

# VIRGINIA WASTE MANAGEMENT FACILITY OPERATORS REGULATIONS

## Statement of Basis, Purpose, Substance, Issues and Economic Impact

### Agency Response to the Economic Impact Analysis Prepared by the Department of Planning and Budget

This statement is prepared and submitted in compliance with the Virginia Administrative Process Act, specifically § 9-6.14:7.1 H of the *Code of Virginia*.

#### **Basis:**

Chapter 22.1 of Title 54.1 of the *Code of Virginia* creates the statutory authority for the waste management facility operators regulatory program.

Sections 54.1-2211 and 54.1-2212 of the *Code of Virginia* mandate that the Board for Waste Management Facility Operators implement Chapter 22.1 of Title 54.1 of the *Code of Virginia*, by promulgating regulations that include requirements for:

1. Training and licensing;
2. Classes of training and licensing based upon the type of waste management facility for which a waste management facility operator seeks a license;
3. Training and licensing requirements based upon the type of facility and the type of waste managed at the facility;
4. Training programs approval;
5. License required for all waste management facility operators.

The proposed regulations implement each of the above in a manner believed to be the least burdensome on the regulated industry while providing protection to the public against incompetent or unqualified persons engaging in the profession of waste management facility operators.

#### **Purpose:**

This is a revision to the existing regulation (18 VAC 155-20-10, et seq.) adopted November 2, 1994 as the Board for Waste Management Facility Operators Rules and Regulations. The purpose of the proposed regulations is to set standards for the licensing and conduct of individuals who are responsible for the operation of waste management facilities. It is necessary to regulate these individuals to protect the health, safety and welfare of our citizens and our environment.

#### **Substance:**

The proposed revisions will:

- Revise definitions;
- Delete the interim certification (which is sunsetted by the current regulation language);
- Delete the Class V certification;
- Issue one license with all qualifying classifications;
- Delete the continuing education requirement;
- Delete the approval of CPE sponsors;
- (The fees charged under these regulations are being reduced in compliance with § 54.1-113 of the Code of Virginia. Section 9-6.14:4.1( C )(9) of the Code of Virginia exempts fee reductions from the operation of Article 2 of the Administrative Process Act (public participation.) For this reason, the fee reduction is being done as a separate, exempt regulatory action. Information concerning that action is enclosed as Attachment 12.)

**Issues:**

The Board has determined that the Public will benefit from waste management facilities being operated only by individuals who have met the valid and reasonable licensing standards established by the current regulations and these revisions thereto.

Decreasing the fees charged to the regulants will work towards putting the generated revenue in line with the Callahan Act (§ 54.1-113 of the Code of Virginia). The fee reduction will be less burdensome to the regulants (see Attachment 12 for details on this separate, exempt regulatory action).

Revising the definitions to reflect the terms currently used by the industry will provide a common vocabulary to enhance the understanding of the regulations by the public, the Board and those regulated.

Deleting the interim certification removes a sunsetted portion of the existing regulation and the deletion of the interim certification is merely housekeeping.

Changing the method of issuing and renewing licenses to one license listing all qualifying classifications will simplify licensing and lower costs.

Deleting the Class V license (a license which merely denotes Class I through IV) because it is no longer needed under the new licensing scheme.

Deleting the continuing professional education (CPE) requirement implements the Board's determination that the Department of Environmental Quality (DEQ) facility permit currently requires training for waste management facility operators which is adequate and makes the CPE requirement unnecessary. An unnecessary burden on industry is thereby removed.

The deletion of the CPE requirement eliminates the need for a means to approve CPE sponsors; the provisions for CPE sponsors are being deleted.

Revising the language to enhance clarity and correct errors in grammar, etc., enables the public and those regulated to more clearly understand what the Board expects from its regulants and the consequences of failing to comply.

It is anticipated that the Board will review its regulations within two years after adoption. Fee structures are reviewed biennially by Department of Professional and Occupational Regulation staff for compliance with § 54.1-113 of the Code of Virginia.

### **Economic Impact:**

The revised regulations will affect approximately 500 individuals employed by government agencies and private industry to operate waste management facilities.

The cost to obtain full licensure under the proposed fee reduction is estimated to range between \$1,000 and \$1,200 per individual. The application fee is \$75, the examination fee is \$150 and to complete the required training courses is estimated to range from \$600 to \$800. The cost will increase by \$150 each time an applicant sits for and fails the examination. These estimates do not include the cost of travel, lodging and meals necessary to attend training and sit for the examination, or the cost to the facility for the applicant's time away from the facility, as these costs will vary greatly. The change in method of issuing licenses will result in the savings of the biennial renewal fee for some individuals who hold a license for more than one classification of facility. The elimination of the continuing professional education (CPE) requirement will eliminate the requirement to attend 10 hours of CPE during each biennium and will result in the savings of as much as several hundred dollars per biennium. The savings will be greater for those who must incur travel, lodging, meals and time away from work costs in order to complete CPE. (Note: the fees mentioned above are being reduced as a part of a separate, exempt regulatory action. The fee reduction should be in effect on May 1, 1999 and will further reduce the economic impact of these regulations.)

### **Agency Response to the Economic Impact Analysis prepared by the Department of Planning and Budget:**

The agency agrees with the Economic Impact Analysis prepared by the Department of Planning and Budget.

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