



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

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### **18 VAC 155-20 - Waste Management Facilities Operators Regulations Department of Professional and Occupational Regulation October 23, 2003**

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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 Board for Waste Management Facility Operators (board) proposes to make several changes to these regulations, including: 1) establishing that an individual operating a solid waste management facility that has been issued a permit by the Department of Environmental Quality, but for which the board has not established training and licensure requirements, shall hold a Class I license, 2) requiring that all licensure applicants have at least one year of work experience at a waste management facility, 3) specifying that a licensure applicant without a high school diploma or GED must have waste management facility experience during at least five of the preceding seven years, and 4) adding required topics for training courses. The board chose not to change licensing requirements for those operating municipal solid waste (MSW) composting facilities.

## Estimated Economic Impact

The current regulations do not specify what license would be required for an individual who operates a solid waste management facility that has been issued a permit by the Department of Environmental Quality, but which does not neatly fall into any of the currently defined facility categories. The board proposes to require that such individuals hold a Class I license until applicable training and licensing requirements are established by regulation. The Class I license is considered the entry-level license. This proposal is essentially a clarification, but it will likely provide some benefit in that it will eliminate some uncertainty for those considering what it will take to build and run a new type of waste management facility.

Waste management facility operator is defined as the person “who is in charge of the actual, on-site operation of a waste management facility during any period of operation.” The board proposes to require that each applicant for waste management facility operator licensure, regardless of other attributes, have at least one year of experience with a waste management facility prior to licensure. The board believes that the knowledge and skills necessary to competently be in charge of a waste management facility cannot be obtained with less than one year of experience. According to the department, virtually all licensure applicants do in practice already have at least one year of experience. Thus, this proposed amendment will have little effect.

In order to qualify for licensure, applicants must be either a high school graduate, possess a General Equivalency Diploma (GED), or have at least five years of verified experience with a management facility. The board proposes to require that applicants who possess neither a high school diploma nor a GED have their minimum five years of verified experience with a waste management facility during the preceding seven years in order to qualify for licensure. This proposal will be costly to school dropouts wishing to achieve a license who have less than five years work experience in waste facility management during the last seven years, but who have had cumulatively five years of experience further in the past. Such individuals will need to obtain more recent waste management facility work experience in order to apply for operator licensure. The reasoning for this proposed change concerns the evolving nature of technology and legal requirements for facility operators. Individuals with less than a full high school education and who have had limited recent experience may not be aware of recent important changes and may be less able to quickly pick up such information than better-educated colleagues. Mishandled waste

and legal violations can produce significant costs for public health, the environment, and the owners of the waste management facility. Whether the benefit of reduction in likelihood of mishandled waste and legal violations exceeds the cost to school dropouts of required additional recent work experience depends on how much the likelihood of mishandled waste and legal violations is reduced by requiring the additional recent experience. There is no current data available to estimate this probability.

These regulations list required topics for training courses specific to each license class. The board proposes some additional required topics for the lists. Training course providers may accommodate the new topics by reducing the time spent on other topics, or they may increase the time length of their course. Either way, there is a cost to adding the proposed topics. The proposed topics for addition do seem to be reasonable and relevant for their respective lists. For example, “identification of unauthorized waste” is added to the list of required topics for the board-approved basic training course. Thus, there will likely be some benefit to adding these topics. Since there is no minimum required amount of time for each topic, and the department does not inspect training course providers other than in response to complaints, course providers will continue to have significant latitude in terms of amount of time spent on each topic.

At the Notice of Intended Regulatory Action (NOIRA) stage, the board stated that “an amendment to...training and licensing requirements may be necessary to assure that those licensed to operate municipal waste composting facilities have sufficient and appropriate training, and are not required to undergo training pertinent to landfills that is of no value to a composting operation.” Following publication of the NOIRA, three of the four comments received by the agency, and published in the Proposed Regulation Agency Background Document, reiterated the need to address this issue. More specifically, the issue raised by the board and public comment appears to be that the current Class II licensing examination and training required of MSW composting facility operators are largely unrelated to the duties of MSW composting facility operators. Instead, it appears that the Class II licensing and training requirements are predominately for a municipal landfill operator. According to the Department of Environmental Quality, the vast majority of questions on the Class II licensure exam are about municipal landfills and have little or nothing to do with composting. Additionally, Class II license training

requirements appear to have very little to do with the operation of a composting facility.<sup>1</sup> The training topics are geared toward operation of municipal landfills.<sup>2</sup> For example, training in sanitary landfill design and construction, operation, and large landfill air operating permits are required, topics that are unrelated to the duties of a MSW composting facility operator. Nevertheless, the board has not chosen to address this issue in these proposed regulations.

By keeping the status quo, MSW composting facility operators waste time and expenses on training and examination preparation for knowledge and skills not related to their work. Assuming there is critical information operators need to have then their time and effort could be better spent on that knowledge.

If the board has good reason to believe that MSW composting facility operators need special training for their work in order to protect the public health and safety, then, under the current regulations, the board is allowing an unsafe condition to persist because these operators are not getting the training they need to protect the public. If, on the other hand, the board does not have such information, then the current regulation is forcing operators to take training that is not necessary to protect the public. Either way, these regulations fail to meet the minimum standards for good public policy by either imposing unnecessary costs or failing to protect the public safety.

## **Businesses and Entities Affected**

The proposed regulations affect the 1,100 waste management facility operators in the Commonwealth, as well as training providers.

## **Localities Particularly Affected**

The proposed amendments to the regulation will affect waste management operators statewide.

## **Projected Impact on Employment**

The proposed regulations may discourage some school dropouts from applying for operator licensure.

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<sup>1</sup> Sources: The Department of Environmental Quality and the Mid-Atlantic Composting Association.

<sup>2</sup> Ibid.

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

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