



Virginia Department of Planning and Budget Economic Impact Analysis

18 VAC 155-20 Waste Management Facility Operators Regulations **Department of Professional and Occupational Regulation** **Town Hall Action/Stage: 5727 / 9598** May 27, 2022 (revised on September 12, 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

The Board for Waste Management Facility Operators (Board) proposes to increase three of its four licensing fees for waste management facility operators.

Background

A "solid waste management facility" is defined as a site used for planned treating, long-term storage, or disposing of solid waste;² a facility may consist of several treatment, storage, or disposal units.³ Code of Virginia § 10.1-1408.2 requires that all solid waste management

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.

² Code § 10.1-1400 defines "Solid waste" as any garbage, refuse, sludge, and other discarded material, including solid, liquid, semisolid, or contained gaseous material, resulting from industrial, commercial, mining, and agricultural operations, or community activities, but does not include (i) solid or dissolved material in domestic sewage; (ii) solid or dissolved material in irrigation return flows or in industrial discharges that are sources subject to a permit from the State Water Control Board; (iii) source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended; or (iv) post-use polymers or recovered feedstocks that are (a) processed at an advanced recycling facility or (b) held at or held for the purpose of conversion at such advanced recycling facility prior to conversion.

³ See <https://law.lis.virginia.gov/vacode/title10.1/chapter14/section10.1-1400/>

facilities operate under the direct supervision of a waste management facility operator licensed by the Board.⁴

Code of Virginia § 54.1-201 states in part that:

A. The powers and duties of regulatory boards shall be as follows:

4. To levy and collect fees for certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the regulatory board and a proportionate share of the expenses of the Department of Professional and Occupational Regulation and the Board for Professional and Occupational Regulation.

For the last complete biennium the Board had \$49,622 of expenses allocated to it and \$41,000 collected on its behalf. Thus, expenses exceeded revenues by 21 percent.

The Board proposes to raise licensure renewal, late licensure renewal, and licensure reinstatement fees for waste management facility operators as shown in Table 1 below, but keep the licensure application fee constant. The Department of Professional and Occupational Regulation (DPOR) reports that fees were last increased in November 1994.⁵

Table 1: Current and Proposed Fees

Fee Type	Current Fee	Proposed Fee
Licensure application	\$75	\$75
Licensure renewal	\$50	\$85
Late licensure renewal	\$75	\$120
Licensure reinstatement	\$125	\$160

Estimated Benefits and Costs

Table 2 shows DPOR's projections for the Board's fiscal year-end balances with and without raising fees by the amounts listed in Table 1. For their estimates, DPOR assumed that the higher fees would be in place starting fiscal year 2024.

⁴ See <https://law.lis.virginia.gov/vacode/title10.1/chapter14/section10.1-1408.2/>

⁵ See page 90 at <http://register.dls.virginia.gov/vol11/iss01/v11i01.pdf>

Table 2: Fiscal Year-end Balance Projections

	June 30, 2022	June 30, 2023	June 30, 2024	June 30, 2025
With current fees	\$38,040	\$30,107	\$21,329	\$11,655
With proposed fees	\$38,040	\$30,107	\$31,259	\$31,515

Based on DPOR's projection of relative stability in balances once the proposed fees are implemented, it does appear that the fees would be sufficient to cover expenses.

The fees for waste management facility operator licensure were last changed (a reduction) in May 1999.⁶ Using the U.S. Bureau of Labor Statistics' seasonally adjusted Consumer Price Index (CPI), price levels have risen 74 percent since May 1999.⁷ Table 3 compares the proposed fees with what the fees would be if they were increased by the same percentage since the fees were last adjusted.

Table 3: Comparison of Proposed Fees with Inflation-Adjusted Fees

	Current Fee	Proposed Fee	Fee if Adjusted for Inflation
Licensure application	\$75	\$75	\$130
Licensure renewal	\$50	\$85	\$87
Late licensure renewal	\$75	\$120	\$130
Licensure reinstatement	\$125	\$160	\$217

Table 3 shows that the proposed fees are all less than what they would be if they were adjusted by the CPI-measured inflation that has occurred since the fees were last changed.

As solid waste management facilities statutorily may only operate under the direct supervision of a waste management facility operator licensed by the Board, enabling the Board to have sufficient funds to keep the licensure program active is beneficial. If solid waste

⁶ Source: DPOR. See also page 1937 at <http://register.dls.virginia.gov/vol15/iss13/v15i13.pdf>

⁷ More precisely, the price level has risen by 73.89 percent. When this report was written, the most recent available datum for seasonally adjusted CPI was for April 2022. That datum was used to calculate the increase in price levels since May 1999.

management facilities were to close down, solid waste could be left untreated, potentially causing harm to the environment and public health.

Businesses and Other Entities Affected

The proposed amendments affect the 603 licensed waste management facility operators⁸ and the 198 public and 144 privately owned solid waste management facilities⁹ that employ such operators are potentially affected.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.¹⁰ An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As the proposal raises fees, an adverse impact is indicated.

Small Businesses¹¹ Affected:¹²

Types and Estimated Number of Small Businesses Affected

Data are not available to determine how many of the 144 privately owned solid waste management facilities are associated with small businesses.

Costs and Other Effects

To the extent that some small businesses with solid waste management facilities may pay the licensure renewal fee for the waste management facility operator who is

⁸ Data source: DPOR

⁹ Data source: Department of Environmental Quality

¹⁰ 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.

¹¹ 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.”

¹² 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.

supervising their solid waste management facility, such firms may encounter the small increase in cost associated with the proposed higher fee.

Alternative Method that Minimizes Adverse Impact

There are no clear alternative methods that both reduce adverse impact and meet the intended policy goals.

Localities¹³ Affected¹⁴

As there are solid waste management facilities throughout the Commonwealth, no specific localities are known to be disproportionately affected. To the extent that some localities may pay the licensure renewal fee for a waste management facility operator who is supervising their solid waste management facility, such localities may encounter the small increase in cost associated with the proposed higher fee.

Projected Impact on Employment

The proposed amendments are unlikely to substantively affect employment.

Effects on the Use and Value of Private Property

To the extent that some businesses with solid waste management facilities may pay the licensure renewal fee for the waste management facility operator who is supervising their solid waste management facility, such firms may encounter the small increase in cost associated with the proposed higher fee. The potential increase in cost would not likely be large enough to substantively affect the actions and value of these firms. The proposed amendments do not affect real estate development costs.

¹³ “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.

¹⁴ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.