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Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) citation	9VAC20-60
Regulation title	Virginia Hazardous Waste Management Regulations
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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

The Virginia Hazardous Waste Management Regulations, 9VAC20-60, include citations and requirements in the form of incorporated federal regulatory text at Title 40 of the Code of Federal Regulations (CFR). This regulatory amendment will bring these citations up to date and incorporate the latest Title 40 of the CFR to the one as published in the July 1, 2014 update. (A listing of changes made from July 1, 2013 through June 30, 2014 begins on page 5.)

As part of this regulatory action, the Board is adopting EPA's Hazardous Waste Electronic Manifest Rule (e-Manifest Rule) which was promulgated on February 7, 2014 (79 FR 7518). However, Annual Update 2014 will not incorporate the subdivisions of the e-Manifest Rule which impose a possible fee which may be collected by EPA for use of the manifest system. EPA has indicated that they will promulgate a subsequent rule which will provide the user fee schedule

and compliance date for use of the e-manifest system which is still in development. Therefore, this regulatory action will not include the provisions for imposition of a user fee by EPA. Section 2.2-4006 A 4 (c) of the Code of Virginia allows the Board to adopt this regulatory amendment to 9VAC20-60 as the changes are necessary to conform to changes in the federal regulations. This regulatory amendment will be effective 30 days after publication in the *Virginia Register*.

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, Annual Update 2014, to 9VAC20-60 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.

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	Current requirement	Proposed change and rationale
9VAC20-60-18	Incorporates U.S. EPA federal documents by reference.	Most recent CFR adoption date updated to 2014. This change is needed to ensure that the most recent and accurate federal documents are adopted and enforceable by Virginia.
9VAC20-60-262	Adoption of 40 CFR Part 262 by reference.	Modified the adoption of 40 CFR Part 262 to include the requirements for the e-manifest rule. Added an exception that the provisions for the user fee imposition under 40 CFR Part 262.24(g) are not incorporated as part of this amendment.
9VAC20-60-263	Adoption of 40 CFR Part 263 by reference.	Modified the adoption of 40 CFR Part 263 to include the requirements for the e-manifest rule.

		Added an exception that the provisions for imposition of the user fee under 40 CFR Part 263.20(a)(8) are not incorporated as part of this amendment.
9VAC20-60-264	Adoption of 40 CFR Part 264 by reference.	Modified the adoption of 40 CFR Part 264 to include the requirements for the e-manifest rule. Added an exception that the provisions for imposition of the user fee under 40 CFR Part 264.71(j) are not incorporated as part of this amendment.
9VAC20-60-265	Adoption of 40 CFR Part 265 by reference.	Modified the adoption of 40 CFR Part 265 to include the requirements for the e-manifest rule. Added an exception that the provisions for imposition of the user fee under 40 CFR Part 265.71(j) are not incorporated as part of this amendment.

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 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.

Conforming state regulations to those of the U.S. Environmental Protection Agency is necessary to maintain federally-granted authority to implement the national programs. 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

FR – Federal Register

EPA – United States Environmental Protection Agency

USEPA Checklist Number	Date(s) Final Federal Regulations Published	Effective Date	Federal Register Reference(s)	Summary of Changes
230	January 3, 2014	March 4, 2014	79 FR 350-364	The rule revises the definition of solid waste to conditionally exclude carbon dioxide (CO ₂) streams that are hazardous from the definition of hazardous waste, provided these hazardous CO ₂ streams are captured from emission sources, are injected into Underground Injection Control (UIC) Class VI wells for purposes of geologic sequestration (GS), and meet certain other conditions.
231	February 7, 2014	August 6, 2014 (however, implementation compliance date is delayed)	79 FR 7518 - 7563	This rule establishes new requirements that will authorize the use of electronic manifests (or e-Manifests) as a means to track off-site shipments of hazardous waste from a generator's site to the site of the receipt and disposition of the hazardous waste. This final rule also implements certain provisions of the Hazardous Waste Electronic Manifest Establishment Act, P.L. 112-195, which directs EPA to establish a national electronic manifest system (or e-Manifest system), and to impose reasonable user service fees as a means to fund the development and operation of the e-Manifest system.
232	June 26, 2014	December 26, 2014	79 FR 36220-36231	Today's rule revises certain export provisions of the cathode ray tube (CRT) final rule published on July 28, 2006. The revisions will allow the Agency to better track exports of CRTs for reuse and recycling in order to ensure safe management of these materials.