



[townhall.virginia.gov](http://townhall.virginia.gov)

## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	Virginia Waste Management Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	9VAC20-170
<b>VAC Chapter title(s)</b>	Transportation of Solid and Medical Wastes on State Waters
<b>Date this document prepared</b>	November 15, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Acronyms and Definitions

*Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

No acronyms are used in this document.

### Legal Basis

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

§ 10.1-1454.1 of the Code of Virginia directs the Virginia Waste Management Board to adopt regulations governing 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 to Regulation

*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

*Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency's response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. 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 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, 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 solid 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

*Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

*If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.*

---

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, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (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 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.

### Family Impact

*Please assess the potential impact of the regulation's impact on the institution of the family and family stability.*

---

The regulation generally benefits families by protecting Virginia waterways from the release of waste into state waters.