



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

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**18 VAC 155-20 Waste Management Facility Operators Regulations**  
**Department of Professional and Occupational Regulation**  
**Town Hall Action/Stage: 6166 / 10328**  
June 17, 2024

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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 19. The analysis presented below represents DPB's best estimate of the potential economic impacts as of the date of this analysis.<sup>1</sup>

## **Summary of the Proposed Amendments to Regulation**

Pursuant to Executive Directive Number One (2022), the Board for Waste Management Facility Operators (Board) proposes to 1) reduce the duration of the experience required for entry into the profession from one year to six months, 2) reduce the continuing education requirement from eight hours to six hours, 3) reduce the record retention period for providers of education courses from ten years to five years, 4) limit the look-back period for criminal convictions that must be disclosed to three years for any non-marijuana related misdemeanors and ten years for felonies, 5) eliminate the one year waiting period for re-licensure following a revocation, and 6) to make numerous editorial changes to improve the clarity of the regulatory language.

## **Background**

This regulation applies to those who engage in the operation of waste management facilities and establishes that such individuals obtain the appropriate licensure and training. Waste management facilities are used for planned treatment, storage, or disposal of

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<sup>1</sup> 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.

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nonhazardous solid waste. According to the Board, the operating of waste management facilities by those who lack sufficient expertise poses a risk to the public health, safety, and welfare. These risks include the potential for environmental damage. As such, the rules in this regulation protect the public health, safety, and welfare, in part, by establishing the minimum qualifications for entry into the profession.

The impetus for this action is Executive Directive Number One (2022), which directs Executive Branch entities under the authority of the Governor “...to initiate regulatory processes to reduce by at least 25 percent the number of regulations not mandated by federal or state statute, in consultation with the Office of the Attorney General, and in a manner consistent with the laws of the Commonwealth.”<sup>2</sup>

Consistent with the directive, the Board proposes to reduce the duration of the experience required entry into the profession from one year to six months; reduce the continuing education requirement from eight hours every two years to six hours every two years; reduce the record retention period for providers of education courses from ten years to five years; limit the look-back period for criminal convictions that must be disclosed from an unlimited period of time (i.e., all convictions must be disclosed) to only requiring disclosure of non-marijuana related misdemeanors that occurred in the last three years, and felonies that occurred in the last ten years; eliminate the one year waiting period for re-licensure following a revocation, thereby allowing the applicant to immediately re-apply for licensure if all other requirements are met; and to make numerous editorial changes to improve the clarity of the regulatory language.

### **Estimated Benefits and Costs**

One of the proposed changes would reduce the minimum required amount of verified experience from one year to six months. This change could potentially allow individuals to enter the profession as much as six months earlier than currently allowed in the regulation, contingent upon passing the license examination. Such individuals may be able to earn income as a licensed professional more quickly than before.

The Board reports that on average, it approves about 70 individuals per year to sit for the license examination. Such individuals must meet the training and experience requirements in the

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<sup>2</sup> <https://www.governor.virginia.gov/media/governorvirginiagov/governor-of-virginia/pdf/ed/ED-1-Regulatory-Reduction.pdf>

regulation in order to qualify for the examination. The Board estimates that the reduced experience requirement would result in a 25 percent increase per year in the number of individuals who would be approved for the license examination (equating to approximately 18 additional individuals per year). The median monthly salary for a licensed waste management workers is \$3,640.<sup>3</sup> Assuming that the same individual without a license could earn the \$12 per hour minimum wage<sup>4</sup> at another job, and using 1,760 hours per year as constituting full time employment as per the Board, his monthly compensation would be \$1,760. Thus, the monthly value of having the license could be estimated to be \$1,880 or \$11,280 over a period of six months. Considering the median monthly wage of \$3,640 per month may be on the high end for a newly licensed professional, the total benefit in terms of higher earning capacity for all 18 additional licensed individuals could be up to \$203,040.

Another proposed change would reduce the required continuing education hours from eight per license renewal cycle (every two years) to six, allowing licensees to save two hours of time biennially. The Board reports that as of April 10, 2024, there were 615 licensed waste management facility operators; this translates to a time savings of 1,230 hours for all licensees per biennium, or 615 hours each year. The estimated value of 615 hours per year using the implied hourly wage of \$24.82 (i.e.,  $\$3,640 \times 12 \text{ months} / 1,760 \text{ hours}$ ) is \$15,263. The Board reports that most employers in this industry pay for the costs associated with obtaining and maintaining the licenses held by their employees and that most continuing education classes are provided by employers, non-profit organizations, or training providers at no cost. Thus, no savings in continuing education course charges are expected, but some providers may enjoy an additional 615 hours of productive time if their policy is to allow their employees complete continuing education on company time.

The proposal also includes other reductions in regulatory burdens. For continuing education course providers, these include reduced record keeping costs from having to retain course participant records for only five years as opposed to ten years. Additionally, waste management employees may directly benefit from not having to disclose any felony prior to the last ten years and any non-marijuana misdemeanor prior to the last three years. This change

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<sup>3</sup> Source: The Board

<sup>4</sup> Source: <https://www.dol.gov/agencies/whd/minimum-wage/state>

reduces the stringency of the regulation and would allow individuals with older criminal histories to qualify for licensure. It may also indirectly benefit employers in this industry by expanding the pool of qualified employees. Similarly, the proposed change that would remove the one year waiting period for re-licensure following the revocation of a license would allow such individuals to immediately apply as a new applicant (if they meet the other entry requirements) without having to wait for a year; this may benefit the employee and employer (or a prospective employer) should a license revocation occur. However, the Board reports that revocation of a license is highly infrequent in this profession as there have not been any revocations as far back as the staff can remember.

The remaining changes are editorial in nature and are expected to improve the clarity and understandability of the regulatory language.

### **Businesses and Other Entities Affected**

According to the Board, as of April 10, 2024, there were 615 waste management facility operators. No operator appears to be disproportionately affected.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>5</sup> An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.<sup>6</sup> As noted above, the proposal would provide direct benefits to the waste management operators and indirect benefits to the employers. Thus, no adverse impact is indicated.

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<sup>5</sup> 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.

<sup>6</sup> 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. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

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### **Small Businesses<sup>7</sup> Affected:<sup>8</sup>**

According to the Board, licenses issued under this regulation are issued to individuals, and not to business entities. However, many licensees are likely employees of business entities that meet the definition of "small business" in § 2.2-4007.1 of the Code of Virginia although, the proposed amendments do not adversely affect any entity, including small businesses.

### **Localities<sup>9</sup> Affected<sup>10</sup>**

The Board reports that many waste management facilities are owned or operated by localities. Facility owners may provide their licensed operators with continuing education training. Such facility owners would likely benefit from the reduced record retention requirement in terms of facing lower costs associated with keeping records. The proposed amendments do not introduce costs for local governments.

### **Projected Impact on Employment**

The projected impact on total employment is likely mixed. The proposed changes would allow potential licensees earn higher wages sooner. However, new licensees would likely quit other jobs to become licensed. The net impact on total employment largely depends on new persons entering the labor force to replace the workers who would become a licensed waste management operator. Thus, the impact on total employment is not clear.

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

No direct effect on the use and value of private property nor on real estate development costs is expected.

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<sup>7</sup> 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."

<sup>8</sup> 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.

<sup>9</sup> "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.

<sup>10</sup> § 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.