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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)	9VAC20-150
VAC Chapter title(s)	Waste Tire End User Reimbursement Regulation
Date this document prepared	July 16, 2020

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), 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.

This section is not applicable.

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.

Section 10.1-1402 (1) of the Code of Virginia authorizes the Virginia Waste Management Board to "Supervise and control waste management activities in the Commonwealth." Sections 10.1-1422.3 and 10.1-1422.4 of the Code of Virginia established the Waste Tire Trust Fund and directed the Board to adopt regulations necessary to carry out the provisions of this statute. The Board has adopted regulations concerning the types of uses eligible for partial reimbursement, procedures for applying for and processing reimbursement, and the amount of reimbursement.

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.

As part of this periodic review, the Board considered repealing the regulation, amending the regulation and retaining the regulation. The alternative of repealing the current regulation was rejected since the regulation is needed to meet the mandatory statutory requirements. The regulation as currently written provides the means of complying with the requirements set forth in statute; however, amendments are needed to clarify and update the requirements to be met by end users of waste tires or a representing facility to receive reimbursement from the Waste Tire Trust Fund.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency 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.

An informal advisory group was not formed to assist with the periodic review. No comments were received during the public comment period.

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), 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 is necessary for the protection of public health, safety, and welfare. This regulation promotes the use of waste tires by providing financial incentives to end users of Virginia-generated waste tire material for uses such as civil engineering, energy recovery and recycled products. This regulation is part of a strategy to reduce the existing piles and prevent large piles of waste tires from being formed. Large piles of waste tires are potential threats to human health and the environment if they are ignited. Amendments are needed to clarify and update the requirements to be met by end users of waste tires or a representing facility to receive reimbursement from the Waste Tire Trust Fund.

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).

The regulation is effective and continues to be needed; however, amendments are needed to clarify and update the requirements to be met by end users of waste tires or a representing

facility to receive reimbursement from the Waste Tire Trust Fund. The agency will amend the regulation.

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.

This regulation continues to be needed. This regulation promotes the use of waste tires by providing financial incentives to end users of Virginia-generated waste tire material for uses such as civil engineering, energy recovery and recycled products. By promoting these uses, waste tires are reused or recycled instead of being disposed of in landfills or being disposed of improperly. Since 1994, the Department of Environmental Quality (DEQ) has worked to strengthen the markets for Virginia-derived waste tire material with its End User Reimbursement Program, providing a financial rebate to those who use Virginia tire material in their products or processes. Over the years, this program has provided sufficient incentives to waste tire generators, haulers, processors and end users to capture, process and beneficially use almost 100% of the waste tires generated in Virginia. Prior to implementing this regulation and other programs that promote the proper management of waste tires, numerous large tires piles were found throughout the state. These tire piles were potential threats to human health and the environment if they were ignited.

No public comments were received during the periodic review.

This regulation establishes procedures for applications, processing applications and rates of reimbursement for the end user of waste tires. Amendments are needed to clarify and update the requirements to be met by end users of waste tires or a representing facility to receive reimbursement from the Waste Tire Trust Fund.

This regulation does not overlap, duplicate or conflict with any state or federal law.

The Virginia Waste Management Board adopted the Waste Tire End User Reimbursement Regulation in 1994 and modified them in 1996, 1997, 2002, 2011 and 2016. These regulations specify the operating provisions of the program. Over the years DEQ has assisted with the development of management strategies and markets for waste tires in Virginia. The Waste Tire End User Reimbursement Regulation has assisted with promoting the recycling and reuse of waste tires.

This regulation is instrumental in encouraging the recycling and reuse of waste tires. This program does not negatively impact small businesses in Virginia.

Family Impact

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

This regulation does not have a direct impact on the family or family stability.