Economic Impact Analysis
Virginia Department of Planning and Budget

9 VAC 20-70 – Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities
Department of Environmental Quality
February 13, 2013

Summary of the Proposed Amendments to Regulation

The Virginia Waste Management Board (Board) proposes to amend its financial assurance regulations so that local governments do not have to provide an additional form of financial assurance if their environmental liabilities (closure, post closure or corrective costs for landfills, treatment facilities, etc.) are greater than 20% of the locality's revenues but less than or equal to 43% of their revenues.

Result of Analysis

Benefits likely outweigh costs for this proposed action.

Estimated Economic Impact

Currently, Virginia regulations, as well as federal rules, allow local governments that meet certain financial requirements (9 VAC 20-70-210 – Local government financial test) to use their sound financial position to assure that they will be able to pay for their environmental liabilities as they come due so long as those environmental liabilities are not greater than 43% of their revenues each year. Virginia additionally requires localities with environmental liabilities that are greater than 20% (but are less than or equal to 43%) of a locality's revenues to provide some other tangible financial assurance that the locality will be able to meet its obligations. A locality may currently meet this additional requirement by establishing either:

1) A restricted sinking fund,
2) An escrow account managed by a third party escrow agent or
3) A letter of credit.

The Department of Environmental Quality (DEQ) reports that this additional requirement is more stringent than the federal requirement. DEQ further reports that only a few localities are currently required to provide the additional assurance and that the Board considers the requirement for the additional assurance to be overly burdensome. Consequently, the Board now proposes to eliminate this additional requirement and allow localities to use the local government financial test to assure that they can meet their financial obligations.

Affected localities will benefit from this change as they will no longer have funds tied up in the additional financial assurance and can use those funds to meet other budget obligations. Since only localities that are in sound financial shape will pass the financial test in these regulations, the probability that citizens of these localities will suffer some harm from environmental issues that the locality is unable to afford fixing, and that they would have been able to fix with the additional assurance, is likely low. The benefits of this proposed regulatory change likely outweigh its costs.

Businesses and Entities Affected

DEQ reports that this regulatory change will potentially affect all local governments in Virginia.

Localities Particularly Affected

Localities whose environmental liabilities are currently greater than 20%, but less than or equal to 43%, of their annual revenue will benefit from this regulatory action.

Projected Impact on Employment

This regulatory action will likely have little to no impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property

This regulatory action will likely have little to no effect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects

This proposed regulatory change does not affect any private business.

Small Businesses: Alternative Method that Minimizes Adverse Impact

This proposed regulatory change does not affect any private business.

Real Estate Development Costs

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H 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. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.