonwealth in the event of accidental spillage or release as specified in the statute, and it will be clarified that the registration of shippers is required if the radioactive materials are subject to advance notification requirements prior to transportation. As with the other changes, these clarifications, updates, and additional language to increase awareness has the potential to produce benefits in terms of reducing communication costs that may otherwise be incurred to resolve confusions that may be caused by the current language. In particular, the Department of Emergency Management requested the clarification of registration

¹ The Department of Motor Vehicles regulations can be found in 24 VAC 20-60.

requirements for shippers of hazardous radioactive materials and expects to eliminate the confusion on this issue.²

Businesses and Entities Affected

The proposed regulations apply to transporters of hazardous materials. According to the DMV data, as of January 31, 2002, there were 46,025 commercial driver licenses issued in Virginia with an endorsement to transport hazardous materials. Furthermore, there were 21 variances issued in 2001 to hazardous material drivers with disqualifying disabilities. Of the 21 variances issued, 18 were renewals and 3 were initial issuances.

Localities Particularly Affected

The proposed regulations apply throughout the Commonwealth.

Projected Impact on Employment

No significant impact on employment is expected.

Effects on the Use and Value of Private Property

The proposed regulations are not anticipated to have any significant impact on the use and value of private property.

² Source: Department of Environmental Quality