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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) Chapter citation(s)	9 VAC20-60
VAC Chapter title(s)	Virginia Hazardous Waste Management Regulations
Date this document prepared	April 25, 2023

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

CFR – Code of Federal Regulations
VHWMR – Virginia Hazardous Waste Management Regulations

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The Waste Management Board is authorized by subdivision 11 of §10.1-1402 of the Code of Virginia to promulgate and enforce regulations to carry out the intent of Chapter 10.1 of the Code of Virginia. Section 10.1-1426 of the Code of Virginia requires permits for the storage, treatment and disposal of hazardous

waste and permits are to contain the requirements required by the Board's regulations. Federal requirements for the management of hazardous waste are found in 40 CFR Parts 260-279, and this regulation incorporates provisions of federal regulations into state regulation.

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

Virginia incorporates federal regulations by reference into state regulations. One alternative considered was the adoption of regulatory language that is unique to Virginia but that is similar to the requirements of federal regulations. This alternative was rejected since it would add an additional level of complexity to the regulations for the regulated community. The incorporation by reference of federal regulations into state regulation facilitates the updating of the state regulation to retain consistency with federal regulations. The incorporation of federal regulations by reference into state regulation also benefits the regulated community by minimizing differences between state and federal hazardous waste regulatory requirements.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and provide the agency's response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response
Chris Arcangeli	<p>Hazardous waste needs regulation</p> <p>In the wake of the East Palestine train derailment, we need to take steps to prevent that kind of disaster from happening in our state. Exemptions for small business will not accomplish this. Strict safety regulations will keep both the citizens of the Commonwealth and it's natural beauty safe.</p>	It is being recommended that these regulations be retained in their entirety.
Anonymous	<p>Deregulations Are Anti-Virginian</p> <p>Deregulation of the environment puts the very people of this state at risk.</p>	It is being recommended that these regulations be retained in their entirety.
anon	<p>Regulations are Necessary</p> <p>The decrease in regulatory requirements would put Virginians at risk. Protections are necessary. It is not a question. Putting yourself in the pockets of corporations will not benefit you in the long run. This is not a move for Virginians, it is a move for Youngkin. He is not for the people, we do not want this. You are elected by the people and are supposed to work for the people, not take handouts from corporations that couldn't care less about us.</p>	It is being recommended that these regulations be retained in their entirety.

<p>A Fellow</p>	<p>Hazardous Choices</p> <p>A lot of modern materials are rather hazardous, and even in "small" quantities. The recent incidents in the news have demonstrated such. Clearly, it's important to make sure everyone follows the same rules. Said rules make sure that materials/substances are handled in a way that minimizes risk of such hazards being introduced to environments they are harmful to, whether that be where we are settled, or the surrounding landscapes that we often trek. The economic impacts of hazardous spills or incidents are long term costs, and high ones. Pinning those on the one's responsible, the businesses that failed, is also an administrative cost that doesn't seem to be considered often enough. Keeping regulations saves the government the work of exacting justice, and keeps our citizens safer.</p> <p>Additionally, adjusting rules to not affect all corporate entities leaves a rather concernable loophole of using many small businesses to stay under the safety regulations, in which these corporations would be the same in all but name. They would have the same impact as a large business but somehow still be legal, defeating the point of repealing the current regulations. Companies have already demonstrated in many cases that they can, and will, do such things to cut costs, and the costs of such activities will be left on us, unfairly.</p> <p>Understand that whatever benefits one thinks they see currently by deregulation of this extent in industry, they will be cost far more in the future.</p>	<p>It is being recommended that these regulations be retained in their entirety.</p>
<p>Anonymous</p>	<p>Regulations must be kept in place for everyone's safety</p> <p>Small businesses should not be exempt from hazardous waste regulations. These regulations are put in place for good reasons, and we have done enough damage to our earth as is. The only way we prevent more of this damage is by stepping in now and forcing these businesses to dispose of hazardous waste correctly.</p>	<p>It is being recommended that these regulations be retained in their entirety.</p>
<p>Anonymous</p>	<p>Don't repeal hazardous waste regulations</p> <p>Small businesses should not be exempt from hazardous waste regulations. These regulations were put in place for a reason and they should stay in place</p>	<p>It is being recommended that these regulations be retained in their entirety.</p>
<p>Catherine Sword</p>	<p>Regulations are regulations, they should affect everyone equally</p> <p>When it comes to safety, everyone ought to follow the same guidelines. Just because one organization is smaller, does not mean that there should be less regulations on the way they handle hazardous waste. Waste is still dangerous, the size of an organization who makes it is irrelevant. If they cannot safely deal with the byproducts of their manufacturing processes, then</p>	<p>It is being recommended that these regulations be retained in their entirety.</p>

	perhaps they should not be manufacturing hazardous substances in the first place.	
Anonymous	<p>Don't like this change</p> <p>I worry that the drafting of this was done hastily. Especially because of the recent train derailment, it seems unwise to drastically reduce regulations so much.</p>	It is being recommended that these regulations be retained in their entirety.

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

This regulation continues to be needed to protect public health, safety, and welfare. The regulation establishes requirements for the treatment, storage, and disposal of hazardous waste and incorporates federal requirements into state regulation. The regulation is clearly written and understandable.

Decision

Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.

The requirements of the regulation continue to be needed and the regulation is being retained without changes.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

The regulation continues to be needed to regulate the treatment, storage and disposal of hazardous waste.

Eight comments were received on the regulation during the comment period for the periodic review. All the comments related to the need to keep the existing VHWMR applicable to small businesses.

The regulation is technical and complex in nature. The regulation adopts federal regulations into state regulation and minimizes confusion concerning applicable requirements. This regulation does not conflict with federal or state laws or regulations.

The most recent amendment to incorporate 40 CFR into this regulation became effective January 18, 2023. This regulation is typically updated annually as necessary to address changes that are made to the federal regulation and to maintain consistency with federal requirements. Annual updates minimize the impact the regulation has on all regulated entities (including small businesses) associated with complying with federal requirements that potentially may be changed throughout the year.

Family Impact

Please assess the potential impact of the regulation's impact on the institution of the family and family stability.

The regulation generally benefits families by establishing requirements for the treatment, storage and disposal of hazardous waste that serve to protect against the risks to life, property, and the environment.