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Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) citation	9VAC20-60
Regulation title	Virginia Hazardous Waste Management Regulations
Action title	Annual Update 2017
Final agency action date	January 8, 2018
Document preparation date	November 16, 2017

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The Virginia Hazardous Waste Management Regulations, 9VAC20-60, include citations and requirements in the form of incorporated federal regulatory text at Title 40 of the Code of Federal Regulations (CFR). This regulatory amendment will bring these citations up to date and incorporate the latest Title 40 of the CFR to the one as published in the July 1, 2017 update.

As part of this regulatory action, the Board is adopting EPA's Imports and Exports of Hazardous Waste final rule as promulgated on November 28, 2016. The purpose of this final rule is to: provide greater protection to human health and the environment by making existing export and import-related requirements more consistent with the current import-export requirements for shipments between members of the Organization for economic Cooperation and Development (OECD); enabling electronic submittal to EPA of all export and import-related documents, and by enabling electronic validation of consent in the Automated Export System for export shipments subject to RCRA export consent requirements prior to exit. The requirements of this rule as incorporated into 40 CFR 262 Subpart H will be administered by EPA through states

have been encouraged to incorporate these requirements into their regulations for the convenience of the regulated community and for completeness.

Also, as part of this regulatory action, the Board is adopting EPA’s Hazardous Waste Generator Improvements Rule final rule as promulgated on November 28, 2016. The purpose of this final rule, which provides over 60 revisions and new provisions to the hazardous waste regulatory program, is to: reorganize the hazardous waste generator regulations to make them more user-friendly and thus improve their usability by the regulated community; provide a better understanding of how the RCRA hazardous waste generator regulatory program works; address gaps in the existing regulations to strengthen environmental protection; provide greater flexibility for hazardous waste generators to manage their hazardous waste in a cost-effective and protective manner; and make technical corrections and conforming changes to address inadvertent errors and remove obsolete references to programs that no longer exist.

Sections 2.2-4006 A 3 and A 4 (c) of the Code of Virginia allows the Board to adopt this regulatory amendment to 9VAC20-60 as a final exempt action as the changes are necessary to correct technical errors and to conform to changes in the federal regulations.

Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The Virginia Waste Management Board approved this amendment, Annual Update 2017, to 9VAC20-60 on January 8, 2018, as a final regulation and affirmed that the Board will receive, consider and respond to requests by any interested person at any time with respect to reconsideration or revision.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

There is no impact on the institution of the family or family stability.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

This regulatory amendment will revise the Virginia Hazardous Waste Management Regulations in order to incorporate the final federal rules.

Current section	Current requirement	Proposed change and rationale
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number		
9 VAC 20-60-17	Incorporates U.S. EPA federal documents by reference.	<ul style="list-style-type: none"> • Added definition of Assistant Administrator • Added definition of Regional Administrator • Added definition of State Director
9VAC20-60-18	Adoption of 40 CFR Part 18 by reference.	Change the language to reflect that Title 40 of the Code of Federal Regulations is incorporated as it existed and has been published in the July 1, 2017 update.
9VAC20-60-260	Adoption of 40 CFR Part 260 by reference	Changed definitions of AES filing compliance date and Electronic import-export reporting compliance date to reflect that the term EPA used in these definitions refers to the EPA not DEQ.
9VAC20-60-261	Adoption of 40 CFR Part 261 by reference.	<ul style="list-style-type: none"> • 9VAC20-60-261 B 5 is now reserved as this section has been moved to 9VAC20-60-262. • 9VAC20-60-261 B 10 has been added to reflect that in Part 261 Subpart E, the term EPA shall mean EPA not DEQ. • 9VAC20-60-261 B 11 has been added to reflect that in 40 CFR 261.2(a), reference to 40 CFR 260.30, 260.31. and 260.34 are replaced by analogous provisions of 9VAC20-60-1370 et seq. • 9VAC20-60-261 B 12 has been added to indicate that in 40 CFR 261.3(a)(2), reference to exclusion under 260.20 and 260.22 are not incorporated by reference.
9VAC20-60-262	Adoption of 40 CFR Part 262 by reference	<ul style="list-style-type: none"> • 9VAC20-60-262 B 2 has been revised to reflect that 262.12 has been moved to 262.18, and 40 CFR 262 Subpart H now replaces 40 CFR 262.53, 262.54, 262.55, 262.56, and 262.57. • 9VAC20-60-262 B 3 has been revised to reflect that 262.12 has been moved to 262.18, and 40 CFR 262 Subpart H now replaces 40 CFR 262.53, 262.54, 262.55, 262.56, and 262.57. • 9VAC20-60-262 B 4 has been changed to reflect the moving of generator requirements from 40 CFR 262.34 to 40 CFR 262.17 and 18. • 9VAC20-60-262 B 11 has been changed to show that in 40 CFR 262.11(c) and (d), the term administrator means the administrator of EPA. • 9VAC20-60-262 B 12 has been moved from 9VAC20-60-261 as it makes reference to part 262 regulations, not 261. • 9VAC20-60-262 B 13 has been changed to show that in 40 CFR 262 Subpart H, the term administrator means the administrator of EPA to reflect that EPA will be administering the import-export program.
9VAC20-60-263	Adoption of 40 CFR Part 263 by reference	<ul style="list-style-type: none"> • 9VAC20-60-263 B 2 has been changed to add 263.10(d) and 263.20(a)(2) to those sections noted that are not incorporated by reference.
9VAC20-60-264	Adoption of 40 CFR Part 264 by reference	<ul style="list-style-type: none"> • Changed citation in 9VAC20-60-264 B 5 to correct from 264.56(j) to 264.56(i). • Removed 9VAC20-60-264 B 7 due to changes in 40 CFR that have made this language no longer

		<p>necessary</p> <ul style="list-style-type: none"> • In 9VAC20-60-264B 9, added the word “company” which had been previously missing but is necessary to the context of the sentence • 9VAC20-60-264 B 35 has been added to reflect that Director means the Director of the Department of Environmental Quality • 9VAC20-60-264 B 36 has been moved here from 9VAC20-60-270 where it had been incorrectly placed.
9VAC20-60-265	Adoption of 40 CFR Part 265 by reference	<ul style="list-style-type: none"> • Changed citation in 9VAC20-60-265 B 5 to correct from 265.56(j) to 265.56(i). • 9VAC20-60-265 B 12 has been changed to show that in this section EPA means EPA not DEQ as it refers to import-export notices.
9VAC20-60-268	Adoption of 40 CFR Part 268 by reference	<ul style="list-style-type: none"> • 9VAC20-60-268 B 3 has been changed to remove outdated citations, add the initials CFR where previously missing, and to indicate that the term administrator should be applied from 40 CFR 268.44(a) through (m), not (g). • 9VAC20-60-268 B 4 has been corrected to show that the noted terms appear in 268.7(d), not 268.9(d).
9VAC20-60-270	Adoption of 40 CFR Part 270 by reference	<ul style="list-style-type: none"> • 9VAC20-60-270 B 12 has been moved to 9VAC20-60-264, and B 12 is now reserved.
9VAC20-60-273	Adoption of 40 CFR Part 273 by reference	<ul style="list-style-type: none"> • 9VAC20-60-273 B 4 has been added to show that 273 Supart F is being administered by EPA, not by DEQ. • 9VAC20-60-273 B 5 has been added to show that petitions to add Universal Wastes must be addressed to EPA not DEQ.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The regulations apply to all facilities, including small businesses. Any (1) establishment of less stringent compliance or reporting standards; (2) establishment of less stringent schedules or deadlines for compliance and reporting requirements; (3) consolidation or simplification of compliance or reporting requirements; (4) establishment of performance standards for small businesses to replace design or operational standards required in the regulation; or (5) exemption of small businesses from all or any part of the requirements contained in this regulation for all small businesses would directly, significantly and adversely affect the benefits that would be achieved through the implementation of the regulations.

Conforming state regulations to those of the EPA is necessary to maintain federally-granted authority to implement the national programs. Facilities benefit from state implementation of the program as they have easier access to decision makers with a clearer understanding of state-specific issues and needs.

Acronyms and definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

CFR – Code of Federal Regulations

DSW – EPA's definition of solid waste rule including the 2017 revisions

FR – Federal Register

EPA – United States Environmental Protection Agency

VAC – Virginia Administrative Code