


townhall.virginia.gov

Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) citation(s)	9VAC20-150
Regulation title(s)	Waste Tire End User Reimbursement Regulation
Action title	<i>Revisions to make the regulation consistent with terminology in state statute, clarify regulatory requirements, and make reporting requirements more flexible</i>
Final agency action date	June 20, 2016
Date this document prepared	May 16, 2016

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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 Waste Tire End User Reimbursement Regulation describes the uses of waste tire materials that are eligible for reimbursement from the Waste Tire Trust Fund. The regulation details uses of waste tires that are eligible for reimbursement, the reimbursement rates for tires removed from Virginia tire piles and for tires discarded in Virginia, and the application process for reimbursement from the Waste Tire Trust Fund.

The Waste Tire End User Reimbursement Regulation is being amended to be consistent with terminology in state statute. Portions of the regulation are being clarified to make the regulations easier to understand. The regulation is also being amended to allow more flexibility to the regulated community concerning the reporting requirements for waste tires eligible for reimbursement.

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.

VDL- Virginia driver’s license number

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 to the Waste Tire End User Reimbursement Regulation (9VAC20-150) on June 20, 2016 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.

Public Comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

The department held an informal public comment period on the revisions to this regulation May 2, 2016 through May 13, 2016. The following comments were received during the informal comment period.

Commenter	Comment	Agency response
Mark Rannie, Vice President, Emanuel Tire of Virginia Inc.	Tracking of Virginia tires through WTC multi part documentation is critical to the success of the program. Careful review should be given to any new procedure or tracking changes to the documentation methods. The department needs to be sure of the	The agency agrees that tracking of Virginia waste tires is critical to the success of the program. It is important to verify the waste tires are generated in Virginia and the regulations are being modified to require the physical location of where the waste tires were generated to be submitted as part of the reimbursement process.

	accuracy of information and its reporting methods as not to jeopardize the integrity and potential abuse of the program.	
Christopher L. Kuhn, Virginia Recycling Corp.	Since the subsidy was decreased 2 years ago and the demand of Tire derived fuel has decreased due to falling fuel prices, scrap Tire recycling has come into a very precarious situation. Loss of revenue may force large Recyclers out our region. Tipping fees over the past 5 years have remained steady. However, if the subsidy cannot be raised to a level for alternative uses,(l.e. daily landfill cover), again, tipping fees on tires will be doubled or tripled in order to make ends meet with higher cost for disposal versus end use.	§58.1-641 of the Code of Virginia establishes the tire recycling fee collected when each new tire is sold by a retailer. Prior to 2011, statute established a tire recycling fee of \$1.00 per tire. On July 1, 2011, statute was amended and the tire recycling fee was reduced to \$.50 per new tire. 9VAC20-150-80 establishes the maximum amounts of reimbursement for waste tires, depending on their origin. This amendment is not proposing to change the maximum reimbursement rates. The current reimbursement rate for “current flow” tires is \$15. The reimbursement rate is based on funding available in the Waste Tire Trust Fund and is not established by regulation. The reimbursement rate was previously reduced due to a reduction in the tire recycling fee. The reimbursement rate may be adjusted by the department outside of the regulatory process.

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.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
10		Definitions	Definitions are being revised to be consistent with statutory terms. The term “collector” is being added to the definition section since this term is used throughout the regulation.
	25	New section added titled “Compliance with other requirements”	This new section has been added to remind readers that there may be other applicable requirements that must be adhered to besides this regulation when removing tires from tire piles and processing waste tires.
30		Regulations review	This section is no longer needed and is being repealed. The regulations are reviewed periodically as required by the Governor's executive order.
40		End uses of waste tires eligible for reimbursement	Terminology is being revised to be consistent with terms used in statute. This section is being restructured to clarify the requirements of the section.
50		Eligible end users	Language in this section is being clarified.

			Individuals that distribute products made from waste tire materials are not eligible for end user reimbursement.
80		Maximum amount of reimbursement	The regulation is being revised to remove outdated reimbursement rates that are no longer applicable. This section has been restructured to list the different maximum reimbursement rates in separate subsections.
100		Qualifications as Virginia generated Waste tires	Subsection C. has been removed from this section. This concept is now addressed through the addition of a new section of the regulation, section 25.
110		Documentation	This section has been restructured. The section requires information listed on form DEQ-WTC to be submitted to the department when requesting reimbursement. Form DEQ-WTC is not required to be used. This change allows more flexibility concerning the format of information submitted for consideration as part of the reimbursement process.
120		Application for reimbursement	The minimum reimbursement application amount of 50 tons of waste material used is being reduced to 10 tons of waste material used. The section is also being modified to allow amounts lesser than the specified quantities to be considered for reimbursement on a case by case basis. Language concerning quarterly and monthly submittals to DEQ for reimbursement has been removed. Applicants may apply at any time for reimbursement.
130		Review of application	The requirement for DEQ to review a reimbursement application within 3 working days of receipt has been revised. DEQ will review reimbursement applications within 10 days of receipt for completeness. Language concerning the steps to be taken by an applicant if they believe DEQ has made an error processing the application has been revised to make it easier to understand.
Forms			Form DEQ-WTC is being added to the regulation. This form was previously mentioned in the regulation but was not part of the regulation.

Throughout this regulation the term "director" has been replaced with the term "department".

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.

As part of the amendment process the department considered the use of alternative regulatory methods including: 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.

When revising this regulation, the agency considered alternative regulatory methods and is revising the regulation to incorporate these changes. Applicants for reimbursement are required to provide the information and certifications listed in section 110 using form DEQ WTC or an alternate reporting format. This change provides the regulated community with more flexibility concerning their reporting requirements. Many in the regulated community utilize spreadsheets and other electronic data management systems to maintain records. This change allows the regulated community to provide the required documentation in a format that is convenient to them without having to complete a standard agency form.

The regulation is also being amended to remove language concerning monthly and quarterly deadlines for submittals of reimbursement applications. The department will review and process reimbursement applications in the order they are received. Reimbursement of funds will occur when funding is available.

The regulation is also being revised to decrease the tonnage of waste tire materials that must be collected before becoming eligible to apply for reimbursement. The regulation will also allow for amounts below the regulatory thresholds to be considered on a case by case basis. This will potentially allow for small businesses handling smaller amounts of waste tire materials to apply for reimbursement sooner, which will allow for them to receive reimbursements on a more frequent basis. This change should also encourage the removal of smaller tire piles that may not meet the minimum tire reimbursement requirement.

The department was unable to identify any performance standards specifically for small businesses or exemptions for small businesses that would accomplish the goals of the regulation.