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## Periodic Review Report of Findings

<b>Agency name</b>	Virginia Waste Management Board
<b>Virginia Administrative Code (VAC) citation</b>	9VAC20-170
<b>Regulation title</b>	Transportation of Solid and Medical Wastes on State Waters
<b>Date this document prepared</b>	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.*

§ 10.1-1454.1 of the Code of Virginia directs the Virginia Waste Management Board to adopt regulations governing the commercial transport, loading and off-loading of nonhazardous solid waste, municipal and industrial sludge, and regulated medical waste by ship, barge or other vessel upon the navigable waters of the Commonwealth. The statute excludes the following items from being considered solid waste when transported on state waters: scrap metal, dredged material, recyclable construction demolition debris when they are being transported directly to a processing facility for recycling or reuse, and source-separated recyclables. This regulation was adopted by the Virginia Waste Management Board and became effective on November 19, 2003.

## 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.*

State law is very specific concerning the requirements the regulation must contain. Containers must be watertight, certified for special service, and be tested every 6 months. The specific testing requirements that must be utilized are listed in statute.

Based on current statute, there are no alternatives to this regulation that are less burdensome that are protective of human health and the environment.

### 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.*

The regulation has been effective in protecting public health and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth, ensuring that owners and operators comply with good hazardous waste management and control practices.

The Department has determined that the regulation is clearly written and easily understandable by the individuals and entities affected. It is written so as to permit only one reasonable interpretation, is written to adequately identify the affected entity, and, insofar as possible, is written in nontechnical language.

### 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 primary goal of this regulation is to protect the environment from discharges of solid wastes, regulated medical wastes, and municipal and industrial sludge from vessels transporting these wastes on state waters. The regulation contains specific container standards that must be met to transport these

wastes. These requirements are continued to be needed to protect the environment from spills of these wastes that may occur during the transportation of these wastes.

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

Due to the testing requirements for containers, the regulation is very specific concerning standards containers must meet prior to transportation of wastes on state waters. The standards included in the regulation make the regulation appear to be complex and technical; however, the regulated community is accustomed to implementing and using technical container standards in everyday practice.

There are no applicable federal requirements for waste to be containerized to be transported on state waters.

The regulation was originally adopted in November of 2003. The regulation was amended in 2006, 2010, 2011, and 2012.

The agency believes the regulation should not be amended or repealed, to minimize the economic impact of the regulation on small businesses. The standards for transporting solid waste on Virginia waterways are necessary to protect Virginia waterways from the release of waste into state waters and the regulation is consistent with the requirements of state law.