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Periodic Review Report of Findings

Agency name	Department of Environmental Quality
Virginia Administrative Code (VAC) citation	9 VAC 20-90
Regulation title	Solid Waste Management Facility Permit Fees
Date this document prepared	October 1, 2018

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 (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Acronyms and Definitions

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

No acronyms are used in this document.

Legal Basis

Please identify (1) the agency or other promulgating entity, 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 entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.

Section 10.1-1402 of the Virginia Waste Management Act, Chapter 14 (Section 10.1-1400 *et seq.*) of Title 10.1 of the Code of Virginia, authorizes the Virginia Waste Management Board to promulgate and enforce regulations necessary to carry out its powers and duties and the intent of the chapter and federal law. Section 10.1-1402 (16) specifically authorizes the collection of permit fees and requires the establishment of a fee schedule by regulation and §§ 10.1-1402.1, 10.1-1402.1:1, and 10.1-1402.2 of the Code of Virginia provide requirements for such regulation.

The Solid Waste Management Facility Permit Fees regulation is a state regulation and there is no equivalent corresponding federal regulation. This regulation partially funds the oversight of permitted solid waste management facilities. Section 10.1-1402.2 of the Code of Virginia establishes how the funds collected are to be used.

The Virginia Waste Management Board previously amended this regulation in 2003, 2004, 2010, 2011, 2012, and 2013.

Alternatives

Please 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.

There are no known alternatives that would achieve the stated purpose of the program. State law establishes the amount of annual fees (§10.1-1402.1:1) and authorizes regulations for the collection of permit fees to recover costs for processing a permit. The regulation is consistent with the requirements of state law.

Public Comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

An informal advisory group was not formed as part of this review. No public comments were received during the public comment period.

Effectiveness

Pursuant to § 2.2-4017, please 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 and is clearly written and easily understandable.

Decision

Please explain the basis for the rulemaking entity's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

The agency is recommending the regulation stay in effect without change. The regulation is consistent with the requirements of state law.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (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 the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.

The current regulation continues to be needed. This regulation is consistent with the requirements of state law and partially funds the oversight of permitted solid waste management facilities. There is no corresponding federal regulation concerning the assessment of a solid waste permit application or the assessment of solid waste permit oversight fees.

No public comments were received during the periodic review comment period.

The regulation details the fees for permit actions as well as annual permit fees. The regulation may be viewed as complex by some readers since it details the adjustment by the consumer price index (inflation); however, the agency calculates the adjusted fees and amount due from the permit holder as part of the annual billing process.

This regulation was last amended in 2013 in response to changes in state law.

Businesses that undertake activities requiring a solid waste management permit are subject to this regulation. Some fees are based on the amount of time to issue a permit action. Other fees are based on the amount of waste material managed. Small businesses generally manage less waste than businesses that are not small businesses and therefore would be subject to smaller annual fees than larger businesses.