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Periodic Review and Small Business Impact Findings Where Result is "Retain the Regulation As Is" Agency Background Document

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) citation	9VAC20-150
Regulation title	Waste Tire End User Reimbursement Regulation
Date	April 27, 2016

This information is required pursuant to Executive Order 17 (2014) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including: 1) the most relevant law and/or regulation; and 2) promulgating entity, i.e., agency, board, or person.

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

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

As part of this periodic review, the Board considered repealing the regulation, amending the regulation and retaining the regulation. The current regulation is effective in meeting the mandatory statutory requirements. The alternative of repealing the current regulation was also 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, there are some changes the department is considering making to the regulation in the near future to make it consistent with state statute and to clarify requirements of the regulation. Changes to the regulation will be made as a separate regulatory process.

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. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Notice of Periodic Review was published in the Virginia Register of Regulations on April 4, 2016. The comment period closed on April 25, 2016. An informal advisory group was not formed to assist with this periodic review. No comments were received concerning this regulation.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and 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 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. This regulation is clearly written and easily understandable.

Result

Please state that the agency is recommending that the regulation should stay in effect without change and provide the reason why.

This regulation satisfies the provisions of the law and legally binding state requirements and is effective in meeting its goals; therefore, the Director of the Department of Environmental Quality, on behalf of the Virginia Waste Management Board, recommends that this regulation be retained. There are some changes the department is considering making to the regulation in the near future to make it consistent with state statute and to clarify requirements of the regulation. Changes to the regulation will be made as a separate regulatory process.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, 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, include a discussion of the basis for the agency's determination to retain the regulation as is, consistent with the stated objectives of applicable law, to 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. This regulation is clearly written and easily understandable.

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 Regulations in 1994 and modified them in 1996, 1997, 2002 and 2011. These regulations specify the operating provisions of the program. It is estimated that 7 million waste tires are generated in Virginia every year. 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 Regulations have assisted with promoting the recycling and reuse of waste tires.

The agency recommends retaining this regulation. It is instrumental in encouraging the recycling and reuse of waste tires. This program does not negatively impact small businesses in Virginia. There are some changes the department is considering making to the regulation in the near future to make it consistent with state statute and to clarify requirements of the regulation. Changes to the regulation will be made as a separate regulatory process.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

It is not anticipated that this regulation will have a direct impact on families or family stability.