



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

9 VAC 20-121 Regulated Medical Waste Management Regulations

Department of Environmental Quality

Town Hall Action/Stage: 6631 / 10549

December 6, 2024

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.¹

Summary of the Proposed Amendments to Regulation

The Virginia Waste Management Board (Board) proposes to update the version of *Managing Solid Waste Contaminated with a Category A Infectious Substance*, which is a federal guidance document incorporated by reference in *Regulated Medical Waste Management Regulations* (9 VAC 20-121), to the current version dated April 2024. The Department of Environmental Quality (DEQ) reports that referencing the latest version of the document would ensure that the regulation remains consistent with federal requirements on managing medical waste that is contaminated with substances that could spread highly infectious diseases.

Background

DEQ reports that Category A waste is a subset of regulated medical waste that is contaminated with a Category A infectious substance, which can cause permanent disability or fatal disease to otherwise healthy persons who may become exposed to it. Accordingly, both federal and state regulations have more stringent management standards for Category A waste

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.

than for other types of regulated medical waste to prevent the spread of highly infectious disease. Section 160 of the regulation covers the specific requirements for the management of Category A waste and incorporates by reference the following sections of *Managing Solid Waste Contaminated with a Category A Infectious Substance* (June 2022):

- Section 3: Overarching Planning Considerations
- Section 5: Waste Generator Information & Responsibilities
- Section 6: Waste Transporter Information & Responsibilities
- Section 7: Waste Treatment Information & Responsibilities
- Section 8: Final Disposal Information & Responsibilities

The Board does not seek to amend Section 160 of the regulation; thus, under the proposed amendment, Section 160 would refer to the same sections of the April 2024 version of the federal guidance document.

DEQ reports that this federal guidance document was updated in April 2024 by the National Security Council-led Countering Biological Threats Interagency Policy Committee, in collaboration with numerous federal agencies, including but not limited to the Centers for Disease Control and Prevention, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Environmental Protection Agency, and Occupational Safety and Health Administration. Furthermore, the changes in the 2024 version of the document make it easier for patient waste contaminated by Mpox virus to be managed. Under the 2022 version of the document, patient waste contaminated by Mpox Clade I (formerly known as the Congo Basin clade) was considered Category A, which requires more stringent management than other types of regulated medical waste. However, under the 2024 version of the document, patient waste contaminated by Mpox Clade I (as well as other clades) is no longer considered Category A. Under the 2024 version of the document, Mpox is only considered Category A under limited circumstances, when Mpox Clade I viruses are intentionally propagated/cultured.

Estimated Benefits and Costs

The proposed amendments largely serve to clarify and update the requirements for the safe disposal of Category A waste. Because the changes to the 2024 version of the federal guidance document specifically make patient waste contaminated by Mpox virus easier to manage and does not add any new diseases to the Category A list or increase requirements for

Category A waste, the proposed changes are not expected to create new costs. The proposed amendment would benefit medical or research facilities that generate Category A waste, as well as other entities that are involved in transporting, processing, and disposing of such waste, by ensuring that they can easily locate the current federal guidance and best management practices alongside the state regulatory requirements in one place.

Businesses and Other Entities Affected

The proposed amendments would affect all entities involved in generating, transporting, treating, and disposing Category A waste. DEQ has not provided a count of such entities. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.² 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.³ As the proposed amendments neither increase net costs nor reduce net benefits, no adverse impact is indicated.

Small Businesses⁴ Affected:⁵

The proposed amendments do not adversely affect small businesses.

² 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.

³ 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.

⁴ 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.”

⁵ 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.

Localities⁶ Affected⁷

The proposed amendments do not disproportionately affect particularly localities or affect costs for local governments.

Projected Impact on Employment

The proposed amendments do not affect total employment.

Effects on the Use and Value of Private Property

The proposed amendments neither affect the use and value of private property nor real estate development costs.

⁶ “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.

⁷ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.