



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Waste Management Board
<b>Virginia Administrative Code (VAC) citation</b>	9VAC20-60
<b>Regulation title</b>	Virginia Hazardous Waste Management Regulations
<b>Action title</b>	Hazardous Waste Regulatory Update - Immediate Final Rule 2011
<b>Final agency action date</b>	December 5, 2011
<b>Document preparation date</b>	December 5, 2011

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), the agency 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, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 14 (2010) and 58 (99).

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. 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 requirements in the form of incorporated federal regulatory text at Title 40 of the Code of Federal Regulations. The federal regulatory text as it existed on June 30, 2011, was specified as that incorporated. Hazardous Waste Regulatory Update - Immediate Final Rule 2011 addresses 9VAC20-60-18. Section 9VAC20-60-18 was revised, making the specification of the date of the incorporated text. This section is altered by striking the previous prescribed date and adopting the new date of July 1, 2011, thus making it the new date of reference for all incorporated federal regulatory text.

### 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 the amendment, Hazardous Waste Regulatory Update Immediate Final Rule 2011, on December 5, 2011 as a final regulation, a revision of 9VAC20-60-18 of the Virginia Hazardous Waste Management Regulations.

**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.*

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
9VAC20-60-18		Incorporates U.S. EPA federal documents by reference.	Most recent adoption date updated to 2011. Needed to ensure that the most recent and accurate federal documents are adopted and enforceable by Virginia.

**Regulatory flexibility analysis**

*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.

**Family impact**

*Assess the impact of this regulatory action on the institution of the family and family stability.*

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

Changes to Federal Hazardous Waste Management Regulations Between July 1, 2010 and June 30, 2011

USEPA Checklist Number	Date(s) Final Federal Regulations Published	40 CFR Sections Affected by Federal Amendment(s)	Federal Rule Reference(s)	Summary of Changes
225	December 17, 2010	261, 268, and 302	75 FR 78918-78926	The rule removes saccharin and its salts from the lists of hazardous constituents and commercial chemical products which are hazardous wastes when discarded or intended to be discarded. There is no checklist for this rule because it simply removes provisions from the regulations.
226 (Optional Checklist)	December 20, 2010	262	75 FR 79304-79308	The rule makes technical corrections to Subpart K, 40 CFR Part 262, which established an alternative set of generator requirements applicable to laboratories owned by eligible academic entities that are flexible and protective, and address the specific nature of hazardous waste generation and accumulation in these laboratories.
	March 24, 2011	261	75 FR 16534	The Environmental Protection Agency (EPA, also the Agency or we) has granted a petition submitted by Babcock & Wilcox Nuclear Operations Group, Inc., the current owner, and to BWX Technologies, Inc., as predecessor in interest to the current owner, identified collectively hereafter in this preamble as "B&W NOG," to exclude (or delist) on a one-time basis from the lists of hazardous waste, a certain solid waste generated at its Mt. Athos facility near Lynchburg, Virginia. After careful analysis, EPA concluded that the petitioned waste is not hazardous waste. This exclusion applies to 148 cubic yards of sludge currently deposited in two on-site surface impoundments designed as Final Effluent Ponds (FEPs) 1 and 2. Accordingly, this final rule conditionally excludes this volume of the petitioned waste from the requirements of the hazardous waste regulation under the Resource Conservation and Recovery Act (RCRA).