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Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) citation	9VAC20-110
Regulation title	Regulations Governing the Transportation of Hazardous Materials
Action title	Annual Update 2014
Final agency action date	January 9, 2015
Document preparation date	December 16, 2014

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

Virginia's *Regulations Governing the Transportation of Hazardous Materials* under 9VAC20-110, incorporate by reference certain federal regulations from Title 49 of the Code of Federal Regulations (CFR). This amendment will bring these regulations up to date with the latest update to Title 49 of the CFR as published on October 1, 2014.

Each year the U.S. Department of Transportation (U.S. DOT) makes several changes to the federal rules regarding the transportation of hazardous materials in Title 49 of the Code of Federal Regulations. Since Virginia regulations incorporate the federal regulations, with certain exceptions, it is only necessary to change one item to bring Virginia's regulations up-to-date with the federal changes. The item that must be amended is 9VAC20-110-110, which specifies the date of the federal regulations that are incorporated into Virginia regulations. For the ease of use by the regulated community, this date is always October 1; however, the text is amended to

change the year, thus incorporating federal changes from October 1 of the previously incorporated year through September 30 of the newly specified year.

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 on January 9, 2015 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. This amendment revises 9VAC20-110-110.

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.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
9VAC20-110-110		Incorporates U.S. DOT's regulations under Title 49 of the CFR by reference.	Updated to the most recent adoption date, October 1, 2014. This change is needed to ensure that the most recent and accurate federal documents are adopted and enforceable by Virginia. (A listing of federal amendments from October 1, 2013 through September 30, 2014 begins on page 4.)

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 persons, including small business owners, who transport or offer for transportation hazardous materials within or through Virginia. 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 U.S. DOT is necessary to maintain authority to implement the national programs. Additionally, 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

U.S. DOT – United States Department of Transportation

<i>Item</i>	<i>Effective Date</i>	<i>49 CFR Parts</i>	<i>Federal Register</i>	<i>Summary</i>
1	October 1, 2013 Docket No. PHMSA-2013- 0158	49 CFR 107 49 CFR 171 49 CFR 172 49 CFR 173 49 CFR 174 49 CFR 180	78FR60745	This final rule corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the Hazardous Materials Regulations. The intended effect of this rule is to enhance the accuracy and reduce misunderstandings of the regulations. The amendments contained in this rule are non-substantive changes and do not impose new requirements.
2	October 23, 2013 Docket No. FMCSA- 1997-2349	49 CFR 390	78FR63100	The Federal Motor Carrier Safety Administration (FMCSA) makes corrections to its August 23, 2013, final rule regarding the Unified Registration System. This document makes four minor revisions to the URS final rule to be consistent with the Agency's "General Technical, Organizational and Conforming Amendments to the Federal Motor Carrier Safety Regulations" final rule published on September 24, 2013.
3	October 28, 2013 Docket No. FMCSA- 2004-19608	49 CFR 395	78FR64179	The FMCSA amends its December 27, 2011, final rule entitled "Hours of Service of Drivers" to provide an exception from the 30-minute rest break requirement for short-haul drivers who are not required to prepare records of duty status (RODS). The Agency also removes regulatory text made obsolete by the passing of the July 1, 2013, compliance date for the final rule. This action responds to a decision of the United States Court of Appeals for the District of Columbia Circuit (the Court).
4	October 31, 2013 Docket No. PHMSA- 2013-0041	49 CFR 171 49 CFR 172 49 CFR 173 49 CFR 175 49 CFR 176 49 CFR 178	78FR65454	This final rule corrects editorial errors and amends certain requirements in response to administrative appeals submitted by persons affected by certain final rules published in the Federal Register.

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5	January 14, 2014 Docket No. FMCSA– 1997–2210	49 CFR 391	79FR2377	The FMCSA amends its regulations to keep in effect until January 30, 2015, the requirement that interstate drivers subject to: either the commercial driver's license (CDL) or the commercial learner's permit (CLP) regulations: as well as the Federal physical qualification requirements, must retain paper copies of their medical examiner's certificate when operating a commercial motor vehicle. Interstate motor carriers are also required to retain copies of their drivers' medical certificates in their driver qualification files. This action is being taken to ensure that the medical qualification of CDL and CLP holders are documented adequately until all State driver licensing agencies (SDLAs) are able to post the drivers' self-certification whether the physical qualifications standards are applicable to them and the medical examiner's certificate information, on the Commercial Driver's License Information System (CDLIS) driver record. This rule does not, however, extend the compliance dates for the SDLA to collect and to post to the CDLIS driver record the CDL holder's self-certification about applicable standards and the medical examiner's certificate.

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6	April 17, 2014 Docket No. PHMSA– 2011–0158 (HM–233C)	49 CFR 107 49 CFR 171 49 CFR 172 49 CFR 173 49 CFR 175 49 CFR 178	79FR15033	The Pipeline and Hazardous Materials Safety Administration (PHMSA) is amending the Hazardous Materials Regulations (HMR) to adopt provisions contained in certain widely used or longstanding special permits and certain competent authority approvals (“approvals”) that have established safety records. Special permits allow a company or individual to package or ship a hazardous material in a manner that varies from the regulations provided an equivalent level of safety is maintained. An approval is a written consent (document) required under an international standard (i.e., International Maritime Dangerous Goods (IMDG) Code, International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO TI)), or is specifically provided for in the HMR, and is issued by the Associate Administrator for Hazardous Materials Safety. These revisions are intended to provide wider access to the regulatory flexibility offered in special permits and approvals and eliminate the need for numerous renewal requests, reducing paperwork burdens and facilitating commerce while maintaining an appropriate level of safety.
7	April 18, 2014 Docket No. FMCSA– 2012–0156	49 CFR 383 49 CFR 390	79FR15245	FMCSA amends the Federal Motor Carrier Safety Regulations (FMCSRs) by revising the definition of “gross combination weight rating” (or GCWR) to clarify the applicability of the Agency’s safety regulations for single-unit trucks (vehicles other than truck tractors) when they are towing trailers, and the GCWR information is not included on the vehicle manufacturer's certification label.

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8	August 6, 2014 Docket No. PHMSA-2009- 0095 (HM- 224F)	49 CFR 171 49 CFR 172 49 CFR 173 49 CFR 175	79FR46011	PHMSA, in consultation with the Federal Aviation Administration (FAA), is modifying the requirements governing the transportation of lithium cells and batteries. This final rule revises hazard communication and packaging provisions for lithium batteries and harmonizes the Hazardous Materials Regulations (HMR) with applicable provisions of the United Nations (UN) Model Regulations, the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions) and the International Maritime Dangerous Goods (IMDG) Code.
9	October 1, 2104 Docket No. PHMSA- 2009-0063 (HM-250)	49 CFR 171 49 CFR 172 49 CFR 173 49 CFR 174 49 CFR 175 49 CFR 176 49 CFR 178	79FR40590	PHMSA, in coordination with the Nuclear Regulatory Commission (NRC), is amending requirements in the Hazardous Materials Regulations (HMR) governing the transportation of Class 7 (radioactive) materials based on recent changes contained in the International Atomic Energy Agency (IAEA) publication "Regulations for the Safe Transport of Radioactive Material, 2009 Edition, IAEA Safety Standards Series No. TS-R-1" The purposes of this rulemaking are to harmonize requirements of the HMR with international standards for the transportation of Class 7 (radioactive) materials and update, clarify, correct, or provide relief from certain regulatory requirements applicable to the transportation of Class 7 (radioactive) materials.