

VIRGINIA WASTE
MANAGEMENT
BOARD

OCTOBER 23, 2024
REGULAR BOARD
MEETING

BOARD BOOK

TENTATIVE AGENDA

**WASTE MANAGEMENT BOARD MEETING
WEDNESDAY, OCTOBER 23, 2024**

**GENERAL ASSEMBLY BUILDING
SENATE ROOM B
201 N. 9TH STREET
RICHMOND, VIRGINIA**

CONVENE – 10:00 A.M.

Agenda Item	Presenter	Tab
1. Call to Order		
2. Election of Chair and Vice Chair		
3. Review and Approve Minutes (September 6, 2023)		A
4. Final Exempt Regulations – Annual Update 2024, Virginia Hazardous Waste Management Regulations (9VAC20-60)	Scott	B
5. Final Exempt Regulations – Annual Update 2024, Regulations Governing the Transportation of Hazardous Materials (9VAC20-110)	Rathe	C
6. Final Exempt Regulations – Virginia Erosion and Stormwater Management Regulation Citation Correction, Coal Combustion Byproduct Regulations (9VAC20-85)	Rathe	D
7. Final Exempt Regulations – Coal Combustion Residuals Amendment, Solid Waste Management Regulations (9VAC20-81)	Rathe	E
8. Fast Track Regulations – Document Incorporated by Reference Update, Regulated Medical Waste Management Regulations (9VAC20-121)	Rathe	F
9. Division Director Report	Perszyk	
10. Public Forum (Not to exceed 45 minutes.)		
11. Future Meetings		
12. Adjourn		

NOTES: The Board reserves the right to revise this agenda without notice unless prohibited by law. Revisions to the agenda include, but are not limited to, scheduling changes, additions, or deletions. Questions on the latest status of the agenda should be directed to Jill R. Hrynciw at (804) 929-6559 or Jill.Hrynciw@deq.virginia.gov.

PUBLIC COMMENTS AT WASTE MANAGEMENT BOARD MEETINGS

The Board encourages public participation in the performance of its duties and responsibilities. To this end, the Board has adopted public participation procedures for regulatory action and for case decisions. These procedures establish the times for the public to provide appropriate comment to the Board for its consideration.

For REGULATORY ACTIONS (adoption, amendment or repeal of regulations), public participation is governed by the Administrative Process Act and the Board's Public Participation Guidelines. Public comment is accepted during the Notice of Intended Regulatory Action phase (minimum 30-day comment period) and during the Notice of Public Comment Period on Proposed Regulatory Action (minimum 60-day comment period). Notice of these comment periods is announced in the

Virginia Register, by posting to the Department of Environmental Quality and Virginia Regulatory Town Hall web sites and by mail to those on the Regulatory Development Mailing List. The comments received during the announced public comment periods are summarized for the Board and considered by the Board when making a decision on the regulatory action.

For CASE DECISIONS (issuance and amendment of permits and enforcement orders), the Board adopts public participation procedures in the individual regulations which establish the permit programs. As a general rule, public comment is accepted on a draft permit for a period of 30 days. If a public hearing is held, there is an additional comment period, usually 45 days, during which the public hearing is held.

In light of these established procedures, the Board accepts public comment on regulatory actions and case decisions, as well as general comments, at Board meetings in accordance with the following:

REGULATORY ACTIONS: Comments on regulatory actions are allowed only when the staff initially presents a regulatory action to the Board for final adoption. At that time, those persons who commented during the public comment period on the proposal are allowed up to 3 minutes to respond to the summary of the comments presented to the Board. Adoption of an emergency regulation is a final adoption for the purposes of this policy. Also, public comment will be accepted for certain final exempt actions where there has been no public comment period. Persons are allowed up to 3 minutes to address the Board on the emergency regulation and final exempt actions under consideration.

POOLING MINUTES: Those persons who commented during the public hearing or public comment period and attend the Board meeting may pool their minutes to allow for a single presentation to the Board that does not exceed the time limitation of 3 minutes times the number of persons pooling minutes, or 15 minutes, whichever is less.

NEW INFORMATION will not be accepted at the meeting. The Board expects comments and information on a regulatory action or pending case decision to be submitted during the established public comment periods. However, the Board recognizes that in rare instances new information may become available after the close of the public comment period. To provide for consideration of and ensure the appropriate review of this new information, persons who commented during the prior public comment period shall submit the new information to the Department staff contact listed below at least 10 days prior to the Board meeting. The Board's decision will be based on the Department-developed official file and discussions at the Board meeting. In the case of a regulatory action, should the Board or Department decide that the new information was not reasonably available during the prior public comment period, is significant to the Board's decision and should be included in the official file, the Department may announce an additional public comment period in order for all interested persons to have an opportunity to participate.

PUBLIC FORUM: The Board schedules a public forum at each regular meeting to provide an opportunity for citizens to address the Board on matters other than those on the agenda, pending regulatory actions or pending case decisions. Those persons wishing to address the Board during this time should indicate their desire when registering and limit their presentations to 3 minutes or less. Note, there is no pooling of minutes during the public forum.

The Board reserves the right to alter the time limitations set forth in this policy without notice and to ensure comments presented at the meeting conform to this policy.

Department of Environmental Quality Staff Contact: Jill R. Hrynciw, Policy Analyst, Division of Policy, Department of Environmental Quality, 1111 E. Main Street, Suite 1400, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 929-6559; email Jill.Hrynciw@deq.virginia.gov

Additional Meeting Information

- No food or beverages allowed in the meeting space.
- Attendees are not entitled to be disorderly or disrupt the meeting from proceeding in an orderly, efficient, and effective fashion. Disruptive behavior may result in a recess of or removal from the meeting.
- Possession or use of any device that may disrupt the conduct of business is prohibited, including but not limited to: voice-amplification equipment; bullhorns; blow horns; sirens, or other noise-producing devices; as well as signs on sticks, poles or

stakes; or helium-filled balloons.

- Attendees shall not block or gather in exits, doors, or aisles.
 - Attendees shall not access non-public spaces/floors of the Building.
 - All attendees are asked to be respectful of all speakers.
 - Signs, banners, posters and other materials advocating the election or defeat of any candidate for public office may NOT be displayed at any time in any public space in the Building.
 - Signs, banners, posters and other materials larger than standard paper size or with profane messages are not permitted.
 - Rules will be enforced fairly and impartially enforced, not only to ensure the participation and enjoyment of all meeting attendees, but for those persons working in the building so that they are able to perform their responsibilities.
 - All violators are subject to removal.
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Tab A



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482 FAX (804) 698-4178

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

MEMORANDUM

TO: Members of the Virginia Waste Management Board

FROM: Jill R. Hrynciw

DATE: September 10, 2024

SUBJECT: Minutes

Attached are the minutes from your meeting on September 6, 2023. Staff will seek your approval of these minutes at your next regular meeting on October 23, 2024.

If you have any questions, please contact me at (804) 929-6559 or Jill.Hrynciw@deq.virginia.gov.

Attachment

MINUTES
VIRGINIA WASTE MANAGEMENT BOARD MEETING

WEDNESDAY, SEPTEMBER 6, 2023

Board Members Present:

EJ Scott, Chair	Jennifer P. Johnson
Daniel R. Ciesla	Steven J. Yob

Department of Environmental Quality (Department):

Michael S. Rolband, Director	Kathryn Perszyk
Jill Hrynciw	Lisa Ellis
Rachael Harrell	Priscilla Rohrer
Melissa Porterfield	

Attorney General's Office:

Katherine Kulbok, Assistant Attorney General

These minutes summarize activities that took place at this Board meeting. The meeting was convened by the chairperson, Ms. EJ Scott, at 10:31 a.m. and was adjourned at 11:22 p.m.

Minute No. 1 - Introductions.

Ms. EJ Scott led the Board, Agency Director and Assistant Attorney General in introductions.

Minute No. 2 - Minutes.

On a motion by Mr. Ciesla, and seconded by Mr. Yob, the Board unanimously approved the minutes from the Board's meeting on October 28, 2022.

Minute No. 3 – Final Exempt Regulations – Virginia Hazardous Waste Management Regulations (9VAC20-60), Annual Update 2023

Ms. Lisa Ellis of the Office of Financial Responsibility and Waste Programs presented a regulatory amendment to 9VAC20-60 for the Board's consideration for adoption. Ms. Ellis informed the Board that their Virginia Hazardous Waste Management Regulations under 9VAC20-60 are regularly amended to keep Virginia's regulation current with the federal regulations and that this annual update will cover the federal rules amended through June 30, 2023. Ms. Ellis then provided an explanation of the changes to the regulations that were being included and explained that the Conforming Changes to Canada-Specific Hazardous Waste Import-Export Recovery and Disposal Operation Codes, (86 FR 54381 10/1/2021), which was excluded during the previous annual update, would now be included. It was explained that the process used for this amendment is the final exempt process as stipulated in the Administrative Process Act (APA).

Based on the Board book material, staff presentation and Board discussions, the Board, on a motion by Mr. Yob and seconded by Mr. Ciesla, unanimously voted to adopt this amendment to 9VAC20-60 as a final regulation, authorized its publication, and affirmed that the Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Minute No. 4 – Final Exempt Regulations – Financial Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment Facilities (9VAC20-70), Solid Waste Management Permit

Action Fees and Annual Fees (9VAC20-90), Solid Waste Planning and Recycling Regulations (9VAC20-130) and Transportation of Solid and Medical Wastes on State Waters (9VAC20-170), Regulated Medical Waste Management Regulations Citation Update

Ms. Priscilla Rohrer of the Office of Financial Responsibility and Waste Programs presented a regulatory amendment to 9VAC20-70, 9VAC20-90, 9VAC20-130 and 9VAC20-170 for the Board's consideration for adoption. Ms. Rohrer informed the Board that citation updates and technical amendments were necessary to these four regulations as a result of Amendment 3 to the Regulated Medical Waste Management Regulations, which amended and recodified those regulations and was effective March 15, 2023. Ms. Rohrer further explained that all citation references were being updated from 9VAC20-120, which was repealed as part of Amendment 3, and replaced with the new chapter, 9VAC20-121. It was explained that the process used for this amendment is the final exempt process as stipulated in the Administrative Process Act (APA).

Based on the Board book material, staff presentation and Board discussions, the Board, on a motion by Ms. Johnson and seconded by Mr. Yob, unanimously voted to adopt this amendment to 9VAC20-70, 9VAC20-90, 9VAC20-130 and 9VAC20-170 as a final regulation, authorized its publication, and affirmed that the Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Minute No. 5 – Final Exempt Regulations – Solid Waste Management Regulations (9VAC20-81), Implementation of Chapter 503 of the 2023 Acts of Assembly (SB1050) and Regulated Medical Waste Management Regulations Citation Update

Ms. Kathryn Perszyk, Land Protection and Revitalization Division Director, presented a regulatory amendment to 9VAC20-81 for the Board's consideration and adoption. Ms. Perszyk advised the Board that this amendment is necessary to implement Chapter 503 of the 2023 Virginia Acts of Assembly (SB1050) into the Virginia Solid Waste Management Regulations. Ms. Perszyk explained that Chapter 503 of the 2023 Acts of Assembly requires the owner or operator of a proposed coal ash landfill in Planning District 8, if the facility boundary is located within one mile of an existing residential area that is not served by municipal water supply, to offer to provide, at its expense, municipal water supply service for such residential areas and any requested service connections for residential properties in existence at the time of permit application. Ms. Perszyk further explained that Chapter 503 of the 2023 Acts of Assembly also dictates that DEQ cannot approve the landfill permit application if the owner or operator does not provide written offers and coordinate with the municipal water authority. Ms. Perszyk informed the Board that this action will add a definition for Planning District 8 and amend Section 460 of the Solid Waste Management Regulations to include these new statutory requirements as part of the permit application process for such proposed landfills. Additionally, Ms. Perszyk explained to the Board that Amendment 3 to the Regulated Medical Waste Management Regulations, effective March 15, 2023, recodified those regulations from Chapter 120 to Chapter 121. This regulatory action also makes appropriate citation changes within the Solid Waste Management Regulations. It was explained that the process used for this amendment is the final exempt process as stipulated in the Administrative Process Act (APA).

Based on the Board book material, staff presentation and Board discussions, the Board, on a motion by Mr. Yob and seconded by Ms. Johnson, unanimously voted to adopt this amendment to 9VAC20-81 as a final regulation, authorized its publication, and affirmed that the Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Minute No. 6 - Division Director's Report.

The Board received a report from Kathryn Perszyk, Land Protection and Revitalization Division Director. Ms. Perszyk provided an overview of the land division's programs and accomplishments.

Minute No. 7 - Public Forum.

No members of the public spoke.

Minute No. 8 - Future Meetings.

No future meetings were set for the Board at this meeting.

Jill R. Hrynciw
Policy Analyst
Division of Policy

DRAFT

Tab B



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

Memorandum

To: Members of the Virginia Waste Management Board

Through: Kathryn Perszyk, Director, Land Protection & Revitalization Division

From: Rebecca Rathe, Regulatory Analyst

Date: September 30, 2024

Subject: Annual Update 2024, Virginia Hazardous Waste Management Regulations, 9 VAC 20-60

The attached regulatory amendment is presented to the Board for your consideration for adoption. The final exempt action amends the Virginia Hazardous Waste Management Regulations, 9VAC20-60 to update references to the Code of Federal Regulations (CFR). The Virginia Hazardous Waste Management Regulations include citations and requirements in the form of incorporated federal regulatory text at Title 40 of the CFR. This regulatory amendment will bring these citations up to date and incorporate the latest updates to Title 40 of the CFR through July 1, 2024, which includes the U.S. Environmental Protection Agency's rules published between July 1, 2023, through June 30, 2024.

With this regulatory action, the Board is adopting the following changes that have been made to the CFR since the last update: the "Technical Corrections for the Hazardous Waste Generator Improvements Rule, the Hazardous Waste Pharmaceuticals Rule, and the Definition of Solid Waste Rule," which was published in the Federal Register on August 9, 2023. On December 6, 2023, EPA issued a partial withdrawal of eight amendments, and the remainder of the rule became final on December 7, 2023.

Section 2.2-4006 A 4 (c) of the Code of Virginia allows the Board to adopt this regulatory amendment to 9VAC20-60 as a final exempt regulatory action 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*. A draft Virginia Regulatory Town Hall document, including an attachment detailing the CFR changes, an Office of Regulatory Management Economic Review Form, and a copy of the required regulatory text changes are attached for your information.

At your Board meeting on October 23, 2024, DEQ will request that the Board adopt the Annual Update 2024 to 9VAC20-60, authorize its publication, and affirm that the Board will receive, consider, and respond to requests by any interested person at any time with respect to reconsideration or revision.

cc: Jill R. Hrynciw, DEQ Policy Division

Attachments:

- Attachment A: Draft Virginia Regulatory Town Hall Document (TH-09)
- Attachment B: Office of Regulatory Management Economic Impact Form
- Attachment C: Virginia Hazardous Waste Management Regulations, Annual Update 2024 – Regulatory Text



townhall.virginia.gov

Exempt Action: Final Regulation Agency Background Document

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC20-60
VAC Chapter title(s)	Virginia Hazardous Waste Management Regulations
Action title	Annual Update 2024
Final agency action date	October 23, 2024
Date this document prepared	September 30, 2024

This information is required for executive branch review pursuant to 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. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to 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*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Virginia Hazardous Waste Management Regulations, 9VAC20-60, include citations and requirements in the form of federal regulatory text at Title 40 of the CFR which is incorporated by reference. This regulatory amendment, Annual Update 2024, will bring the citations up to date and incorporate the 2024 Annual edition of Title 40 of the CFR published on July 1, 2024.

With this regulatory action, the Board is adopting the following change that has been made to the CFR since the last update: the "Technical Corrections for the Hazardous Waste Generator Improvements Rule, the Hazardous Waste Pharmaceuticals Rule, and the Definition of Solid Waste Rule," which was published in the Federal Register on August 9, 2023, and modified on December 6, 2023, before becoming final on December 7, 2023. The rulemaking makes corrections and clarifications to specific

provisions in these three rules, including fixing typographical errors, updating incorrect and outdated regulatory citations, and updating EPA’s physical address listed, among other minor clarifications. On December 6, 2023, EPA issued a partial withdrawal of eight amendments, and the remainder of the rule became final on December 7, 2023.

Section 2.2-4006 A 4 (c) of the Code of Virginia allows the Board to adopt this regulatory amendment to 9VAC20-60 as a final exempt action as the changes are necessary to conform to changes in the federal regulations.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

EPA-authorized states must implement RCRA programs that are at least as stringent as the federal requirements. Annually EPA publishes rule checklists, identifying federal rule changes to assist States in developing their program modifications.

Because the Virginia Hazardous Waste Management Regulations incorporate Title 40 of the Code of Federal Regulations by reference as of an annual publication date, the above changes are adopted and keep state regulations consistent with the federal regulations. This amendment only incorporates recent changes made by EPA to federal hazardous waste regulations into Virginia's regulations.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the “Definitions” section of the regulation.

- Board – Virginia Waste Management Board
- CFR – Code of Federal Regulations
- FR – Federal Register
- EPA – United States Environmental Protection Agency
- VAC – Virginia Administrative Code
- RCRA – Resource Conservation and Recovery Act

Statement of Final Agency Action

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 2024, to 9VAC20-60 on October 23, 2024, as a final exempt 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.

Legal Basis

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 Code of Virginia authorizes the Board to issue regulations as may be necessary to carry out its powers and duties required by the Virginia Waste Management Act (Act). Additionally, Section 2.2-4006 A 4 (c) of the Code of Virginia allows the Board to adopt this regulatory amendment to 9VAC20-60 as a final exempt action as the changes are necessary to conform to changes in the federal regulations.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it’s intended to solve.

Conforming these regulations to the federal regulations allows DEQ to maintain authorization to implement the national hazardous waste management programs. Additionally, when Virginia’s regulations are consistent with federal requirements, there is less confusion among the regulated community, and Virginia’s businesses and facilities benefit from having local access to decision makers who have a clearer understanding of state-specific issues and needs. Maintaining hazardous waste regulations and direct state oversight is protective of the human health, safety and welfare by protecting the Commonwealth’s environment and natural resources from pollution, impairment or destruction.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.

The regulatory action, Annual Update 2024, will update the 40 CFR citation to the most recent annual update of July 1, 2024, thereby incorporating the following rules promulgated by EPA:

Technical Corrections for the Hazardous Waste Generator Improvements Rule, the Hazardous Waste Pharmaceuticals Rule, and the Definition of Solid Waste Rule” which was published in the Federal Register on August 9, 2023. (88 FR 54086)

Hazardous Waste Generator Improvements Rule, the Hazardous Waste Pharmaceuticals Rule, and the Definition of Solid Waste Rule; Technical Corrections” which was published in the Federal Register on December 6, 2023. (88 FR 84710)

A listing of specific changes is provided in the Attachment to this Town Hall document.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The primary advantage of this amendment is that it conforms 9VAC20-60, Virginia Hazardous Waste Management Regulations, to the federal hazardous waste regulations by incorporating new rules promulgated by the EPA (see Attachment). This causes less confusion for the regulated community and Virginia’s businesses and facilities benefit from having local access to decision makers who have a clearer understanding of state-specific issues and needs.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are no requirements of the regulatory update which are more restrictive than applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

Other State Agencies Particularly Affected

There are no other state agencies particularly affected by this regulatory amendment.

Localities Particularly Affected

There are no localities particularly affected by this regulatory amendment.

Other Entities Particularly Affected

There are no other entities particularly affected by this regulatory amendment.

Details of All Changes Proposed in this Regulatory Action

List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC20-60-18	N/A	Applicability of incorporated references based on the dates on which they become effective.	Updated the 40 CFR citation to the most recent annual update of July 1, 2024.

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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing

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 regulatory change.

The Virginia Hazardous Waste Management 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 achieved through the implementation of the regulations for the safe management of hazardous waste.

Adoption of the changes allows state regulations to be consistent with the federal regulations leading to less confusion among the regulated community which includes small businesses.

Family Impact

In accordance with § 2.2-606 of the Code of Virginia, please assess the potential impact of the proposed 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.

Attachment
EPA Rule Included with Annual Update 2024 Title 40 of the CFR
July 1, 2023, through June 30, 2024

Typographical Changes

- Section 262.16(b) is revised to include a reference to § 262.16(c) in the list of provisions in this section describing when a small quantity generator can accumulate hazardous waste for more than 180 days. The reference to § 262.16(c) was inadvertently left off this list in the 2016 Generator Improvements rule.
- Section 262.16(b)(5) is revised to remove an “of” from the paragraph where it does not belong.
- Sections 262.16(b)(8)(iv)(A) and (B) are both revised to replace the internal cross reference to paragraph (a)(8)(ii) of this section to the correct citation: paragraph (b)(8)(ii) of this section.
- Section 262.17(a)(7)(i)(A) is revised to make the internal cross reference more specific by including the fourth paragraph level. The correct cross reference is to § 262.17(a)(7)(iv)(C), which describes what elements must be included in a large quantity generator's (LQG) training program. This revision also is consistent with the cross referencing in § 265.16, which applied to LQGs before the Generator Improvements rule reorganization.
- Section 262.17(a)(8)(iii)(A)(4) is revised to correct the regulation it references. The correct citation is paragraph (a)(8)(iii)(A)(2) of this section.
- Section 262.213(a)(1) is revised to replace a misplaced “or” with “of.”
- Section 262.232(b)(4) is revised to remove the word “waste” from a place where it does not belong.
- Section 262.232(b)(6)(iv) is revised to add “RCRA-” to the term “designated facility” to match the language of parallel provisions in this section.
- Section 265.71 is revised by removing the comment to paragraph (c). The contents of that comment were incorporated into the main text of paragraph (c) by the Generator Improvements rule, but the comment was not removed at that time.

Definition Changes

- The definition of “Final closure” in § 260.10 is revised to update the citation from § 262.34 to §§ 262.16 and 262.17.
- Section 261.1(a)(1) is revised to remove the reference to hazardous waste produced by very small quantity generators because the regulations for very small quantity generators are now in part 262.
- Section 261.4(e)(1) is revised to replace the references to quantity determinations in §§ 261.5 and 262.34(d) with a reference to the counting requirements in § 262.13 and the accumulation limits in § 262.16(b)(1).
- Section 261.11(c) is removed and reserved. The Generator Improvements rule finalized regulations that directly address generator category and generation limits for each category; thus, this paragraph is redundant and could result in confusion if not removed.
- Section 261.30(d) is revised to replace the reference to § 261.5 with a reference to § 262.13, Table 1, and the text of the paragraph is revised to use the same language as the title to Table 1: Generator Category Limits.
- Three references to § 262.34 in appendix IX to part 261 are replaced with references to §§ 262.15, 262.16, and 262.17, as applicable.

- Section 262.10(k) is revised to replace a reference to § 262.34 with a reference to §§ 262.15-262.17, and the standards in those sections are identified as conditions for exemption to be consistent with the rest of the generator standards.
- Section 262.10, Note 1, is revised to replace two references to § 262.34 with references to §§ 262.15-262.17.
- Section 262.42(a)(1) and (2) and (b) are revised to replace descriptions of generator categories (e.g., “generators of 1000 kilograms or greater of hazardous waste in a calendar month”) with either “small quantity generator” or “large quantity generator,” which were terms promulgated and/or updated in the 2016 Generator Improvements rule.
- Section 262.82(e)(2) is updated to reflect the current address for hand deliveries of submittals required in part 262, subpart H, for transboundary movements of hazardous waste for recovery or disposal.
- The definition of “trained professional” in § 262.200 is revised to specifically identify the training requirements that personnel at large, small, and very small quantity generators must comply with under part 262, subpart K, to be considered a trained professional.
- Section 262.212(e)(3) is revised to replace a reference to § 261.5(c) and (d) with a reference to § 262.13.
- Section 264.1(g)(3) is revised to add generators that are accumulating waste on site in compliance with the generator standards in subparts K and L of part 262 to the list of compliant generators to which part 264 does not apply.
- Sections 264.1(g)(12), 265.1(c)(15), and 270.1(c)(2)(ix) referring to the expired New York State Utility XL project are all removed and reserved.
- Section 264.15(b)(5) referring to the expired Performance Track program is removed and reserved.
- Section 264.1030(b)(3) is revised to replace a reference to § 262.34(a) with a reference to § 262.17.
- Section 264.1050(b)(2) is revised to replace a reference to § 262.34(a) with a reference to § 262.17.
- Section 266.100(c)(3) is revised to replace the term “special requirements” with “conditions for exemption”; to replace the term “conditionally exempt small quantity generator” with “very small quantity generator”; and to replace a reference to § 261.5 with a reference to § 262.14.
- Section 266.108 is revised to replace the term “special requirements” with “conditions for exemption”; to replace the term “conditionally exempt small quantity generator” with “very small quantity generator”; and to replace a reference to § 261.5 with a reference to § 262.14.
- Section 271.10(c) is revised to add a reference to § 262.15 because the previous reference to § 262.34 should have been updated in the 2016 Generator Improvements rule to also include § 262.15.
- Section 441.50(b)(3) is revised to replace a reference to § 261.5(g)(3) with a reference to § 262.14(a)(5).

Partially Withdrawn Amendments

- Section 261.4(e)(1) introductory text related to sample waste generated or collected for the purpose of conducting treatability studies.
- Section 262.11(d) introductory text related to identifying hazardous characteristics for listed hazardous wastes when the characteristic is already addressed by the listing.

- Section 262.11(g) related to identifying hazardous characteristics for listed hazardous wastes when the characteristic is already addressed by the listing.
- Section 262.16(b)(1) related to the accumulation limit for small quantity generators generating acute hazardous waste.
- Section 262.17(a)(8)(i) introductory text related to LQG closure notification when closing a waste accumulation unit but not the whole facility.
- Section 262.17(a)(8)(i)(A) related to LQG closure notification when closing a waste accumulation unit but not the whole facility.
- Section 262.232(b)(6)(iv) related to adding “RCRA-” to the term “designated facility” to match the language of parallel provisions in this section.
- Section 266.508(a)(2)(ii) related to allowing applicable EPA hazardous waste numbers (also known as waste codes) in addition to the required PHARMS code in item 13 of the hazardous waste manifest for shipments of hazardous waste pharmaceuticals from a healthcare facility subject to [40 CFR part 266 subpart P](#). We are also withdrawing language from this provision that allows the use of PHRM in lieu of PHARMS in item 13 of the hazardous waste manifest.

Office of Regulatory Management
Economic Review Form

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) Chapter citation(s)	9 VAC20-60
VAC Chapter title(s)	Virginia Hazardous Waste Management Regulations
Action title	Annual Update 2024, Virginia Hazardous Waste Management Regulations, 9VAC20-60
Date this document prepared	September 30, 2024
Regulatory Stage (including Issuance of Guidance Documents)	Exempt Final Action

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

[Agency Note: This is a final exempt regulatory action necessary only to conform to changes in federal regulations. Therefore, Table 1c is not required and has been removed.](#)

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>Background: This regulatory action to conform the regulation to the updated federal requirements is necessary to allow DEQ to maintain authorization to implement the national hazardous waste management programs. The updates to the federal Code of Regulations (CFR) captured by this update include fixes to typographical errors, updates to incorrect and outdated regulatory citations, and updates to the U.S. Environmental Protection Agency’s (EPA) physical address.</p> <p>Direct Costs: There are no direct costs associated with the adoption of this regulatory change to conform the Virginia Hazardous Waste Management Regulations (VHWMR) with Title 40 of the Code of Federal Regulations as published on July 1, 2024.</p> <p>Indirect Costs: No indirect costs associated with the adoption of this regulatory change are anticipated.</p> <p>Direct Benefits: This proposed change allows the VHWMR to maintain consistency with the federal waste management regulations at 40 CFR Parts 260 through 279 and allows DEQ to maintain EPA authorization to implement its hazardous waste program.</p> <p>Indirect Benefits: The VHWMR adopt the federal Resource Conservation and Recovery Act requirements by reference. By maintaining environmental regulations at the state level, Virginia has been able to hire staff to ensure compliance and enforcement with these regulations, which has provided benefits to the regulated community.</p>	
<p>(2) Present Monetized Values</p>	<p>Direct & Indirect Costs</p>	<p>Direct & Indirect Benefits</p>
	<p>(a) 0</p>	<p>(b) 0</p>
<p>(3) Net Monetized Benefit</p>	<p>0</p>	
<p>(4) Other Costs & Benefits (Non-Monetized)</p>	<p>No conclusive statement can be made about other costs or benefits (nonmonetized) of this regulatory adoption.</p>	

(5) Information Sources	<p>Final Rules: https://www.federalregister.gov/documents/2023/08/09/2023-14731/hazardous-waste-generator-improvements-rule-the-hazardous-waste-pharmaceuticals-rule-and-the (8/9/23)</p> <p>https://www.federalregister.gov/documents/2023/12/06/2023-26750/hazardous-waste-generator-improvements-rule-the-hazardous-waste-pharmaceuticals-rule-and-the (12/6/23)</p>
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Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: The VHWMR would then be inconsistent with the federal regulations and DEQ could lose its authorization to administer national hazardous waste programs in Virginia.</p> <p>Indirect Costs: There are no indirect costs associated with maintaining the regulations as currently written.</p> <p>Direct Benefits: Having state-adopted regulations and having these regulations enforced at the state level gives the Commonwealth more control over what is taking place in Virginia. This also benefits the regulated community by causing less confusion.</p> <p>Indirect Benefits: The Virginia Hazardous Waste Management Regulations adopt the federal Resource Conservation and Recovery Act requirements by reference. Having state-adopted regulations and having these regulations enforced at the state level gives the Commonwealth more control over what is taking place in Virginia. This also benefits the regulated community by causing less confusion.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) 0	(b) 0
(3) Net Monetized Benefit	0	
(4) Other Costs & Benefits (Non-Monetized)	No conclusive statement can be made about other costs or benefits (nonmonetized) of this regulatory adoption.	
(5) Information Sources	<p>Final Rules: https://www.federalregister.gov/documents/2023/08/09/2023-14731/hazardous-waste-generator-improvements-rule-the-hazardous-waste-pharmaceuticals-rule-and-the (8/9/23)</p>	

	<p>https://www.federalregister.gov/documents/2023/12/06/2023-26750/hazardous-waste-generator-improvements-rule-the-hazardous-waste-pharmaceuticals-rule-and-the (12/6/23)</p>
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Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: There are no direct costs to local partners from the adoption of this regulatory change.</p> <p>Indirect Costs: There are no indirect costs to local partners from the adoption of this regulatory change.</p> <p>Direct Benefits: Having state-adopted regulations and having these regulations enforced at the state level gives the Commonwealth more control over what is taking place in Virginia and is less confusing to the regulated community.</p> <p>Indirect Benefits: The VHWMR adopt the federal Resource Conservation and Recovery Act requirements by reference. Having state-adopted regulations and having these regulations enforced at the state level gives the Commonwealth more control over what is taking place in Virginia. This also benefits the regulated community by causing less confusion.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) 0	(b) 0
(3) Other Costs & Benefits (Non-Monetized)	No conclusive statement can be made about other costs or benefits (nonmonetized) of this regulatory adoption.	

(4) Assistance	N/A
(5) Information Sources	<p>Final Rules: https://www.federalregister.gov/documents/2023/08/09/2023-14731/hazardous-waste-generator-improvements-rule-the-hazardous-waste-pharmaceuticals-rule-and-the (8/9/23)</p> <p>https://www.federalregister.gov/documents/2023/12/06/2023-26750/hazardous-waste-generator-improvements-rule-the-hazardous-waste-pharmaceuticals-rule-and-the (12/6/23)</p>

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Families are not particularly impacted by this regulatory change and the change does not impose specific, direct, or indirect monetized costs to families or provide specific, direct, or indirect monetized benefits to families.</p> <p>Direct Costs: There are no direct costs to families; household hazardous waste is not regulated under the hazardous waste regulations.</p> <p>Indirect Costs: There are no indirect costs to families; household hazardous waste is not regulated under the hazardous waste regulations.</p> <p>Direct Benefits: There are no direct benefits to families.</p> <p>Indirect Benefits: There are no indirect benefits to families from incorporating these changes into the VHWMR. However, the regulations help to ensure the Commonwealth’s environment is healthy and safe.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) 0	(b) 0

(3) Other Costs & Benefits (Non-Monetized)	<p>No conclusive statement can be made about specific, indirect costs or benefits (non-monetized) of this regulatory change. However, the safe and secure generation and management of hazardous materials helps to maintain a certain quality of life and wellbeing for families.</p> <p>Incorporating these changes into the hazardous waste regulations ensures that hazardous waste requirements continue to be implemented and enforced leading to continued protection of the Commonwealth’s environment and natural resources.</p>
(4) Information Sources	<p>Final Rules:</p> <p>https://www.federalregister.gov/documents/2023/08/09/2023-14731/hazardous-waste-generator-improvements-rule-the-hazardous-waste-pharmaceuticals-rule-and-the (8/9/23)</p> <p>https://www.federalregister.gov/documents/2023/12/06/2023-26750/hazardous-waste-generator-improvements-rule-the-hazardous-waste-pharmaceuticals-rule-and-the (12/6/23)</p>

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: There are no direct costs for small businesses associated with incorporating these changes into the VHWMR. This change in regulation does not impose any additional direct or indirect monetized costs for small businesses and is consistent with Federal requirements</p> <p>Indirect Costs: There are no indirect costs for small business associated with incorporating these changes into the VHWMR.</p> <p>Direct Benefits: Direct benefits for small businesses include that regulating hazardous waste at a state level makes regulators more accessible to local companies should the business have questions or the need to better understand the regulations and requirements and is less confusing to the regulated community.</p> <p>Indirect Benefits: There are no indirect benefits to small businesses as a result of this regulatory change.</p>	
(2) Present Monetized Values	Direct & Indirect Costs (a) 0	Direct & Indirect Benefits (b) 0

(3) Other Costs & Benefits (Non-Monetized)	No conclusive statement can be made about other costs or benefits (nonmonetized) of this regulatory adoption.
(4) Alternatives	N/A
(5) Information Sources	Final Rules: https://www.federalregister.gov/documents/2023/08/09/2023-14731/hazardous-waste-generator-improvements-rule-the-hazardous-waste-pharmaceuticals-rule-and-the (8/9/23) https://www.federalregister.gov/documents/2023/12/06/2023-26750/hazardous-waste-generator-improvements-rule-the-hazardous-waste-pharmaceuticals-rule-and-the (12/6/23)

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

Change in Regulatory Requirements

VAC Section(s) Involved*	Authority of Change	Initial Count	Additions	Subtractions	Total Net Change in Requirements
9VAC20-60-18	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	0	0	0	0
	(D/R):	0	0	0	0
				Grand Total of Changes in Requirements:	(M/A):0 (D/A): 0 (M/R):0 (D/R): 0

Key:

Please use the following coding if change is mandatory or discretionary and whether it affects externally regulated parties or only the agency itself:

(M/A): Mandatory requirements mandated by federal and/or state statute affecting the agency itself

(D/A): Discretionary requirements affecting agency itself

(M/R): Mandatory requirements mandated by federal and/or state statute affecting external parties, including other agencies

(D/R): Discretionary requirements affecting external parties, including other agencies

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved*	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases
N/A				

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved*	Description of Regulatory Change	Overview of How It Reduces or Increases Regulatory Burden
N/A		

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	Original Word Count	New Word Count	Net Change in Word Count
N/A			

*If the agency is modifying a guidance document that has regulatory requirements, it should report any change in requirements in the appropriate chart(s).

Project 7942 - Exempt Final

Virginia Waste Management Board

Hazardous Waste Annual Update 2024

9VAC20-60-18. Applicability of incorporated references based on the dates on which they became effective.

Except as noted, when a regulation of the U.S. Environmental Protection Agency (EPA) set forth in Title 40 of the Code of Federal Regulations is referenced and incorporated into this chapter, that regulation shall be as it exists and has been published in the ~~July 1, 2022~~July 1, 2023July 1, 2024, annual edition; however, the incorporation by reference of Title 40 of the Code of Federal Regulations shall not include the requirements of EPA's Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule (83 FR 24664, May 30, 2018) or ~~Conforming Changes to Canada-specific Hazardous Waste Import-Export Recovery and Disposal Operation Codes (86 FR 54381, October 1, 2021).~~

Tab C



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

Memorandum

To: Members of the Virginia Waste Management Board

Through: Kathryn Perszyk, Director, Land Protection & Revitalization Division

From: Rebecca Rathe, Regulatory Analyst

Date: September 30, 2024

Subject: Annual Update 2024, Regulations Governing the Transportation of Hazardous Materials (9VAC20-110)

The attached regulatory amendment is presented to the Board for your consideration for adoption. The final exempt action amends the Regulations Governing the Transportation of Hazardous Materials, 9VAC20-110. Each year, the U.S. Department of Transportation makes changes to the federal regulations regarding the transportation of hazardous materials in Title 49 of the Code of Federal Regulations (49 CFR). As 9VAC20-110 incorporates certain parts of 49 CFR, it is necessary to amend 9VAC20-110 in order to incorporate the federal changes. The last update covered the changes made to 49 CFR during the period of October 1, 2019 through September 30, 2022. This amendment will bring the 49 CFR citations in 9VAC20-110 up to date and incorporate the applicable changes to 49 CFR to the most current CFR published in the October 1, 2024 annual edition.

Section 2.2-4006 A 4 (c) of the Code of Virginia exempts this regulatory amendment to 9VAC20-110 from Article 2 of the Administrative Process Act 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*. A draft Virginia Regulatory Town Hall document, including two attachments detailing the CFR changes, an Office of Regulatory Management Economic Review Form and a copy of the required regulatory text changes are attached for your information.

At your Board meeting on October 23, 2024, DEQ will request that the Board adopt the Annual Update 2024 to 9VAC20-110, authorize its publication, and affirm that the Board will receive, consider and respond to requests by any interested person at any time with respect to reconsideration or revision.

Attachments:

- Attachment A: Draft Virginia Regulatory Town Hall Document (TH09_ExemptFinal)
- Attachment B: Economic Review Form
- Attachment C: RIS Project Report – Project 7334 – 9VAC20-110-110

cc: Jill R. Hrynciw, DEQ Policy Division



townhall.virginia.gov

Exempt Action: Final Regulation Agency Background Document

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC20-110
VAC Chapter title(s)	Regulations Governing the Transportation of Hazardous Materials
Action title	Annual Update 2024
Final agency action date	October 23, 2024
Date this document prepared	October 1, 2024

This information is required for executive branch review pursuant to 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. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to 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*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Virginia's Regulations Governing the Transportation of Hazardous Materials, 9VAC20-110, incorporate by reference certain federal regulations from Title 49 of the Code of Federal Regulations (CFR). This amendment will bring these regulations up to date with the latest update to Title 49 of the CFR as published on October 1, 2024. Section 2.2-4006.A.4 (c) of the Administrative Process Act allows the Board to adopt this regulatory amendment as a final exempt action as the changes are necessary to conform to changes in federal regulations.

Each year the U.S. Department of Transportation (U.S. DOT) makes several changes to the federal rules (see Attachments 1 and 2) regarding the transportation of hazardous materials in Title 49 of the Code of Federal Regulations. Since Virginia's regulations incorporate the federal regulations, with certain exceptions, it is only necessary to change one item to bring Virginia's regulations up-to-date with the federal changes. The item that must be amended is 9VAC20-110-110, which specifies the date of the

federal regulations that are incorporated into Virginia’s regulations. For the ease of use by the regulated community, this date is always October 1; however, the text is amended to change the year, thus incorporating the federal changes from October 1 of the previous year through September 30 of the new year (in this case, from October 1, 2022 through September 30, 2024).

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

Each year, the U.S. DOT makes several changes to the federal rules regarding the transportation of hazardous materials in Title 49 of the Code of Federal Regulations. Since Virginia’s regulations for transportation of hazardous materials (9VAC20-110) incorporate certain parts of the federal regulations, it is necessary to update 9VAC20-110-110 in order to incorporate U.S. DOT’s most recent rulemakings since the last update.

Conforming state regulations to those of the U.S. DOT is necessary to maintain federally granted authority to implement the national program. The Virginia State Police maintain authority for compliance and enforcement of these regulations and this regulatory amendment.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the “Definitions” section of the regulation.

- CFR- Code of Federal Regulations
- DEQ or Department – Department of Environmental Quality
- FMCSA – US DOT’s Federal Motor Carrier Safety Administration
- PHMSA – US DOT’s Pipeline and Hazardous Materials Safety Administration
- U.S. DOT – United States Department of Transportation

Statement of Final Agency Action

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 adopted this regulatory amendment to 9VAC20-110 on October 23, 2024 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.

Legal Basis

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.

These regulations are issued under authority of Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, Transportation of Hazardous Materials. Additionally, Section 2.2-4006 A 4 (c) of the Code of Virginia allows the Board to adopt this regulatory amendment to 9VAC20-110 as a final exempt action as the changes are necessary to conform to changes in the federal regulations.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The purpose of this regulatory action is to amend 9VAC20-110 to incorporate several changes to the federal rules regarding the transportation of hazardous materials in Title 49 of the Code of Federal Regulations. Since Virginia's regulations incorporate the federal regulations, with certain exceptions, it is only necessary to change one item to bring Virginia's regulations up-to-date with the federal changes.

Without this regulatory change, the Virginia State Police's authority is limited in enforcing federal regulatory changes between October 1, 2022 and September 30, 2024. This regulatory change enables the Virginia State Police to inspect and enforce the federal requirements for hazardous materials transport.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

Each year the U.S. DOT makes several changes to the federal rules (see Attachments 1 and 2) regarding the transportation of hazardous materials in Title 49 of the Code of Federal Regulations. Since Virginia's regulations incorporate the federal regulations, with certain exceptions, it is only necessary to change one item to bring Virginia's regulations up-to-date with the federal changes. The item that must be amended is 9VAC20-110-110, which specifies the date of the federal regulations that are incorporated into Virginia's regulations. For the ease of use by the regulated community, this date is always October 1; however, the text is amended to change the year, thus incorporating the federal changes from October 1 of the previous year through September 30 of the new year (in this case, from October 1, 2022 through September 30, 2024).

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or

amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

There are no disadvantages to the public or the Commonwealth associated with the proposed regulatory change. However, without this regulatory change, the Virginia State Police's authority is limited in enforcing federal regulatory changes between October 1, 2022 and September 30, 2024. This regulatory change enables the Virginia State Police to inspect and enforce the federal requirements for hazardous materials transport.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change that is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

The item that must be amended is 9VAC20-110-110, which specifies the date of the federal regulations that are incorporated into Virginia's regulations.

There are no requirements more restrictive than applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact, which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected:
The Virginia State Police maintain authority for compliance and enforcement of these regulations and this regulatory amendment.

Localities Particularly Affected
There are no localities particularly affected by this regulatory amendment.

Other Entities Particularly Affected
There are no entities particularly affected by this regulatory amendment.

Details of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

The item that must be amended is 9VAC20-110-110, which specifies the date of the federal regulations that are incorporated into Virginia’s regulations.

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC20-110-110	N/A	Transportation of Hazardous Materials – Compliance with Federal Regulations	Change in date of amendments promulgated by U.S. DOT from October 1, 2022 to October 1, 2024.

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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

Since Virginia’s regulations incorporate the federal regulations, with certain exceptions, this regulatory action is necessary to bring the regulations up-to-date with the federal changes related to transportation of hazardous materials. Without this regulatory change, the Virginia State Police’s authority is limited in enforcing federal regulatory changes between October 1, 2022 and September 30, 2024. This regulatory change enables the Virginia State Police to inspect and enforce the federal requirements for hazardous materials transport.

Family Impact

In accordance with § 2.2-606 of the Code of Virginia, please assess the potential impact of the proposed 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.

Attachment 1

Changes to Title 49 of the CFR – October 1, 2022 – September 30, 2024
 2024US DOT’s Pipeline and Hazardous Materials Safety Administration (PHMSA)

Item	Effective Date	Affected 9VAC20-110 49 CFR Part	Federal Register (Publication Date)	Summary
1	01/06/2023 3 Docket No. 2022-28580	49 CFR 107; 49 CFR 171	88 FR 1114 ; 88 FR 1125 ; (01/06/2023)	This rule implements the Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIAA), Public Law 101-410, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act), Public Law 114-74, 129 Stat. 599, codified at 28 U.S.C. 2461 note. The FCPIAA and the 2015 Act require Federal agencies to adjust minimum and maximum civil penalty amounts to preserve their deterrent impact. The 2015 Act amended the formula and frequency of the adjustments. It required an initial catch-up adjustment in the form of an interim final rule, followed by annual adjustments of civil penalty amounts using a statutorily mandated formula.
2	01/20/2023 3 Docket No. PHMSA-2016-0014 (HM-2241)	49 CFR 107; 49 CFR 171; 49 CFR 173	87 FR 77995 ; 87 FR 78010 ; 12/21/2022	This final rule revises the Hazardous Materials Regulations for lithium cells and batteries transported by aircraft and is consistent with the previously published Interim Final Rule, which responded to congressional mandates; prohibited the transport of lithium ion cells and batteries as cargo on passenger aircraft; required lithium ion cells and batteries to be shipped at not more than a 30 percent state of charge aboard cargo-only aircraft when not packed with or contained in equipment; and limited the use of alternative provisions for smaller lithium cell or battery shipments to one package per consignment. In response to comments, this final rule provides editorial amendments and modification of certain provisions including marking requirements, requests for an extension on the compliance date, and exception for lithium cells or batteries used for medical devices with approval by the Associate Administrator.

Item	Effective Date	Affected 9VAC20-110 49 CFR Part	Federal Register (Publication Date)	Summary
3	01/26/2023 Docket No. PHMSA-2021-0091 (HM-260B)	49 CFR 107 - SUBPART B; SUBPART F; 49 CFR 171; 49 CFR 172; 49 CFR 173; 49 CFR 174; 49 CFR 175; 49 CFR 176; 49 CFR 177; 49 CFR 178; 49 CFR 180	87 FR 79752 ; 87 FR 79764 ; 87 FR 79765 ; 87 FR 79766 ; 87 FR 79772 ; 87 FR 79773 ; 87 FR 79774 ; 87 FR 79775 ; 87 FR 79776 ; 87 FR 79777 ; 87 FR 79779 ; 87 FR 79782 ; 87 FR 79783 ; 87 FR 79784 ; 87 FR 79785 (12/27/2022)	<p>The Pipeline and Hazardous Materials Safety Administration (PHMSA), in this final rule, is amending the Hazardous Materials Regulations (HMR; 49 Code of Federal Regulations (CFR) parts 171-180) to correct typographical errors; fix incorrect regulatory references and citations; remove obsolete references to regulatory provisions, dates, as well as outdated concepts such as other regulated materials-domestic (ORM-D); address misstatements of certain regulatory requirements; and supply information or language that had been inadvertently omitted. Further, within the scope of this rulemaking, PHMSA is revising certain procedural regulations at 49 CFR parts 107 and 110 to make them easier to understand. PHMSA expects the regulatory amendments adopted in this final rule will ensure stakeholders focus their resources on compliance with pertinent safety requirements of the HMR rather than trying to resolve erroneous, ambiguous, or obsolete language within PHMSA's regulations.</p> <p>The amendments contained in this final rule are non-substantive changes that do not impose new requirements that necessitate public comment.</p>
4	4/3/2024 Docket No. PHMSA-2020-0102 (HM-219D)	49 CFR 107 49 CFR 171 49 CFR 172 49 CFR 173 49 CFR 178 49 CFR 180	89 FR 15636 89 FR 15662 89 FR 15665 89 FR 15666 89 FR 15667 89 FR 15668 (3/4/2024)	<p>PHMSA amends the Hazardous Materials Regulations (HMR) to update, clarify, improve the safety of, or streamline various regulatory requirements. Specifically, this rulemaking responds to 18 petitions for rulemaking submitted by the regulated community between May 2018 and October 2020 that requests PHMSA address a variety of provisions, including but not limited to those addressing packaging, hazard communication, and the incorporation by reference of certain documents. These revisions maintain or enhance the existing high level of safety under the HMR while providing clarity and appropriate regulatory flexibility in the transport of hazardous materials.</p>

Item	Effective Date	Affected 9VAC20-110 49 CFR Part	Federal Register (Publication Date)	Summary
5	5/10/2024 Docket No. PHMSA-2021-0092 (HM-215Q)	49 CFR 171 49 CFR 172 49 CFR 173 49 CFR 175 49 CFR 176 49 CFR 178 49 CFR 180	89 FR 25434 89 FR 25476 89 FR 25477 89 FR 25478 89 FR 25480 89 FR 25481 89 FR 25486 89 FR 25487 89 FR 25488 89 FR 25489 89 FR 25490 (Cross Referenced) (4/10/24)	<p>PHMSA is amending the Hazardous Materials Regulations (HMR) to maintain alignment with international regulations and standards by adopting various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. PHMSA is also withdrawing the unpublished November 28, 2022, Notice of Enforcement Policy Regarding International Standards on the use of select updated international standards in complying with the HMR during the pendency of this rulemaking.</p>

Attachment 2

Changes to Title 49 of the CFR – October 1, 2022 – September 30, 2024
 US DOT’s Federal Motor Carrier Safety Administration (FMCSA)

Item	Effective Date	Affected 9VAC20-110 49 CFR Part	Federal Register (Publication Date)	Summary
1	11/15/2022 Docket No. FMCSA-2020-0188	49 CFR 390	87 FR 68367 ; 87 FR 68372 ; (11/15/2022)	Federal Motor Carrier Safety Administration (FMCSA) Department of Transportation (DOT): This interpretive rule adds appendices to the Federal Motor Carrier Safety Regulations (FMCSRs) to explain existing statutes and regulations FMCSA administers related to: the applicability of the FMCSRs, including the financial responsibility regulations, to motor carriers of passengers operating in interstate commerce, including limitations on such applicability based on characteristics of the vehicle operated or the scope of operations conducted; and the applicability of commercial operating authority registration based on the Agency's jurisdiction over motor carriers of passengers, regardless of vehicle characteristics, when operating for-hire in interstate commerce. Under certain conditions, motor carriers performing intrastate movements of passengers may still be operating in interstate commerce and, unless otherwise exempt, are subject to applicable FMCSA statutory and regulatory requirements. FMCSA wants motor carriers of passengers and the public to be aware of the applicable regulations and requirements.
2	11/17/2023 Docket No. FMCSA-2023-0174	49 CFR chapter undef	88 FR 80169 88 FR 80179 88 FR 80183 88 FR 80184 88 FR 80192 88 FR 80193 (11/17/2023)	FMCSA amends its regulations by making technical corrections throughout the Federal Motor Carrier Safety Regulations (FMCSRs). The Agency makes minor changes to correct inadvertent errors and omissions, remove or update obsolete references, and improve the clarity and consistency of certain regulatory provisions. The Agency also makes a change to its rules of organization, procedures, and practice.

Item	Effective Date	Affected 9VAC20-110 49 CFR Part	Federal Register (Publication Date)	Summary
3	12/12/2023 Docket No. FMCSA-2022-0028	49 CFR 390	88 FR 70897 88 FR 70908 88 FR 70909 (10/13/2023)	<p>FMCSA revises the emergency exemption rules to narrow the scope of safety regulations from which relief is automatically provided for motor carriers and drivers providing direct assistance when an emergency has been declared. This rule ensures that the relief granted through emergency declarations is appropriate and tailored to the specifics of the circumstances and emergencies being addressed. This rule also revises the process for extending automatic emergency regulatory relief where circumstances warrant and allows for potential reporting requirements when FMCSA issues an extension or modification.</p>
3	11/17/2023 Docket No. FMCSA-2023-0174	49 CFR chapter undef	88 FR 80169 88 FR 80179 88 FR 80183 88 FR 80184 88 FR 80192 88 FR 80193 (11/17/2023)	<p>FMCSA amends its regulations by making technical corrections throughout the Federal Motor Carrier Safety Regulations (FMCSRs). The Agency makes minor changes to correct inadvertent errors and omissions, remove or update obsolete references, and improve the clarity and consistency of certain regulatory provisions. The Agency also makes a change to its rules of organization, procedures, and practice.</p>
4	12/28/2023	14 CFR 13 14 CFR 383 14 CFR 406 33 CFR 401 46 CFR 221 46 CFR 307 46 CFR 340 46 CFR 356 49 CFR 107 49 CFR 171 49 CFR 190 49 CFR 209 49 CFR 213 49 CFR 214 49 CFR 215 49 CFR 216 49 CFR 217 49 CFR 218	88 FR 89551 88 FR89560	<p>This final rule provides the statutorily prescribed 2024 adjustment to civil penalty amounts that may be imposed for violations of certain DOT regulations.</p>

Item	Effective Date	Affected 9VAC20-110 49 CFR Part	Federal Register (Publication Date)	Summary
		49 CFR 219 49 CFR 220 49 CFR 221 49 CFR 222 49 CFR 223 49 CFR 224 49 CFR 225 49 CFR 227 49 CFR 228 49 CFR 229 49 CFR 230 49 CFR 231 49 CFR 233 49 CFR 234 49 CFR 235 49 CFR 236 49 CFR 237 49 CFR 238 49 CFR 239 49 CFR 240 49 CFR 241 49 CFR 242 49 CFR 243 49 CFR 244 49 CFR 272 49 CFR 386 49 CFR 578		
				FMCSA updates the Medical Advisory Criteria published as an appendix in the Code of Federal Regulations (CFR). The appendix provides guidance for medical examiners listed on FMCSA's National Registry of Certified Medical Examiners (National Registry) on the applicability and interpretation of the physical qualification standards for operators of commercial motor vehicles. The advisory criteria in the appendix are also intended to provide recommendations and information to assist medical examiners in applying the standards, basic information related to testing, and matters to consider when making a qualification determination. The updated Medical Advisory

Item	Effective Date	Affected 9VAC20-110 49 CFR Part	Federal Register (Publication Date)	Summary
				Criteria replace all previous versions of the criteria.
5	1/19/2024 Docket No. FMCSA-2022-0111	49 CFR 391	89 FR 3577 89 FR 3579 (1/19/24)	FMCSA updates the Medical Advisory Criteria published as an appendix in the Code of Federal Regulations (CFR). The appendix provides guidance for medical examiners listed on FMCSA's National Registry of Certified Medical Examiners (National Registry) on the applicability and interpretation of the physical qualification standards for operators of commercial motor vehicles. The advisory criteria in the appendix are also intended to provide recommendations and information to assist medical examiners in applying the standards, basic information related to testing, and matters to consider when making a qualification determination. The updated Medical Advisory Criteria replace all previous versions of the criteria.

Office of Regulatory Management
Economic Review Form

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) Chapter citation(s)	9 VAC 20-110
VAC Chapter title(s)	Regulations Governing the Transportation of Hazardous Materials
Action title	Annual Update 2024
Date this document prepared	October 1, 2024
Regulatory Stage (including Issuance of Guidance Documents)	Final Exempt (Expedited Review)

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

[Agency Note: This is a final exempt regulatory action necessary to conform to changes in federal regulations. Therefore, Table 1c is not required and has been removed.](#)

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>Background: All the changes to the regulations are federally mandated and the agency is not exercising any discretion. The amendment to 9VAC20-110 is necessary to conform to changes to the federal regulations regarding the transportation of hazardous materials in Title 49 of the Code of Federal Regulations (49 CFR). As 9VAC20-110 incorporates certain parts of 49 CFR, it is necessary to amend 9VAC20-110-110 in order to incorporate the federal changes.</p> <p>Direct Costs: There are no direct costs associated with the adoption of this regulatory change. The Annual Update of the Virginia Regulations Governing the Transportation of Hazardous Materials is necessary to conform to changes in federal regulations which are currently in place.</p> <p>Indirect Costs: No indirect costs associated with the adoption of this regulatory change are anticipated.</p> <p>Direct Benefits: The Annual Update of the regulations is necessary for the Virginia State Police to implement the changes in federal requirements governing the transportation of hazardous materials.</p> <p>Indirect Benefits: The primary indirect benefit will be that the Virginia State Police will continue to implement the requirements governing the transportation of hazardous materials as mandated by changes to the Code of Federal Regulations.</p>	
<p>(2) Present Monetized Values</p>	<p>Direct & Indirect Costs</p>	<p>Direct & Indirect Benefits</p>
	<p>(a) 0</p>	<p>(b) 0</p>
<p>(3) Net Monetized Benefit</p>	<p>0</p>	
<p>(4) Other Costs & Benefits (Non-Monetized)</p>	<p>No conclusive statement can be made about other costs or benefits (nonmonetized) of this regulatory adoption.</p>	
<p>(5) Information Sources</p>	<p>Section 49 of the CFR</p>	

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: There are no direct costs associated with maintaining the regulations as currently written. However, the regulations would then be inconsistent with the federal regulations.</p> <p>Indirect Costs: There are no indirect costs associated with maintaining the regulations as currently written.</p> <p>Direct Benefits: There are no direct benefits associated with maintaining the regulations as currently written.</p> <p>Indirect Benefits: There are no indirect benefits associated with maintaining the regulations as currently written.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) 0	(b) 0
(3) Net Monetized Benefit	0	
(4) Other Costs & Benefits (Non-Monetized)	No conclusive statement can be made about other costs or benefits (nonmonetized) of this regulatory adoption.	
(5) Information Sources	Section 49 of the CFR	

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: There are no direct costs to local partners from the adoption of this regulatory change.</p> <p>Indirect Costs: No conclusive statement can be made about specific, indirect costs (monetized) of this regulatory change to local partners.</p>
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	<p>Direct Benefits: These regulatory amendments are being made to conform to changes in the federal regulations which are currently in effect.</p> <p>Indirect Benefits: The primary indirect benefit will be that the requirements governing the transportation of hazardous materials will continue to be implemented and enforced by the Virginia State Police.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) 0	(b) 0
(3) Other Costs & Benefits (Non-Monetized)	No conclusive statement can be made about other costs or benefits (nonmonetized) of this regulatory adoption.	
(4) Assistance	N/A	
(5) Information Sources	Section 49 of the CFR	

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Families are not impacted by this regulatory change and the change does not impose specific, direct, or indirect monetized costs to families or provide specific, direct, or indirect monetized benefits to families.</p> <p>Direct Costs: There are no direct costs to families associated with this regulatory change.</p> <p>Indirect Costs: There are no indirect costs to families associated with this regulatory change.</p> <p>Direct Benefits: These regulatory amendments are being made to conform to changes in the federal regulations which are currently in effect.</p>
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	Indirect Benefits: The primary indirect benefit will be that the requirements governing the transportation of hazardous materials will continue to be implemented and enforced by the Virginia State Police.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) 0	(b) 0
(3) Other Costs & Benefits (Non-Monetized)	No conclusive statement can be made about specific, indirect costs or benefits (non-monetized) of this regulatory change. However, families generally benefit from the protection of the Commonwealth’s environment and natural resources from pollution, impairment, or destruction. The safe and secure transportation of hazardous materials helps to maintain a certain quality of life and wellbeing for families. Incorporating these changes ensures that transportation of hazardous materials continue to be implemented and enforced leading to continued protection of the Commonwealth’s environment and natural resources.	
(4) Information Sources	Section 49 of the CFR	

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: There are no direct costs to small businesses associated with this regulatory change. This change in regulation does not impose any additional direct or indirect monetized costs for small businesses and is consistent with Federal requirements.</p> <p>Indirect Costs: There are no indirect costs for small businesses associated with incorporating these regulatory changes.</p> <p>Direct Benefits: These regulatory amendments are being made to conform to changes in the federal regulations which are currently in effect.</p> <p>Indirect Benefits: The primary indirect benefit will be that the requirements governing the transportation of hazardous materials will continue to be implemented and enforced by the Virginia State Police.</p>
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(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) 0	(b) 0
(3) Other Costs & Benefits (Non-Monetized)	No conclusive statement can be made about other costs or benefits (nonmonetized) of this regulatory adoption.	
(4) Alternatives	N/A	
(5) Information Sources	Section 49 of the CFR	

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

This regulatory amendment does not place any additional regulatory requirements on the regulated community. Rather it provides the mechanism for the continued implementation by the Virginia State Police of regulations governing the transportation of hazardous materials.

Change in Regulatory Requirements

VAC Section(s) Involved*	Authority of Change	Initial Count	Additions	Subtractions	Total Net Change in Requirements
9VAC20-110-110	(M/A):	1	0	0	0
	(D/A):	0	0	0	0
	(M/R):	0	0	0	0
	(D/R):	0	0	0	0
				Grand Total of Changes in Requirements:	(M/A):0 (D/A): 0 (M/R): 0 (D/R): 0

Key:

Please use the following coding if change is mandatory or discretionary and whether it affects externally regulated parties or only the agency itself:

(M/A): Mandatory requirements mandated by federal and/or state statute affecting the agency itself

(D/A): Discretionary requirements affecting agency itself

(M/R): Mandatory requirements mandated by federal and/or state statute affecting external parties, including other agencies

(D/R): Discretionary requirements affecting external parties, including other agencies

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved*	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases
N/A				

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved*	Description of Regulatory Change	Overview of How It Reduces or Increases Regulatory Burden
N/A		

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	Original Word Count	New Word Count	Net Change in Word Count

*If the agency is modifying a guidance document that has regulatory requirements, it should report any change in requirements in the appropriate chart(s).

Project 7899 - Exempt Final

Virginia Waste Management Board

Hazardous Material Transport 2024 Annual Update

9VAC20-110-110. Compliance.

Every person who transports or offers for transportation hazardous materials within or through the Commonwealth of Virginia shall comply with the federal regulations governing the transportation of hazardous materials promulgated by the U.S. Secretary of Transportation with amendments promulgated as of ~~October 1, 2022~~October 1, 2024, pursuant to the Hazardous Materials Transportation Act, and located at Title 49 of the Code of Federal Regulations as set forth below and which are incorporated in these regulations by reference:

1. Special Permits. 49 CFR Part 107, Subpart B.
2. Registration of Cargo Tank and Cargo Tank Motor Vehicle Manufacturers, Assemblers, Repairers, Inspectors, Testers, and Design Certifying Engineers in 49 CFR Part 107, Subpart F.
3. Registration of Persons Who Offer or Transport Hazardous Materials in 49 CFR Part 107, Subpart G.
4. Hazardous Materials Regulations in 49 CFR Parts 171 through 177.
5. Specifications for Packagings in 49 CFR Part 178.
6. Specifications for Tank Cars in 49 CFR Part 179.
7. Continuing Qualification and Maintenance of Packagings in 49 CFR Part 180.
8. Motor Carrier Safety Regulations in 49 CFR Parts 390 through 397.

Tab D



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

Memorandum

To: Members of the Virginia Waste Management Board

Through: Kathryn Perszyk, Director, Land Protection & Revitalization Division

From: Rebecca Rathe, Regulatory Analyst

Date: September 30, 2024

Subject: Virginia Erosion and Stormwater Management Regulation Citation Correction, Coal Combustion Byproduct Regulations (9VAC20-85)

The attached regulatory amendment is presented to the Board for your consideration for adoption. The Final Exempt Action is necessary to correct a citation in the Coal Combustion Byproduct Regulations, 9VAC20-85, as a result of the repeal of the Erosion and Sediment Control Regulations, 9VAC25-840.

Effective July 1, 2024, the Erosion and Sediment Control Regulations, 9VAC25-840, were repealed and replaced with the Virginia Erosion and Stormwater Management Regulation, 9VAC25-875. With the consolidation of the erosion and sediment control and stormwater related regulations into a new chapter, 9VAC25-875, a change is needed to 9VAC20-85-90 to reference the new consolidated stormwater regulation, 9VAC25-875, instead of the existing reference to 9VAC25-840, which was repealed effective July 1, 2024.

Section 2.2-4006 A 3 of the Code of Virginia allows the Board to adopt this regulatory amendment to 9VAC20-85 as a final exempt regulatory action as the changes include only corrections of technical errors (updating citation references). This regulatory amendment will be effective 30 days after publication in the *Virginia Register*. A draft Virginia Regulatory Town Hall document, Office of Regulatory Management Economic Review Form, and a copy of the required regulatory text changes are attached for your information.

At your Board meeting on October 23, 2024, DEQ will request that the Board adopt the citation correction amendment to 9VAC20-85, authorize its publication, and affirm that the Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

cc: Jill R. Hrynciw, DEQ Policy Division

Attachments:

- Attachment A: Draft Virginia Regulatory Town Hall Document (TH09_Exemptfinal)

- Attachment B: Economic Review Form
- Attachment C: RIS Project Report – Project 7926 – 9VAC20-85



townhall.virginia.gov

Exempt Action: Final Regulation Agency Background Document

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC20-85
VAC Chapter title(s)	Coal Combustion Byproduct Regulations
Action title	Virginia Erosion and Stormwater Management Regulation Citation Correction
Final agency action date	October 23, 2024
Date this document prepared	September 30, 2024

This information is required for executive branch review pursuant to 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. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to 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*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

With the repeal of the Erosion and Sediment Control Regulations, 9VAC25-840, the consolidation of erosion and sediment control and stormwater management regulations into a new chapter, the Virginia Erosion and Stormwater Management Regulation, 9VAC25-875, a change is needed to the Coal Combustion Byproduct Regulations, 9VAC20-85, to update a citation to reference the new regulation, 9VAC25-875, instead of 9VAC25-840, which was repealed effective July 1, 2024.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or

board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

Effective July 1, 2024, the Erosion and Sediment Control Regulations, 9VAC25-840, were repealed and replaced with the Virginia Erosion and Stormwater Management Regulation, 9VAC25-875.

This regulatory amendment is necessary to update a citation in the Coal Combustion Byproduct Regulations, 9VAC20-85, to reference the new Virginia Erosion and Stormwater Management Regulation, 9VAC25-875, instead of 9VAC25-840, which was repealed effective July 1, 2024. This regulatory amendment is exempt from the state administrative procedures for adoption of regulations because it consists only of changes in style or form or corrections of technical errors § 2.2-4006(A)(3) of the Code of Virginia.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the “Definitions” section of the regulation.

VAC – Virginia Administrative Code

Statement of Final Agency Action

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 adopted the amendment to the Coal Combustion Byproduct Regulations, 9VAC20-85, at its meeting on October 23, 2024 and affirmed that the Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

This regulatory amendment is exempt from the state administrative procedures for adoption of regulations contained in Article 2 of the Administrative Process Act by the provisions of § 2.2-4006(A)(3) of the Code of Virginia as they are changes in form, style, and technical corrections.

Legal Basis

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.

The promulgating agency for this regulation is the Virginia Waste Management Board.

The legal basis for this regulation is the Virginia Waste Management Act (Chapter 14 of Title 10.1 of the Code of Virginia). Specifically, § 10.1-1402 of the Code of Virginia authorizes the Board to supervise and control waste management activities in the Commonwealth and to promulgate regulations necessary to carry out its powers and duties.

Changes to this chapter of the Virginia Administrative Code are exempt from Article 2 of the Administrative Process Act pursuant to § 2.2-4006(A)(3) of the Code of Virginia).

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

This final exempt regulatory action includes a citation correction to a chapter of regulations governed by the Virginia Waste Management Board. This correction is to a citation referencing the Erosion and Sediment Control Regulation, 9VAC25-840, which was repealed and consolidated into the Virginia Erosion and Stormwater Management Regulation, 9VAC25-875, effective July 1, 2024.

The Coal Combustion Byproduct Regulations will be updated to reflect this change. The benefit of this update is to provide the most accurate and up-to-date regulatory references to the regulated community. The impact will be a decrease in confusion and an increase of ease of use of the regulations, by providing the accurate regulatory citations.

Details of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC20-85-90 Operations	N/A	7. Fossil fuel combustion products site development shall be in accordance with the Erosion and Sediment Control Regulations, 9VAC25-840, or the Coal Surface Mining Reclamation Regulations, 4VAC25-130, as applicable.	7. Fossil fuel combustion products site development shall be in accordance with the Virginia Erosion and Stormwater Management Regulation, 9VAC25-875, or the Coal Surface Mining Reclamation Regulations, 4VAC25-130, as applicable.

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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

With the repeal of the Erosion and Sediment Control Regulations, 9VAC25-840, and the consolidation of erosion and sediment control and stormwater management regulations into a new chapter, the Virginia Erosion and Stormwater Management Regulation, 9VAC25-875, a change is needed to the Coal Combustion Byproduct Regulations, 9VAC20-85, to update a citation to reference the new regulation, 9VAC25-875, instead of 9VAC25-840, which was repealed effective July 1, 2024. There are no regulatory flexibility alternatives to consider, other than maintaining the status quo, which would result in confusion for the regulated community.

Family Impact

In accordance with § 2.2-606 of the Code of Virginia, please assess the potential impact of the proposed 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.

With the repeal of the Erosion and Sediment Control Regulations, 9VAC25-840, and the consolidation of the erosion and sediment control and stormwater management regulations into a new chapter, the Virginia Erosion and Stormwater Management Regulation, 9VAC25-875, a change is needed to the Coal Combustion Byproduct Regulations, 9VAC20-85, to update a citation to reference the new regulation, 9VAC25-875, instead of 9VAC25-840, which was repealed effective July 1, 2024. There is no potential impact of the proposed regulatory action on the institution of the family and family stability.

Office of Regulatory Management
Economic Review Form

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC20-85
VAC Chapter title(s)	Coal Combustion Byproduct Regulations
Action title	Virginia Erosion and Stormwater Management Regulation Citation Correction
Date this document prepared	September 30, 2024
Regulatory Stage (including Issuance of Guidance Documents)	Final Exempt

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Agency Note: This is a final exempt regulatory action necessary only to correct technical errors (updating citation references) in applicable waste management regulations as a result of the repeal of the Erosion and Sediment Control Regulations (9VAC25-840) and the consolidation of erosion and sediment control and stormwater management regulations in the Virginia Erosion and Stormwater Management Regulation (9VAC25-875), effective July 1, 2024.</p> <p>Direct Costs: There are no new direct costs associated with these technical corrections.</p> <p>Indirect Costs: There are no new indirect costs associated with these technical corrections.</p> <p>Direct Benefits: The regulatory change is necessary to conform to changes in stormwater regulations which are currently in place and will increase clarity for the regulated community.</p> <p>Indirect Benefits: The primary indirect benefit will be that the regulations will cross reference each other accurately and promote ease of use of the regulations for the regulated community in the Commonwealth.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Net Monetized Benefit	\$0	
(4) Other Costs & Benefits (Non-Monetized)	N/A. There are no other costs and benefits associated with these corrections of technical errors.	
(5) Information Sources	9VAC25-840 (repealed), 9VAC25-875 (effective July 1, 2024), 9VAC20-85	

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Agency Note: This is a final exempt regulatory action necessary only to correct technical errors (updating citation references) in applicable waste management regulations as a result of the repeal of the Erosion and Sediment Control Regulations (9VAC25-840) and the consolidation of</p>	
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	<p>erosion and sediment control and stormwater management regulations in the Virginia Erosion and Stormwater Management Regulation (9VAC25-875), effective July 1, 2024.</p> <p>Direct Costs: Maintaining the status quo will result in maintaining a regulation with inaccurate and outdated references, which will increase confusion for the regulated community.</p> <p>Indirect Costs: There are no indirect costs associated with maintaining the status quo.</p> <p>Direct Benefits: There are no direct benefits associated with maintaining the status quo.</p> <p>Indirect Benefits: There are no indirect benefits associated with maintaining the status quo.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Net Monetized Benefit	\$0	
(4) Other Costs & Benefits (Non-Monetized)	Maintaining the status quo would mean the current regulations are not as clear as they could be because they contain outdated citations. This will decrease clarity and increase confusion for the regulated community	
(5) Information Sources	N/A	

Agency Note: This is a final exempt regulatory action necessary only to correct technical errors (updating citation references) in applicable waste management regulations as a result of the repeal of the Erosion and Sediment Control Regulations (9VAC25-840) and the consolidation of erosion and sediment control and stormwater management regulations in the Virginia Erosion and Stormwater Management Regulation (9VAC25-875), effective July 1, 2024. Therefore, Table 1c is not required and has been removed.

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>Agency Note: This is a final exempt regulatory action necessary only to correct technical errors (updating citation references) in applicable waste management regulations as a result of the repeal of the Erosion and Sediment Control Regulations (9VAC25-840) and the consolidation of erosion and sediment control and stormwater management regulations in the Virginia Erosion and Stormwater Management Regulation (9VAC25-875), effective July 1, 2024.</p> <p>Direct Costs: There are no new direct costs to local partners associated with these corrections of technical errors.</p> <p>Indirect Costs: There are no new indirect costs to local partners associated with these corrections of technical errors.</p> <p>Direct Benefits: There are no new direct benefits to local partners associated with these corrections of technical errors.</p> <p>Indirect Benefits: There are no new indirect benefits to local partners associated with these corrections of technical errors.</p>	
<p>(2) Present Monetized Values</p>	<p>Direct & Indirect Costs</p>	<p>Direct & Indirect Benefits</p>
	<p>(a) \$0</p>	<p>(b) \$0</p>
<p>(3) Other Costs & Benefits (Non-Monetized)</p>	<p>The primary indirect benefit will be that the Virginia regulations will cross reference each other accurately and promote ease of use of the regulations for the regulated community in the Commonwealth.</p>	
<p>(4) Assistance</p>	<p>N/A</p>	
<p>(5) Information Sources</p>	<p>N/A</p>	

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

<p>(1) Direct & Indirect Costs &</p>	<p>Agency Note: This is a final exempt regulatory action necessary only to correct technical errors (updating citation references) in applicable waste management regulations as a result of the repeal of the Erosion and</p>	
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Benefits (Monetized)	<p>Sediment Control Regulations (9VAC25-840) and the consolidation of erosion and sediment control and stormwater management regulations in the Virginia Erosion and Stormwater Management Regulation (9VAC25-875), effective July 1, 2024.</p> <p>Direct Costs: There are no new direct costs to families associated with these corrections of technical errors.</p> <p>Indirect Costs: There are no new indirect costs to families associated with these corrections of technical errors.</p> <p>Direct Benefits: There are no new direct benefits to families associated with these corrections of technical errors.</p> <p>Indirect Benefits: There are no new indirect benefits to families associated with these corrections of technical errors.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Other Costs & Benefits (Non- Monetized)	<p>The primary indirect benefit will be that the Virginia regulations will cross reference each other accurately and promote ease of use of the regulations for the regulated community in the Commonwealth.</p>	
(4) Information Sources	N/A	

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Agency Note: This is a final exempt regulatory action necessary only to correct technical errors (updating citation references) in applicable waste management regulations as a result of the repeal of the Erosion and Sediment Control Regulations (9VAC25-840) and the consolidation of erosion and sediment control and stormwater management regulations in the Virginia Erosion and Stormwater Management Regulation (9VAC25-875), effective July 1, 2024.</p>
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	<p>Direct Costs: There are no new direct costs to small businesses associated with these corrections of technical errors.</p> <p>Indirect Costs: There are no new indirect costs to small businesses associated with these corrections of technical errors.</p> <p>Direct Benefits: There are no new direct benefits to small businesses associated with these corrections of technical errors.</p> <p>Indirect Benefits: There are no new indirect benefits to small businesses associated with these corrections of technical errors.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Other Costs & Benefits (Non-Monetized)	The primary indirect benefit will be that the Virginia regulations will cross reference each other accurately and promote ease of use of the regulations for the regulated community in the Commonwealth.	
(4) Alternatives	N/A	
(5) Information Sources	N/A	

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

Agency Note: This is a final exempt regulatory action necessary only to correct technical errors (updating citation references) in applicable waste management regulations as a result of the recodification of the Erosion and Sediment Control Regulations (9VAC25-840) to the Virginia Erosion and Stormwater Management Regulation (9VAC25-875), effective July 1, 2024.

Change in Regulatory Requirements

VAC Section(s) Involved*	Authority of Change	Initial Count	Additions	Subtractions	Total Net Change in Requirements
9VAC20-85-90	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	0	0	0	0
	(D/R):	1	0	0	0
				Grand Total of Changes in Requirements:	(M/A):0 (D/A):0 (M/R):0 (D/R):0

Key:

Please use the following coding if change is mandatory or discretionary and whether it affects externally regulated parties or only the agency itself:

(M/A): Mandatory requirements mandated by federal and/or state statute affecting the agency itself

(D/A): Discretionary requirements affecting agency itself

(M/R): Mandatory requirements mandated by federal and/or state statute affecting external parties, including other agencies

(D/R): Discretionary requirements affecting external parties, including other agencies

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved*	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases
N/A				

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved*	Description of Regulatory Change	Overview of How It Reduces or Increases Regulatory Burden
N/A		

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	Original Word Count	New Word Count	Net Change in Word Count
N/A			

*If the agency is modifying a guidance document that has regulatory requirements, it should report any change in requirements in the appropriate chart(s).

1 **Project 7926 - Exempt Final**

2 **Virginia Waste Management Board**

3 **Chapter 85 Citation Update**

4 **9VAC20-85-90. Operations.**

5 Article 3

6 Operations

7 The owner or operator of a fossil fuel combustion products site shall prepare an operation
8 plan. At a minimum, the plan shall address the requirements contained in this section.

9 1. Tracking of mud or fossil fuel combustion products onto public roads from the site
10 shall be controlled at all times to minimize nuisances.

11 2. The addition of any solid waste including but not limited to hazardous, infectious,
12 construction, debris, demolition, industrial, petroleum-contaminated soil, or municipal
13 solid waste to fossil fuel combustion products is prohibited. This prohibition does not
14 apply to solid wastes from the extraction, beneficiation and processing of ores and
15 minerals conditionally exempted under 9VAC20-81-95 E 3 of the Solid Waste
16 Management Regulations.

17 3. Fugitive dust shall be controlled at the site so it does not constitute nuisances or
18 hazards.

19 4. After preparing the sub-base, fossil fuel combustion products shall be placed
20 uniformly and compacted to standards, including in situ density, compaction effort and
21 relative density as specified by a registered professional engineer based on the intended
22 use of the fossil fuel combustion products. The placement and compaction of CCB on

23 coal mine sites shall be subject to the applicable requirements of the Coal Surface
24 Mining Reclamation Regulations, 4VAC25-130.

25 5. A surface run on and runoff control program shall be implemented to control and
26 reduce the infiltration of surface water through the fossil fuel combustion products and to
27 control the runoff from the placement area to other areas and to surface waters.

28 6. Runoff shall not be permitted to drain or discharge into surface waters except when in
29 accordance with 9VAC25-10, of the State Water Control Board, or otherwise approved
30 by the department.

31 7. Fossil fuel combustion products site development shall be in accordance with the
32 ~~Erosion and Sediment Control Regulations, 9VAC25-840~~Virginia Erosion and
33 Stormwater Management Regulation, 9VAC25-875, or the Coal Surface Mining
34 Reclamation Regulations, 4VAC25-130, as applicable.

Tab E



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

To: Members of the Virginia Waste Management Board

Through: Kathryn Perszyk, Director, Land Protection & Revitalization Division

From: Rebecca Rathe, Regulatory Analyst

Date: October 2, 2024

Subject: Coal Combustion Residuals, Solid Waste Management Regulations (9VAC20-81)

The attached regulatory amendment is presented to the Board for your consideration for adoption. The Final Exempt Action incorporates multiple amendments to the U.S. Environmental Protection Agency's (EPA) Standards for the Disposal of Coal Combustion Residuals from Electric Utilities into Virginia's Solid Waste Management Regulations (9VAC20-81).

Section 2301 of the 2016 Water Infrastructure Improvements for the Nation (WIIN) Act amended Section 4005 of the Resource Conservation & Recovery Act (RCRA) to allow states to develop Coal Combustion Residuals (CCR) permit programs and granted EPA authority to approve state programs or implement a federal permit program in non-participating states. Virginia drafted a state package for EPA program approval and was informed by EPA that CCR Rule amendments promulgated through 2020 needed to be addressed in 9VAC20-81 in order for Virginia to request approval to implement a state program.

Section 2.2-4006 A 4 (c) of the Code of Virginia allows the Board to adopt this regulatory amendment to 9VAC20-81, as the amendments are necessary to conform to changes in federal regulations. This regulatory amendment will be effective 30 days after publication in the *Virginia Register*. A draft Virginia Regulatory Town Hall document, an Office of Regulatory Management Economic Review Form, and a copy of the required regulatory text are attached for your information.

At your Board meeting on October 23, 2024, DEQ will request that the Board adopt the Incorporation by Reference of Amendments to EPA's Standards for the Disposal of Coal Combustion Residuals from Electric Utilities into Virginia's Solid Waste Management Regulations (9VAC20-81) as a final regulation, authorize its publication, and affirm that the Board will receive, consider and respond to requests by any interested person at any time with respect to reconsideration or revision.

Attachments:

- Attachment A: TH09-Exemptfinal_2024 Form and Summary of Changes Table
- Attachment B: Office of Regulatory Management Economic Review Form
- Attachment C: RIS Project Report – Project 7944 – Chapter 81 CCR

cc: Jill R. Hrynciw, DEQ Policy Division



townhall.virginia.gov

Exempt Action: Final Regulation Agency Background Document

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) Chapter citation(s)	9 VAC20-81
VAC Chapter title(s)	Solid Waste Management Regulations
Action title	Incorporation of Amendments to EPA's Standards for the Disposal of Coal Combustion Residuals from Electric Utilities
Final agency action date	October 23, 2024
Date this document prepared	October 2, 2024

This information is required for executive branch review pursuant to 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. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to 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*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Section 2301 of the 2016 Water Infrastructure Improvements for the Nation (WIIN) Act amended Section 4005 of the Resource Conservation & Recovery Act to allow states to develop coal combustion residuals (CCR) permit programs and granted EPA authority to approve state programs or implement a federal permit program in non-participating states. Prior to this action, the Virginia Solid Waste Management Regulations (VSWMR), 9VAC20-81, was amended to incorporate EPA's 2015 Disposal of CCR from Electric Utilities final rule and establish permit requirements for applicable CCR units. The VSWMR was subsequently amended to incorporate the 2016 amendment applicable to inactive CCR surface impoundments. Separately, state statutes (§ 10.1-1402.03 and § 10.1-1402.04 of the Code of Virginia) define additional closure requirements for certain CCR units. Additionally, state statutes (§ 10.1-1402.05 of the Code of Virginia) specify additional coal ash landfill requirements.

Based on previous incorporations of the 2015 CCR Rule and 2016 amendment, Virginia drafted a state package for EPA program approval to administer a CCR permit program. EPA’s review indicated that Virginia needed to incorporate additional CCR Rule amendments promulgated through December 2020 to request state program approval. An attachment detailing the changes from the October 2016 CCR Rule to the December 2020 CCR Rule is attached.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

Virginia drafted a state package for EPA program approval to administer a CCR permit program and was informed by EPA that CCR Rule amendments promulgated through December 2020 need to be addressed in 9VAC20-81 to be eligible to administer a CCR permit program. This final exempt regulatory action brings Virginia closer in line with federal requirements and is required to request approval to administer a CCR permit program.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the “Definitions” section of the regulation.

- APA – Administrative Process Act
- CCR – Coal Combustion Residuals
- EPA – Environmental Protection Agency
- VAC – Virginia Administrative Code
- VSWMR – Virginia Solid Waste Management Regulations

Statement of Final Agency Action

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 the Incorporation of Amendments to EPA’s Standards for the Disposal of Coal Combustion Residuals from Electric Utilities to 9VAC20-81 on October 23, 2024, 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.

Legal Basis

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.

The promulgating agency for this regulation is the Virginia Waste Management Board. The legal basis for this regulation is the Virginia Waste Management Act (Chapter 14 of Title 10.1 of the Code of Virginia). Specifically, § 10.1-1402 of the Code of Virginia authorizes the Board to supervise and control waste management activities in the Commonwealth and to promulgate regulations necessary to carry out its powers and duties.

Additionally, Section 2.2-4006 A 4 (c) of the Code of Virginia allows the Board to adopt this regulatory amendment to 9VAC20-81 as a final exempt action as the changes are necessary to conform to changes in the federal regulations.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

This final exempt regulatory action incorporates the federal CCR Rule amendments promulgated through December 14, 2020. Incorporating changes to the CCR Rule since the previous incorporation date (October 4, 2016) in the VSWMR is necessary for DEQ to pursue approval from EPA for its CCR solid waste permitting program.

Details of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current section number	New section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC20-81-35.G.2.		Excludes VSWMR Part VIII applicability to "Electric utilities or independent power producers that have ceased producing electricity prior to October 19, 2015"	Striking because the exclusion to CCR Rule applicability was vacated by a 2018 D.C. Circuit Court ruling (see new 9VAC20-800.B.4. below).
9VAC20-81-35.G.3.	9VAC20-81-35.G.2.	Excludes Wastes, including fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated at facilities that are not part of an electric utility or independent power producer, such as manufacturing facilities, universities, and hospitals.	No change. Renumbering only.

9VAC20-81-35.G.4.	9VAC20-81-35.G.3.	Excludes Fly ash, bottom ash, boiler slag, and flue gas desulfurization materials, generated primarily from the combustion of fuels (including other fossil fuels) other than coal, for the purpose of generating electricity unless the fuel burned consists of more than 50% coal on a total heat input or mass input basis, whichever results in the greater mass feed rate of coal	No Change. Renumbering only.
9VAC20-81-35.G.5.	9VAC20-81-35.G.4.	Excludes Practices that meet the definition of a beneficial use of CCR	No change. Renumbering only.
9VAC20-81-35.G.6.	9VAC20-81-35.G.5.	Excludes CCR placement at active or abandoned underground or surface coal mines	No change. Renumbering only.
9VAC20-81-35.G.7.	9VAC20-81-35.G.6.	Excludes Municipal solid waste landfills that receive CCR.	No change. Renumbering only.
9VAC20-81-800 A		Applicability of incorporated CCR Rule requirements based on the date on which they became effective.	Update the 40 CFR 257 citation to the December 14, 2020, version.
	9VAC20-81-800 B 3		Added subdivision B.3. to exclude the phrase “or approval from the Participating State Director” throughout the incorporation requiring entities to instead provide certifications by professional engineers.
	9VAC20-81-800 B 4		Added subdivision B.4. to exclude the text of 40 CFR 257.50(e) as the language was vacated by a 2018 D.C. Circuit Court ruling and to exclude 40 CFR 257.90(g) as the language was voluntarily remanded back to EPA for reconsideration by a 2018 D.C. Circuit Court ruling.
	9VAC20-81-800 B 5		Added subdivision B.5. to exclude requirement for vegetative height not to exceed 6 inches as the language was remanded back to EPA for reconsideration by a 2016 D.C. Circuit Court ruling.

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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

Virginia drafted a state package for EPA program approval to implement a CCR permit program and was informed by EPA that CCR Rule amendments promulgated through 2020 need to be addressed in 9VAC20-81 in order to obtain approval to implement a state CCR permit program. This final exempt regulatory action brings Virginia in line with federal requirements and is required to seek state program approval. This final exempt regulatory action makes appropriate changes in applicable waste management regulations. There are no regulatory flexibility alternatives to consider, other than maintaining the status quo.

Family Impact

In accordance with § 2.2-606 of the Code of Virginia, please assess the potential impact of the proposed 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.

This action only incorporates federal minimum requirements into Virginia's regulations. There is the potential for the costs of implementing the requirements of these incorporated federal regulations to be passed on to the electric consumer, affecting and potentially decreasing disposable family income by an unknown amount. However, if Virginia does not incorporate these requirements and administer its own CCR permit program CCR facilities will still be required to follow the federal requirements through an EPA administered permit program, and the same costs could be passed on to electric consumers.

Attachment – Summary of Changes from October 2016 CCR Rule to December 2020 CCR Rule

Item	Effective Date - Docket Number	Federal Register (Publication Date)	Summary
1	August 29, 2018 EPA-HQ-OLEM-2017-0286	83 FR 36435 7/30/2018	Amendments to the National Minimum Criteria (Phase One, Part One) In this rulemaking EPA is acting to finalize certain revisions to those criteria. First, EPA is adopting two alternative performance standards that either Participating State Directors in states with approved CCR permit programs (participating states) or EPA where EPA is the permitting authority may apply to owners and operators of CCR units. Second, EPA is revising groundwater protection standards (GWPS) for four constituents which do not have an established Maximum Contaminant Level (MCL). Finally, the Agency is extending the deadline by which facilities must cease the placement of waste in CCR units closing for cause in two situations: Where the facility has detected a statistically significant increase above a GWPS from an unlined surface impoundment; and where the unit is unable to comply with the aquifer location restriction. Provisions from the proposed rule that are not addressed in this rule will be addressed in a subsequent action.
2	September 28, 2020 EPA-HQ-OLEM-2019-0172 EPA-HQ-OLEM-2018-0524	85 FR 53516 8/28/2020	A Holistic Approach to Closure Part A: Deadline To Initiate Closure This rule finalizes regulations, proposed on December 2, 2019, to implement the court's vacatur of the 2015 provisions. The court vacated provisions that allowed unlined impoundments to continue receiving coal ash unless they leak and classified "clay-lined" impoundments as lined, thereby allowing such units to operate indefinitely. In addition, EPA is establishing a revised date by which unlined surface impoundments must cease receiving waste and initiate closure, following its reconsideration of those dates in light of the USWAG decision. Lastly, EPA is finalizing amendments proposed on August 14, 2019, to the requirements for the annual groundwater monitoring and corrective action report and the requirements for the publicly accessible CCR internet sites.
3	December 14, 2020 EPA-HQ-OLEM-2019-0173	85 FR 72506 11/12/2020	A Holistic Approach to Closure Part B: Alternate Demonstration for Unlined Surface Impoundments This rule finalizes regulations proposed on March 3, 2020, including procedures to allow facilities to request approval to operate an existing CCR surface impoundment with an alternate liner, and to correct typographical and cross-referencing errors. Provisions from the proposed rule that are not addressed in this rule will be addressed in a subsequent action.
4	December 14, 2020 EPA-HQ-OLEM-2019-0173	85 FR 80626 12/14/2020	A Holistic Approach to Closure Part B: Alternate Demonstration for Unlined Surface Impoundments; Correction The Environmental Protection Agency (EPA or the Agency) is correcting a typographical error in a final rule published in the Federal Register on November 12, 2020.

Office of Regulatory Management
Economic Review Form

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC20-81
VAC Chapter title(s)	Solid Waste Management Regulations
Action title	Incorporation of Amendments to EPA's Standards for the Disposal of Coal Combustion Residuals from Electric Utilities
Date this document prepared	October 2, 2024
Regulatory Stage (including Issuance of Guidance Documents)	Final Exempt

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>Agency Note: This is a final exempt regulatory action necessary to conform with federal requirements in order for Virginia to implement a state Coal Combustion Residuals (CCR) permit program. If Virginia does not implement a state CCR permit program, facilities would still be subject to these requirements through a permit program administered by the U.S. Environmental Protection Agency (EPA). The new rule this action incorporates by reference offers an alternative approach for facilities, and regulated entities are also able to continue to operate under the regulations currently in place. This action offers an alternative choice, thus any increase in costs should be evaluated as an alternative method that can be utilized by regulated entities nationwide to lower costs and complication by abiding by the singular federal guideline instead of the various state allowances.</p> <p>Currently there are only two companies conducting activities in Virginia that are regulated by the federal CCR rule that is being incorporated by reference into this regulation. Both of the companies impacted by this regulatory action operate in multiple states and are not small businesses. Making Virginia’s requirements consistent with federal requirements reduces the regulatory burden on these companies since they would be required to meet federally uniform standards for the disposal of CCR in landfills and surface impoundments, as opposed to individual state requirements which would likely increase compliance costs. The federal standards are protective of human health and the environment and minimize the regulatory burden on companies to comply with this regulation, therefore the agency rejected including alternative regulatory methods in this rulemaking.</p> <p>Direct Costs: EPA’s regulatory impact analyses for the rules incorporated with this action estimated cost savings over the baseline costs and cost savings of the 2015 CCR final rule. As this action incorporates alternative approaches, some of which may not apply to regulated CCR Units in Virginia, estimated costs or cost savings are difficult to determine.</p> <p>Indirect Costs: No indirect costs associated with the adoption of this regulatory change are anticipated.</p> <p>Direct Benefits: Direct benefits are that this action is necessary for Virginia to implement a state CCR permit program, which will mean regulated entities will not have to work through a federal permit program. This action incorporates by reference federal regulations that provide an alternative method that can be utilized by regulated entities</p>
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	<p>nationwide to lower costs and lower complications by abiding by the singular federal guideline instead of the various state allowances.</p> <p>Indirect Benefits: No indirect benefits associated with the adoption of this regulatory change have been identified.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	\$0	\$0
(3) Net Monetized Benefit	\$0	
(4) Other Costs & Benefits (Non-Monetized)	No conclusive statement can be made about other costs or benefits (nonmonetized) of this regulatory adoption	
(5) Information Sources	<p>Regulatory Impact Analysis for EPA’s Final Coal Combustion Residuals Rule, December 2014: https://www.regulations.gov/document/EPA-HQ-RCRA-2009-0640-12034</p> <p>Regulatory Impact Analysis (RIA) for CCR Phase One Part One Final Rule, July 2018, https://www.regulations.gov/document/EPA-HQ-OLEM-2017-0286-2245</p> <p>Regulatory Impact Analysis for EPA’s Holistic Approach to Closure Part A: Deadline to Initiate Closure Rule, July 2020, https://www.regulations.gov/document/EPA-HQ-OLEM-2019-0172-0180</p> <p>Regulatory Impact Analysis for EPA’s Holistic Approach to Closure Part B: Alternate Demonstration for Unlined Surface Impoundments, August 2020, https://www.regulations.gov/document/EPA-HQ-OLEM-2019-0173-0224</p>	

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Agency Note: This is a final exempt regulatory action necessary to conform with federal requirements in order for Virginia to implement a state Coal Combustion Residuals (CCR) permit program. If Virginia does not implement a state CCR permit program, facilities would still be subject to these requirements through a permit program administered by the U.S. Environmental Protection Agency (EPA). The new rule this action incorporates by reference offers an alternative approach for</p>
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	<p>facilities, and regulated entities are also able to continue to operate under the regulations currently in place. This action offers an alternative choice, thus any increase in costs should be evaluated as an alternative method that can be utilized by regulated entities nationwide to lower costs and complication by abiding by the singular federal guideline instead of the various state allowances.</p> <p>Direct Costs: Maintaining the status quo would mean that Virginia state regulations would be inconsistent with current federal regulations and Virginia would not be able to obtain approval to implement a state CCR permit program. This would require regulated entities to obtain approval through an EPA administered CCR permit program.</p> <p>Indirect Costs: No indirect costs associated with maintaining the regulations as currently written have been identified.</p> <p>Direct Benefits: No direct benefits associated with maintaining the status quo have been identified.</p> <p>Indirect Benefits: No indirect benefits associated with maintaining the status quo have been identified.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	\$0	\$0
(3) Net Monetized Benefit	\$0	
(4) Other Costs & Benefits (Non-Monetized)	No conclusive statement can be made about other costs or benefits (nonmonetized) of this regulatory adoption.	
(5) Information Sources	N/A	

Agency Note: This is a final exempt regulatory action necessary conform with federal requirements. Therefore, Table 1c has been removed.

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>Agency Note: This is a final exempt regulatory action necessary to conform with federal requirements in order for Virginia to implement a state Coal Combustion Residuals (CCR) permit program. If Virginia does not implement a state CCR permit program, facilities would still be subject to these requirements through a permit program administered by the U.S. Environmental Protection Agency (EPA). The new rule this action incorporates by reference offers an alternative approach for facilities, and regulated entities are also able to continue to operate under the regulations currently in place. This action offers an alternative choice, thus any increase in costs should be evaluated as an alternative method that can be utilized by regulated entities nationwide to lower costs and complication by abiding by the singular federal guideline instead of the various state allowances.</p> <p>Direct Costs: There are no direct costs to local partners associated with this regulatory action.</p> <p>Indirect Costs: There are no indirect costs to local partners associated with this regulatory action.</p> <p>Direct Benefits: There are no direct benefits to local partners associated with this regulatory action.</p> <p>Indirect Benefits: There are no indirect benefits to local partners associated with this regulatory action.</p>	
<p>(2) Present Monetized Values</p>	<p>Direct & Indirect Costs</p> <p>\$0</p>	<p>Direct & Indirect Benefits</p> <p>\$0</p>
<p>(3) Other Costs & Benefits (Non-Monetized)</p>	<p>No conclusive statement can be made about other costs or benefits (nonmonetized) of this regulatory adoption.</p>	
<p>(4) Assistance</p>	<p>N/A</p>	
<p>(5) Information Sources</p>	<p>N/A</p>	

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>Agency Note: This is a final exempt regulatory action necessary to conform with federal requirements in order for Virginia to implement a state Coal Combustion Residuals (CCR) permit program. If Virginia does not implement a state CCR permit program, facilities would still be subject to these requirements through a permit program administered by the U.S. Environmental Protection Agency (EPA). The new rule this action incorporates by reference offers an alternative approach for facilities, and regulated entities are also able to continue to operate under the regulations currently in place. This action offers an alternative choice, thus any increase in costs should be evaluated as an alternative method that can be utilized by regulated entities nationwide to lower costs and complication by abiding by the singular federal guideline instead of the various state allowances.</p> <p>Direct Costs: There are no new direct costs to families associated with this regulatory action.</p> <p>Indirect Costs: There are no new indirect costs to families associated with this regulatory action.</p> <p>Direct Benefits: There are no new direct benefits to families associated with this regulatory action.</p> <p>Indirect Benefits: There are no indirect benefits to families associated with this regulatory action.</p>	
<p>(2) Present Monetized Values</p>	<p>Direct & Indirect Costs</p>	<p>Direct & Indirect Benefits</p>
	<p>\$0</p>	<p>\$0</p>
<p>(3) Other Costs & Benefits (Non-Monetized)</p>	<p>No conclusive statement can be made about other costs or benefits (nonmonetized) of this regulatory adoption.</p>	
<p>(4) Information Sources</p>	<p>N/A</p>	

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>Agency Note: This is a final exempt regulatory action necessary to conform with federal requirements in order for Virginia to implement a state Coal Combustion Residuals (CCR) permit program. If Virginia does not implement a state CCR permit program, facilities would still be subject to these requirements through a permit program administered by the U.S. Environmental Protection Agency (EPA). The new rule this action incorporates by reference offers an alternative approach for facilities, and regulated entities are also able to continue to operate under the regulations currently in place. This action offers an alternative choice, thus any increase in costs should be evaluated as an alternative method that can be utilized by regulated entities nationwide to lower costs and complication by abiding by the singular federal guideline instead of the various state allowances.</p> <p>Currently there are only two companies conducting activities in Virginia that are regulated by the federal CCR rule that is being incorporated by reference into this regulation. Both of the companies impacted by this regulatory action operate in multiple states and are not small businesses. Making Virginia’s requirements consistent with federal requirements reduces the regulatory burden on companies since they would be required to meet federally uniform standards for the disposal of CCR in landfills and surface impoundments, as opposed to individual state requirements which would likely increase compliance costs. The federal standards are protective of human health and the environment and minimize the regulatory burden on companies to comply with this regulation, therefore the agency rejected including alternative regulatory methods in this rulemaking.</p> <p>Direct Costs: There are no direct costs to small businesses associated with this regulatory action.</p> <p>Indirect Costs: There are no indirect costs to small businesses associated with this regulatory action.</p> <p>Direct Benefits: There are no indirect benefits to small businesses associated with this regulatory action.</p> <p>Indirect Benefits: There are no indirect benefits to small businesses associated with this regulatory action.</p>
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(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	\$0	\$0
(3) Other Costs & Benefits (Non-Monetized)	No conclusive statement can be made about other costs or benefits (nonmonetized) of this regulatory adoption.	
(4) Alternatives	N/A	
(5) Information Sources	N/A	

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

Agency Note: This is a final exempt regulatory action necessary to conform with federal requirements.

Change in Regulatory Requirements

VAC Section(s) Involved*	Authority of Change	Initial Count	Additions	Subtractions	Total Net Change in Requirements
9VAC20-81-35	(M/A):	0			0
	(D/A):	0			0
	(M/R):	3	0	0	0
	(D/R):	0	0	0	0
9VAC20-81-800	(M/A):	0			0
	(D/A):	0			0
	(M/R):	313	0	0	0
	(D/R):	0	0	0	0
				Grand Total of Changes in Requirements:	(M/A):0 (D/A):0 (M/R):0 (D/R):0

Key:

Please use the following coding if change is mandatory or discretionary and whether it affects externally regulated parties or only the agency itself:

(M/A): Mandatory requirements mandated by federal and/or state statute affecting the agency itself

(D/A): Discretionary requirements affecting agency itself

(M/R): Mandatory requirements mandated by federal and/or state statute affecting external parties, including other agencies

(D/R): Discretionary requirements affecting external parties, including other agencies

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved*	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases
N/A				

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved*	Description of Regulatory Change	Overview of How It Reduces or Increases Regulatory Burden
N/A		

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	Original Word Count	New Word Count	Net Change in Word Count
N/A			

*If the agency is modifying a guidance document that has regulatory requirements, it should report any change in requirements in the appropriate chart(s).

1 **Project 7944 - Exempt Final**

2 **Virginia Waste Management Board**

3 **Chapter 81 CCR**

4 **9VAC20-81-35. Applicability of chapter.**

5 A. This chapter applies to all persons who treat, store, dispose, or otherwise manage solid
6 wastes as defined in 9VAC20-81-95.

7 B. All facilities that were permitted prior to March 15, 1993, and upon which solid waste has
8 been disposed of prior to October 9, 1993, may continue to receive solid waste until they have
9 reached their vertical design capacity or until the closure date established pursuant to § 10.1-
10 1413.2 of the Code of Virginia, in Table 2.1 provided:

11 1. The facility is in compliance with the requirements for liners and leachate control in
12 effect at the time of permit issuance.

13 2. On or before October 9, 1993, the owner or operator of the solid waste management
14 facility submitted to the director:

15 a. An acknowledgment that the owner or operator is familiar with state and federal law
16 and regulations pertaining to solid waste management facilities operating after
17 October 9, 1993, including postclosure care, corrective action, and financial
18 responsibility requirements;

19 b. A statement signed by a professional engineer that he has reviewed the regulations
20 established by the department for solid waste management facilities, including the
21 open dump criteria contained therein, that he has inspected the facility and examined
22 the monitoring data compiled for the facility in accordance with applicable regulations
23 and that, on the basis of his inspection and review, he has concluded:

- 24 (1) That the facility is not an open dump;
- 25 (2) That the facility does not pose a substantial present or potential hazard to human
26 health and the environment; and
- 27 (3) That the leachate or residues from the facility do not pose a threat of contamination
28 or pollution of the air, surface water, or groundwater in a manner constituting an open
29 dump or resulting in a substantial present or potential hazard to human health or the
30 environment; and
- 31 c. A statement signed by the owner or operator:
- 32 (1) That the facility complies with applicable financial assurance regulations; and
33 (2) Estimating when the facility will reach its vertical design capacity.
- 34 3. Enlargement or closure of these facilities shall conform with the following subconditions:
- 35 a. The facility may not be enlarged prematurely to avoid compliance with this chapter
36 when such enlargement is not consistent with past operating practices, the permit, or
37 modified operating practices to ensure good management.
- 38 b. The facility shall not dispose of solid waste in any portion of a landfill disposal area
39 that has received final cover or has not received waste for a period of one year, in
40 accordance with 9VAC20-81-160 C. The facility shall notify the department, in writing,
41 within 30 days, when an area has received final cover or has not received waste for a
42 one-year period, in accordance with 9VAC20-81-160 C. However, a facility may apply
43 for a permit, and if approved, can construct and operate a new cell that overlays
44 ("piggybacks") over a closed area in accordance with the permit requirements of this
45 chapter.

46 c. The facilities subject to the restrictions in this subsection are listed in Table 2.1. The
 47 closure dates were established in Final Prioritization and Closure Schedule for HB
 48 1205 Disposal Areas (DEQ, September 2001). The publication of these tables is for
 49 the convenience of the regulated community and does not change established dates.
 50 Any facility, including, but not limited to those listed in Table 2.1, must cease operation
 51 if that facility meets any of the open dump criteria listed in 9VAC20-81-45 A 1.

52 d. Those facilities assigned a closure date in accordance with § 10.1-1413.2 of the
 53 Code of Virginia shall designate on a map, plat, diagram, or other engineered drawing,
 54 areas in which waste will be disposed of in accordance with Table 2.1 until the latest
 55 cessation of waste acceptance date as listed in Table 2.1 is achieved. This map or
 56 plat shall be placed in the operating record and a copy shall be submitted upon request
 57 to the department in order to track the progress of closure of these facilities. If the
 58 facility already has provided this information under 9VAC20-81-160, then the facility
 59 may refer to that information.

TABLE 2.1				
Final Prioritization and Closure Schedule For House Bill (HB) 1205 Disposal Areas				
Solid Waste Permit Number and Site Name	Location	Department Regional Office ¹	Latest Cessation of Waste Acceptance Date ²	
429 - Fluvanna County Sanitary Landfill	Fluvanna County	VRO	12/31/2007	
92 - Halifax County Sanitary Landfill ³	Halifax County	BRRO	12/31/2007	
49 - Martinsville Landfill	City of Martinsville	BRRO	12/31/2007	
14 - Mecklenburg County Landfill	Mecklenburg County	BRRO	12/31/2007	
228 - Petersburg City Landfill ³	City of Petersburg	PRO	12/31/2007	

31 - South Boston Sanitary Landfill	Town of South Boston	BRRO	12/31/2007
204 - Waynesboro City Landfill	City of Waynesboro	VRO	12/31/2007
91 - Accomack County Landfill – Bobtown South	Accomack County	TRO	12/31/2012
580 – Bethel Landfill ³	City of Hampton	TRO	12/31/2012
182 - Caroline County Landfill	Caroline County	NVRO	12/31/2012
149 - Fauquier County Landfill	Fauquier County	NVRO	12/31/2012
405 - Greensville County Landfill	Greensville County	PRO	12/31/2012
29 - Independent Hill Landfill ³	Prince William County	NVRO	12/31/2012
1 - Loudoun County Sanitary Landfill	Loudoun County	NVRO	12/31/2012
194 - Louisa County Sanitary Landfill	Louisa County	NVRO	12/31/2012
227 - Lunenburg County Sanitary Landfill	Lunenburg County	BRRO	12/31/2012
507 - Northampton County Landfill	Northampton County	TRO	12/31/2012
90 - Orange County Landfill	Orange County	NVRO	12/31/2012
75 - Rockbridge County Sanitary Landfill	Rockbridge County	VRO	12/31/2012
23 - Scott County Landfill	Scott County	SWRO	12/31/2012
587 - Shoosmith Sanitary Landfill ³	Chesterfield County	PRO	12/31/2012
417 - Southeastern Public Service Authority Landfill ³	City of Suffolk	TRO	12/31/2012
461 - Accomack County Landfill #2	Accomack County	TRO	12/31/2020

86 - Appomattox County Sanitary Landfill	Appomattox County	BRRO	12/31/2020
582 - Botetourt County Landfill ³	Botetourt County	BRRO	12/31/2020
498 - Bristol City Landfill	City of Bristol	SWRO	12/31/2020
72 - Franklin County Landfill	Franklin County	BRRO	12/31/2020
398 - Virginia Beach Landfill #2 – Mount Trashmore II ³	City of Virginia Beach	TRO	12/31/2020
<p>Notes:</p> <p>¹Department of Environmental Quality Regional Offices: BRRO - Blue Ridge Regional Office NVRO - Northern Virginia Regional Office PRO - Piedmont Regional Office SWRO - Southwest Regional Office TRO - Tidewater Regional Office VRO - Valley Regional Office</p> <p>²This date means the latest date that the disposal area must cease accepting waste. ³A portion of these facilities operated under HB 1205 and another portion currently is compliant with Subtitle D requirements.</p>			

60 C. Facilities are authorized to expand beyond the waste boundaries existing on October 9,

61 1993, as follows:

62 1. Existing captive industrial landfills.

63 a. Existing nonhazardous industrial waste facilities that are located on property owned
64 or controlled by the generator of the waste disposed of in the facility shall comply with
65 all the provisions of this chapter except as shown in subdivision 1 of this subsection.

66 b. Facility owners or operators shall not be required to modify their facility permit in
67 order to expand a captive industrial landfill beyond the waste boundaries existing on
68 October 9, 1993. Liners and leachate collection systems constructed beyond the
69 waste boundaries existing on October 9, 1993, shall be constructed in accordance with
70 the requirements in effect at the time of permit issuance.

71 c. Owners or operators of facilities that are authorized under subdivision 1 of this
72 subsection to accept waste for disposal beyond the waste boundaries existing on
73 October 9, 1993, shall ensure that such expanded disposal areas maintain setback
74 distances applicable to such facilities in 9VAC20-81-120.

75 d. Facilities authorized for expansion in accordance with subdivision 1 of this
76 subsection are limited to expansion to the limits of the permitted disposal area existing
77 on October 9, 1993, or the facility boundary existing on October 9, 1993, if no discrete
78 disposal area is defined in the facility permit.

79 2. Other existing industrial waste landfills.

80 a. Existing nonhazardous industrial waste facilities that are not located on property
81 owned or controlled by the generator of the waste disposed of in the facility shall
82 comply with all the provisions of this chapter except as shown in subdivision 2 of this
83 subsection.

84 b. Facility owners or operators shall not be required to modify their facility permit in
85 order to expand an industrial landfill beyond the waste boundaries existing on October
86 9, 1993. Liners and leachate collection systems constructed beyond the waste
87 boundaries existing on October 9, 1993, shall be constructed in accordance with the
88 requirements of 9VAC20-81-130.

89 c. Prior to the expansion of any such facility, the owner or operator shall submit to the
90 department a written notice of the proposed expansion at least 60 days prior to
91 commencement of construction. The notice shall include recent groundwater
92 monitoring data sufficient to determine that the facility does not pose a threat of
93 contamination of groundwater in a manner constituting an open dump or creating a
94 substantial present or potential hazard to human health or the environment (see

95 9VAC20-81-45). The director shall evaluate the data included with the notification and
96 may advise the owner or operator of any additional requirements that may be
97 necessary to ensure compliance with applicable laws and prevent a substantial
98 present or potential hazard to health or the environment.

99 d. Owners or operators of facilities which are authorized under subdivision 2 of this
100 subsection to accept waste for disposal beyond the waste boundaries existing on
101 October 9, 1993, shall ensure that such expanded disposal areas maintain setback
102 distances applicable to such facilities in 9VAC20-81-120 and 9VAC20-81-130.

103 e. Facilities authorized for expansion in accordance with subdivision 2 of this
104 subsection are limited to expansion to the limits of the permitted disposal area existing
105 on October 9, 1993, or the facility boundary existing on October 9, 1993, if no discrete
106 disposal area is defined in the facility permit.

107 3. Existing construction/demolition/debris landfills.

108 a. Existing facilities that accept only construction/demolition/debris waste shall comply
109 with all the provisions of this chapter except as shown in subdivision 3 of this
110 subsection.

111 b. Facility owners or operators shall not be required to modify their facility permit in
112 order to expand a construction/demolition/debris landfill beyond the waste boundaries
113 existing on October 9, 1993. Liners and leachate collection systems constructed
114 beyond the waste boundaries existing on October 9, 1993, shall be constructed in
115 accordance with the requirements of 9VAC20-81-130.

116 c. Prior to the expansion of any such facility, the owner or operator shall submit to the
117 department a written notice of the proposed expansion at least 60 days prior to
118 commencement of construction. The notice shall include recent groundwater

119 monitoring data sufficient to determine that the facility does not pose a threat of
120 contamination of groundwater in a manner constituting an open dump or creating a
121 substantial present or potential hazard to human health or the environment (see
122 9VAC20-81-45). The director shall evaluate the data included with the notification and
123 may advise the owner or operator of any additional requirements that may be
124 necessary to ensure compliance with applicable laws and prevent a substantial
125 present or potential hazard to health or the environment.

126 d. Owners or operators of facilities which are authorized under subdivision 3 of this
127 subsection to accept waste for disposal beyond the active portion of the landfill existing
128 on October 9, 1993, shall ensure that such expanded disposal areas maintain setback
129 distances applicable to such facilities in 9VAC20-81-120 and 9VAC20-81-130.

130 e. Facilities, or portions thereof, which have reached their vertical design capacity shall
131 be closed in compliance with 9VAC20-81-160.

132 f. Facilities authorized for expansion in accordance with subdivision 3 of this
133 subsection are limited to expansion to the permitted disposal area existing on October
134 9, 1993, or the facility boundary existing on October 9, 1993, if no discrete disposal
135 area is defined in the facility permit.

136 4. Facilities or units undergoing expansion in accordance with the partial exemptions
137 created by subdivision 1 b, 2 b, or 3 b of this subsection may not receive hazardous wastes
138 generated by the exempt small quantity generators, as defined by the Virginia Hazardous
139 Waste Management Regulations (9VAC20-60), for disposal on the expanded portions of
140 the facility. Other wastes that require special handling in accordance with the requirements
141 of Part VI (9VAC20-81-610 et seq.) of this chapter or that contain hazardous constituents
142 that would pose a risk to health or environment, may only be accepted with specific
143 approval by the director.

144 5. Nothing in subdivisions 1 b, 2 b, and 3 b of this subsection shall alter any requirement
145 for groundwater monitoring, financial responsibility, operator certification, closure,
146 postclosure care, operation, maintenance, or corrective action imposed under this chapter,
147 or impair the powers of the director to revoke or modify a permit pursuant to § 10.1-1409
148 of the Virginia Waste Management Act or Part V (9VAC20-81-400 et seq.) of this chapter.

149 D. An owner or operator of a previously unpermitted facility or unpermitted activity that
150 managed materials previously exempt or excluded from this chapter shall submit a complete
151 application for a solid waste management facility permit, permit by rule or a permit modification,
152 as applicable, in accordance with Part V (9VAC20-81-400 et seq.) of this chapter within six months
153 after these materials have been defined or identified as solid wastes. If the director finds that the
154 application is complete, the owner or operator may continue to manage the newly defined or
155 identified waste until a permit or permit modification decision has been rendered or until a date
156 two years after the change in definition whichever occurs sooner, provided however, that in so
157 doing he shall not operate or maintain an open dump, a hazard, or a nuisance.

158 Owners or operators of solid waste management facilities in existence prior to September 24,
159 2003, shall now be in compliance with this chapter. Where conflicts exist between the existing
160 facility permit and the new requirements of the regulations, the regulations shall supersede the
161 permit except where the standards in the permit are more stringent than the regulation. Language
162 in an existing permit shall not act as a shield to compliance with the regulation, unless a variance
163 to the regulations has been approved by the director in accordance with the provisions of Part VII
164 (9VAC20-81-700 et seq.) of this chapter. Existing facility permits will not be required to be updated
165 to eliminate requirements conflicting with the regulation, except at the request of the director or if
166 a permit is modified for another reason. However, all sanitary landfills and incinerators that accept
167 waste from jurisdictions outside of Virginia must have submitted the materials required under
168 9VAC20-81-100 E 4 by March 22, 2004.

169 E. This chapter is not applicable to landfill units closed in accordance with regulations or
170 permits in effect prior to December 21, 1988, unless releases from these closed landfills meet the
171 open dump criteria found in 9VAC20-81-45, or the closed landfills are found to be a hazard or a
172 nuisance under subdivision 21 of § 10.1-1402 of the Code of Virginia, or a site where improper
173 waste management has occurred under subdivision 19 of § 10.1-1402 of the Code of Virginia.

174 F. Part VIII (9VAC20-81-800 et seq.) of this chapter applies to the following:

175 1. Owners and operators of new and existing CCR landfills and CCR surface
176 impoundments, including any lateral expansions of such units that dispose or otherwise
177 engage in solid waste management of CCR generated from the combustion of coal at
178 electric utilities and independent power producers;

179 2. Disposal units located offsite of the electric utility or independent power producer. Part
180 VIII of this chapter also applies to any practice that does not meet the definition of a
181 beneficial use of CCR; and

182 3. Inactive CCR surface impoundments at active electric utilities or independent power
183 producers, regardless of the fuel currently used at the facility to produce electricity.

184 G. Part VIII of this chapter is not applicable to the following:

185 1. CCR landfills that have ceased receiving CCR prior to October 19, 2015;

186 ~~2. Electric utilities or independent power producers that have ceased producing electricity~~
187 ~~prior to October 19, 2015;~~

188 ~~3.~~ 2. Wastes, including fly ash, bottom ash, boiler slag, and flue gas desulfurization
189 materials generated at facilities that are not part of an electric utility or independent power
190 producer, such as manufacturing facilities, universities, and hospitals;

191 4. ~~3.~~ Fly ash, bottom ash, boiler slag, and flue gas desulfurization materials, generated
192 primarily from the combustion of fuels (including other fossil fuels) other than coal, for the
193 purpose of generating electricity unless the fuel burned consists of more than 50% coal
194 on a total heat input or mass input basis, whichever results in the greater mass feed rate
195 of coal;

196 ~~5.~~ 4. Practices that meet the definition of a beneficial use of CCR;

197 ~~6.~~ 5. CCR placement at active or abandoned underground or surface coal mines; or

198 ~~7.~~ 6. Municipal solid waste landfills that receive CCR.

199 **9VAC20-81-800. Adoption of 40 CFR Part 257 Subpart D by reference - Standards for the**
200 **Disposal of Coal Combustion Residuals in Landfills and Surface Impoundments.**

201 A. Except as otherwise provided, those regulations of the U.S. Environmental Protection
202 Agency set forth in Subpart D of 40 CFR Part 257 promulgated as of ~~October 4, 2016~~ December
203 14, 2020, wherein they relate to standards for the disposal of coal combustion residuals in landfills
204 and surface impoundments, are hereby incorporated as part of the Virginia Solid Waste
205 Management Regulations, 9VAC20-81. Except as otherwise provided, all material definitions,
206 reference materials, and other ancillaries that are a part of incorporated sections of 40 CFR Part
207 257 are also hereby incorporated as part of the Virginia Solid Waste Management Regulations.

208 B. In all locations in this chapter where text from 40 CFR Part 257 is incorporated by reference,
209 the following additions, modifications, and exceptions shall amend the incorporated text for the
210 purpose of its incorporation into this chapter. The following terms, where they appear in the Code
211 of Federal Regulations shall, for the purpose of this chapter, have the following meanings or
212 interpretations:

213 1. "Director" shall supplant the "State Director" wherever it appears.

214 2. "Qualified professional engineer" or "engineer" means a "professional engineer"
215 certified to practice in the Commonwealth of Virginia as defined in 9VAC20-81-10.

216 3. The phrase "or approval from the Participating State Director" throughout 40 CFR Part
217 257 is not incorporated by reference.

218 4. Notwithstanding the provisions of 9VAC20-81-800 A, the text of 40 CFR 257.50(e) and
219 40 CFR § 257.90(g) is not incorporated into this chapter.

220 5. In 40 CFR 257.73(a)(4), the phrase "not to exceed 6 inches above the slope of the dike"
221 is not incorporated by reference;. In 257.73(d)(1)(iv), 257.74(a)(4), and 257.74(d)(1)(iv),
222 the phrase "not to exceed six inches above the slope of the dike" is not incorporated by
223 reference.

224 C. Definitions in 40 CFR 257.53 are incorporated by reference into this part and are applicable
225 to CCR landfills and CCR surface impoundments.

Tab F



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director

Memorandum

To: Members of the Virginia Waste Management Board

Through: Kathryn Perszyk, Director, Land Protection & Revitalization Division

From: Rebecca Rathe, Regulatory Analyst

Date: September 30, 2024

Subject: Document Incorporated by Reference Update, Regulated Medical Waste Management Regulations (9VAC20-121)

The attached regulatory amendment is presented to the Board for your consideration for adoption. This fast-track regulatory action amends the Regulated Medical Waste Management Regulations, 9VAC20-121, to incorporate the latest federal interagency guidance document on Category A Waste. The regulations currently incorporate by reference the June 2022 document “Managing Solid Waste Contaminated with a Category A Infectious Substance.” This guidance document was updated in April 2024 by the National Security Council-led Countering Biological Threats Interagency Policy Committee, in collaboration with numerous federal agencies, including but not limited to the Centers for Disease Control and Prevention, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Environmental Protection Agency, and Occupational Safety and Health Administration. This regulatory action will amend the regulations to incorporate by reference the latest version of the document in order to remain consistent with federal guidance and keep the regulated community apprised of the latest guidelines on the management of Category A waste. No other regulatory text requires revision.

Section 2.2-4012.1 of the Code of Virginia allows the Board to use the fast-track process for regulatory amendments expected to be non-controversial. This regulatory action is expected to be noncontroversial because the document incorporated by reference is a federal guidance document which does not create new regulatory requirements, nor does it remove the obligation to comply with existing applicable federal, state, and local laws and regulations. This regulatory amendment will be effective 15 days after close of the 30-day public comment period provided (i) no objection to use of the fast-track process is received from 10 or more persons, or any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, and (ii) the department does not find it necessary,

based on public comments or for any other reason, to make any changes to the proposal. A Draft Virginia Regulatory Town Hall Document, Office of Regulatory Management Economic Review Form, and a copy of the regulatory text changes are attached for your information.

At your Board meeting on October 23, 2024, DEQ will request that the Board:

1. Authorize DEQ to promulgate the proposal for public comment using the fast-track process established in § 2.2-4012.1 of the Code of Virginia for regulations expected to be non-controversial. The Board's authorization will also constitute its adoption of the regulation at the end of the public comment period provided that (i) no objection to use of the fast-track process is received from 10 or more persons, or any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, and (ii) DEQ does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal.
2. Authorize DEQ to set an effective date 15 days after close of the 30-day public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Code of Virginia and (ii) DEQ does not find it necessary to make any changes to the proposal.

cc: Jill R. Hrynciw, DEQ Policy Division

ATTACHMENTS:

- Attachment A – Draft Virginia Regulatory Town Hall Document (TH04_Fast Track)
- Attachment B – Office of Regulatory Management Economic Review Form
- Attachment C – Regulatory Text (RIS Text Project 7943 – 9VAC20-121)



townhall.virginia.gov

Fast-Track Regulation Agency Background Document

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC20-121
VAC Chapter title(s)	Regulated Medical Waste Management Regulations
Action title	Document Incorporated by Reference Update
Date this document prepared	September 30, 2024

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*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Regulated Medical Waste Management Regulations, 9VAC20-121, incorporate by reference the federal interagency guidance document titled "Managing Solid Waste Contaminated with a Category A Infectious Substance (June 2022)". The federal Category A waste guidance document was updated in April 2024 by the National Security Council-led Countering Biological Threats Interagency Policy Committee, in collaboration with numerous federal agencies, including but not limited to the Centers for Disease Control and Prevention, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Environmental Protection Agency, and Occupational Safety and Health Administration. This regulatory action will amend the Regulated Medical Waste Management Regulations to incorporate by reference the latest (2024) version of the document in order to remain consistent with federal guidance and keep the regulated community apprised of the latest guidelines on the management of Category A waste.

Category A waste is a subset of regulated medical waste that is contaminated with a Category A infectious substance, a substance which can cause permanent disability or life-threatening or fatal disease in otherwise healthy humans or animals when exposure occurs. Both federal and state regulations have more stringent management standards for Category A waste than for other types of regulated medical waste to prevent the spread of highly infectious disease (such as Ebola Virus). The federal Category A waste guidance document provides critical information about the management of Category A waste, including key procedures and applicable regulations, considerations for waste management planning and decision making, and treatment and inactivation information for specific pathogens classified as Category A infectious substances.

Acronyms and Definitions

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

DEQ – Department of Environmental Quality
VAC – Virginia Administrative Code

Statement of Final Agency Action

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.

On October 23, 2024, the Virginia Waste Management Board:

1. Authorized DEQ to promulgate the proposal for public comment using the fast-track process established in § 2.2-4012.1 of the Code of Virginia for regulations expected to be non-controversial. The board's authorization constituted its adoption of the regulation at the end of the public comment period provided that (i) no objection to use of the fast-track process is received from 10 or more persons, or any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, and (ii) DEQ does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal.
2. Authorized DEQ to set an effective date 15 days after close of the 30-day public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Code of Virginia and (ii) DEQ does not find it necessary to make any changes to the proposal.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

Consistent with Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process.

The Regulated Medical Waste Management Regulations, 9VAC20-121, incorporate by reference the federal interagency guidance document titled “Managing Solid Waste Contaminated with a Category A Infectious Substance (June 2022)”. The federal guidance document was updated in April 2024. This regulatory action will amend the Regulated Medical Waste Management Regulations to incorporate by reference the latest (2024) version of the document to remain consistent with federal guidance and keep the regulated community apprised of the latest guidelines on management of Category A waste.

This regulatory action is expected to be noncontroversial because the document incorporated by reference is a federal guidance document and does not create new regulatory requirements, nor does it remove the obligation to comply with existing applicable federal, state, and local laws and regulations. The guidance document aims to provide essential information and decision-making considerations to prepare hospitals and healthcare facilities, emergency responders, waste management facilities, and other entities to effectively manage Category A waste associated with infectious disease incidents.

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 and 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.

The promulgating agency for this regulation is the Virginia Waste Management Board.

The legal basis for this regulation is the Virginia Waste Management Act (Chapter 14 of Title 10.1 of the Code of Virginia). Specifically, §10.1-1402 of the Code of Virginia authorizes the Board to supervise and control waste management activities in the Commonwealth and to promulgate regulations necessary to carry out its powers and duties.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

The purpose of this regulatory action is to amend the Regulated Medical Waste Management Regulations, 9VAC20-121, to incorporate by reference the latest (2024) version of the federal guidance document on the management of Category A waste. The regulations currently incorporate by reference the 2022 version of the document. The document will be updated to the 2024 version, in order to incorporate the most recent federal guidelines into the regulations. No other regulatory text requires revision.

This regulatory change is essential to protect the health, safety, and welfare of citizens as it will provide the most accurate and up-to-date information to the regulated community (i.e., hospitals and healthcare facilities, emergency responders, waste management facilities, and other entities) on all aspects of the safe and proper management of Category A waste to prevent the spread of highly infectious disease. The federal guidance document provides critical information about the management of Category A waste, including key procedures and applicable regulations, considerations for waste management planning and decision making, and treatment and inactivation information for specific pathogens classified as Category A infectious substances.

The goal of this regulatory change is to ensure that the regulated community has access to the latest information on Category A infectious substances and pathogens to ensure proper management of Category A waste. Incorporating by reference the most recent version of the Category A waste guidance document will make the Commonwealth's regulations consistent with the latest federal guidelines, decrease confusion by the public and regulated community on matters related to Category A waste, and increase the ease of use of the regulations. This regulatory action will help generators of regulated medical waste and facilities more easily and more quickly locate applicable regulatory requirements and best management practices, as well as increase understanding of the safest and most effective ways to manage more highly infectious regulated medical waste. This regulatory change will prevent the regulated community from potentially considering or utilizing out-of-date information on treatment and inactivation of specific Category A infectious substances, which could result in the mismanagement of Category A waste.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

This regulatory action updates an existing document incorporated by reference to the most recent version. No other regulatory text requires revision. The regulations currently incorporate by reference the federal interagency guidance document on management of Category A waste published in June 2022. The guidance document was updated and republished in April 2024. This regulatory action will amend the regulations to incorporate by reference the latest (2024) version of the document, which includes several technical changes as well as editorial changes summarized below.

Technical changes were made to Appendices F-1 and F-2 of the guidance document. Appendix F-1 now provides classification, packaging, shipping, inactivation, and disinfection information for waste contaminated with Marburg virus. Protocols for managing Marburg contaminated waste have been consolidated with existing protocols for managing Ebola contaminated waste due to their similarities. Both viruses are considered Select Agents and cause clinically similar and severe diseases in humans. Waste contaminated with either virus is Category A waste, requires a Department of Transportation special permit for transport, and is inactivated through autoclaving or incineration to ensure the waste is no longer infectious.

Appendix F-2 was updated to reflect modern terminology for Mpox virus (or MPXV, formerly known as the Monkeypox virus), and the two types of this virus. Clade I and Clade II (formerly known as the Congo Basin and West African clades, respectively) of MPXV cause clinically different diseases with Clade I responsible for more severe illness and death. Appendix F-2 was updated to clarify that not all types of MPXV contaminated waste are Category A waste. Only MPXV Clade I viral cultures (i.e., intentionally propagated viruses) and other waste materials contaminated with MPXV Clade I viral cultures are Category A waste, require a Department of Transportation special permit for transport, and are inactivated through autoclaving or incineration to ensure the waste is no longer infectious. Other MPXV contaminated waste (including patient waste from either MPXV clade as well as MPXV Clade II cultures) can be managed as (regular) regulated medical waste rather than Category A waste. Regulated medical waste that does not meet the criteria for Category A waste still requires treatment to ensure the waste is no longer infectious prior to disposal but is subject to less stringent standards for general handling, packaging/labeling, storage, and transport than Category A waste.

The main body of the guidance document also includes minor editorial changes (i.e. updating hyperlinks, updating the full name and logo of the Administration for Strategic Preparedness and Response, correcting typographical errors, etc.).

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The primary advantage of this regulatory action is that incorporating by reference the most recent version of the federal guidance document will ensure the clarity and certainty of information related to management standards for Category A waste. This regulatory action will make the Commonwealth’s regulations consistent with the latest federal guidelines and ensure that both regulatory requirements and federal guidelines for Category A waste are accessible to the public and regulated community in one central location. This will decrease confusion by the public and regulated community, increase ease of use of the regulations, and ultimately result in safer management of highly infectious regulated medical waste to prevent the spread of infectious disease. There are no disadvantages to the public or the Commonwealth associated with this regulatory change.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no analogous federal regulations for the management of regulated medical waste. The document incorporated by reference is a federal guidance document and does not create new regulatory requirements, nor does it remove the obligation to comply with existing applicable laws and regulations. Therefore, there are no new requirements more restrictive than federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. “Particularly affected” are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

The document incorporated by reference is a federal guidance document and does not create new regulatory requirements. Therefore, there are no other State Agencies particularly affected.

Localities Particularly Affected

The document incorporated by reference is a federal guidance document and does not create new regulatory requirements. Therefore, there are no localities particularly affected.

Other Entities Particularly Affected

The document incorporated by reference is a federal guidance document and does not create new regulatory requirements. Therefore, there are no other entities particularly affected.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources</p>	<p>The document incorporated by reference is a federal guidance document and does not create new regulatory requirements. Therefore, there are no projected costs, savings, fees, or revenues resulting from the regulatory change.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>The document incorporated by reference is a federal guidance document and does not create new regulatory requirements. Therefore, there are no projected costs, savings, fees, or revenues resulting from the regulatory change.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>This regulatory change will make the Commonwealth’s regulations consistent with the latest federal guidelines on Category A waste, decrease confusion by the public and regulated community, and increase ease of use of the regulations.</p>

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

<p>Projected costs, savings, fees or revenues resulting from the regulatory change.</p>	<p>The document incorporated by reference is a federal guidance document and does not create new regulatory requirements. Therefore, there are no projected costs, savings, fees, or revenues resulting from the regulatory change.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>This regulatory change will make the Commonwealth’s regulations consistent with the latest federal guidelines on Category A waste, decrease confusion by the public and regulated community, and increase ease of use of the regulations.</p>

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

<p>Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.</p>	<p>The document incorporated by reference is a federal guidance document and does not create new regulatory requirements. Therefore, no individuals, businesses, or other entities are likely to be affected by the regulatory change.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>The document incorporated by reference is a federal guidance document and does not create new regulatory requirements. Therefore, no individuals, businesses, or other entities are likely to be affected by the regulatory change.</p>
<p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.</p>	<p>The document incorporated by reference is a federal guidance document and does not create new regulatory requirements. Therefore, there are no projected costs for affected individuals, businesses, or other entities resulting from this regulatory change.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>This regulatory change will make the Commonwealth’s regulations consistent with the latest federal guidelines on Category A waste, decrease confusion by the public and regulated community, and increase ease of use of the regulations.</p>

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

One alternative to this regulatory change is to maintain the regulations as is, which incorporates by reference an outdated (2022) version of the federal Category A waste guidance. In that case, the regulations are inconsistent with the latest federal guidelines on Category A waste. This creates confusion for the public and the regulated community, and decreases the ease of use of the regulations, as generators of regulated medical waste and facilities are not able to quickly locate all applicable requirements and best management practices for Category A waste in one central location. It could also cause generators and management facilities to potentially consider or utilize out-of-date information on

treatment and inactivation of specific Category A infectious substances, which could result in the mismanagement of Category A waste. Therefore, the agency is proposing this regulatory action to incorporate by reference the latest (2024) version of the federal guidance document on the management of Category A waste.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

The document incorporated by reference is a federal guidance document and does not create new regulatory requirements, nor does it remove the obligation to comply with existing applicable federal, state, and local laws and regulations. Therefore, alternative regulatory methods are not applicable. The only alternative is to maintain the regulations as is, which incorporates by reference an outdated (2022) version of the document. In that case, the regulations are inconsistent with the latest federal guidelines on Category A waste. This creates confusion for the public and the regulated community, and decreases the ease of use of the regulations, as generators and facilities are not able to quickly locate all applicable requirements and best management practices for Category A waste in one central location.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

Consistent with § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Virginia Waste Management Board is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any

alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail or email to Rebecca Rathe at P.O. Box 3000, Harrisonburg, VA 22801, phone: (540) 830-7241, or email: Rebecca.Rathe@deq.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
9VAC20-121, Documents Incorporated by Reference		Managing Solid Waste Contaminated with a Category A Infectious Substance (June 2022), approved for publication by the National Security Council (NSC)-led Homeland and Critical Infrastructure Resilience (HCIR) and Countering Biological Threats (CBT) Interagency Policy Committees on June 3, 2022	The document incorporated by reference will be updated to the 2024 version, to incorporate the most recent federal guidance on Category A waste management. The benefit of this update is to provide the most accurate and up-to-date information to the public and regulated community. Incorporating the most recent version of the document incorporated by reference will make the Commonwealth's regulations consistent with the latest federal guidelines, decrease confusion by the public and regulated community, increase ease of use of the regulations, and ultimately result in safer management of highly infectious regulated medical waste to prevent the spread of infectious disease.

Office of Regulatory Management
Economic Review Form

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC20-121
VAC Chapter title(s)	Regulated Medical Waste Management Regulations
Action title	Document Incorporated by Reference Update
Date this document prepared	September 30, 2024
Regulatory Stage (including Issuance of Guidance Documents)	Fast-Track

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>Agency Background: The Regulated Medical Waste Management Regulations, 9VAC20-121-160, reference a federal guidance document, Managing Solid Waste Contaminated with a Category A Infectious Substance, which is an existing document incorporated by reference. This regulatory action will update the document incorporated by reference to the latest (2024) federal Category A waste guidance document. The document incorporated by reference is a federal guidance document and does not create new regulatory requirements, nor does it remove the obligation to comply with existing applicable federal, state, and local laws and regulations. No other regulatory text is being revised.</p> <p>The federal Category A waste guidance document was updated in April 2024 by the National Security Council-led Countering Biological Threats Interagency Policy Committee, in collaboration with numerous federal agencies, including but not limited to the Centers for Disease Control and Prevention, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Environmental Protection Agency, and Occupational Safety and Health Administration.</p> <p>Category A waste is a subset of regulated medical waste that is contaminated with a Category A infectious substance, a substance which can cause permanent disability or life-threatening or fatal disease in otherwise healthy humans or animals when exposure occurs. Both federal and state regulations have more stringent management standards for Category A waste than for other types of regulated medical waste to prevent the spread of highly infectious disease (such as Ebola Virus). The federal Category A waste guidance document provides critical information about the management of Category A waste, including key procedures and applicable regulations, considerations for waste management planning and decision making, and treatment and inactivation information for specific pathogens classified as Category A infectious substances.</p> <p>Direct Costs: There are no direct costs associated with this regulatory action.</p> <p>Indirect Costs: There are no indirect costs associated with this regulatory action.</p> <p>Direct Benefits: The primary direct benefits of this regulatory action are that it makes the Commonwealth’s regulations consistent with the latest federal guidelines on Category A waste and ensures that both regulatory requirements and federal guidelines are accessible to the public and regulated community in one central location. This decreases confusion by</p>
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	<p>the public and regulated community and increases the ease of use of the regulations.</p> <p>Indirect Benefits: The primary indirect benefit of this regulatory action is an increased understanding of the most effective ways to manage highly infectious regulated medical waste, resulting in safer management of Category A waste in the Commonwealth.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Net Monetized Benefit	\$0	
(4) Other Costs & Benefits (Non-Monetized)	There are no other costs and benefits associated with this regulatory action.	
(5) Information Sources	https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2024-04/Managing%20Solid%20Waste%20Contaminated%20with%20a%20Category%20A%20Infectious%20Substance%20-%202024-04.pdf	

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: The current regulations incorporate by reference an outdated (2022) version of the federal Category A waste guidance, making the regulations inconsistent with the latest federal guidelines. This increases confusion by the public and regulated community, and decreases the ease of use of the regulations.</p> <p>Indirect Costs: Continuing to incorporate by reference an outdated version of the federal Category A waste guidance could create a misunderstanding of the most effective ways to manage highly infectious regulated medical waste, which could potentially result in mismanagement of Category A waste in the Commonwealth.</p> <p>Direct Benefits: There are no direct benefits associated with maintaining the regulations as currently written.</p> <p>Indirect Benefits: There are no indirect benefits associated with maintaining the regulations as currently written.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Net Monetized Benefit	\$0	
(4) Other Costs & Benefits (Non-Monetized)	There are no other costs and benefits associated with maintaining the regulations as currently written.	
(5) Information Sources	https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2024-04/Managing%20Solid%20Waste%20Contaminated%20with%20a%20Category%20A%20Infectious%20Substance%20-%202024-04.pdf	

Table 1c: Costs and Benefits under Alternative Approach(es)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Agency Background: The document incorporated by reference is a federal guidance document and does not create new regulatory requirements, nor does it remove the obligation to comply with existing applicable federal, state, and local laws and regulations. Therefore, alternative regulatory methods are not applicable. The only alternative is to maintain the regulations as currently written, which incorporates by reference an outdated version of the document. See Table 1b.</p> <p>Direct Costs: N/A</p>
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	Indirect Costs: N/A Direct Benefits: N/A Indirect Benefits: N/A	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Net Monetized Benefit	\$0	
(4) Other Costs & Benefits (Non-Monetized)	N/A	
(5) Information Sources	https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2024-04/Managing%20Solid%20Waste%20Contaminated%20with%20a%20Category%20A%20Infectious%20Substance%20-%202024-04.pdf	

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Agency Background: The Regulated Medical Waste Management Regulations, 9VAC20-121-160, reference a federal guidance document, Managing Solid Waste Contaminated with a Category A Infectious Substance, which is an existing document incorporated by reference. This regulatory action will update the document incorporated by reference to the latest (2024) federal Category A waste guidance document. The document incorporated by reference is a federal guidance document and does not create new regulatory requirements, nor does it remove the obligation to comply with existing applicable federal, state, and local laws and regulations. No other regulatory text is being revised.</p> <p>Direct Costs: There are no direct costs to local partners associated with this regulatory action.</p> <p>Indirect Costs: There are no indirect costs to local partners associated with this regulatory action.</p>
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	<p>Direct Benefits: The primary direct benefits of this regulatory action are that it makes the Commonwealth’s regulations consistent with the latest federal guidelines on Category A waste and ensures that both regulatory requirements and federal guidelines are accessible to the public and regulated community in one central location. This decreases confusion by the public and regulated community and increases the ease of use of the regulations.</p> <p>Indirect Benefits: The primary indirect benefit of this regulatory action is an increased understanding of the most effective ways to manage highly infectious regulated medical waste, resulting in safer management of Category A waste in the Commonwealth.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Other Costs & Benefits (Non-Monetized)	There are no other costs and benefits associated with this regulatory action.	
(4) Assistance	N/A	
(5) Information Sources	https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2024-04/Managing%20Solid%20Waste%20Contaminated%20with%20a%20Category%20A%20Infectious%20Substance%20-%202024-04.pdf	

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: There are no direct costs to families associated with this regulatory action.</p> <p>Indirect Costs: There are no indirect costs to families associated with this regulatory action.</p> <p>Direct Benefits: The primary direct benefits of this regulatory action are that it makes the Commonwealth’s regulations consistent with the latest federal guidelines on Category A waste and ensures that both regulatory requirements and federal guidelines are accessible to the public and regulated community in one central location. This decreases confusion by</p>
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	<p>the public and regulated community and increases the ease of use of the regulations.</p> <p>Indirect Benefits: The primary indirect benefit of this regulatory action is an increased understanding of the most effective ways to manage highly infectious regulated medical waste, resulting in safer management of Category A waste in the Commonwealth.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Other Costs & Benefits (Non-Monetized)	There are no other costs and benefits associated with this regulatory action.	
(4) Information Sources	https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2024-04/Managing%20Solid%20Waste%20Contaminated%20with%20a%20Category%20A%20Infectious%20Substance%20-%202024-04.pdf	

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: There are no direct costs to small businesses associated with this regulatory action.</p> <p>Indirect Costs: There are no indirect costs to small businesses associated with this regulatory action.</p> <p>Direct Benefits: The primary direct benefits of this regulatory action are that it makes the Commonwealth’s regulations consistent with the latest federal guidelines on Category A waste and ensures that both regulatory requirements and federal guidelines are accessible to the public and regulated community in one central location. This decreases confusion by the public and regulated community and increases the ease of use of the regulations.</p> <p>Indirect Benefits: The primary indirect benefit of this regulatory action is an increased understanding of the most effective ways to manage highly infectious regulated medical waste, resulting in safer management of Category A waste in the Commonwealth.</p>
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(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Other Costs & Benefits (Non-Monetized)	There are no other costs and benefits associated with this regulatory action.	
(4) Alternatives	N/A	
(5) Information Sources	https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2024-04/Managing%20Solid%20Waste%20Contaminated%20with%20a%20Category%20A%20Infectious%20Substance%20-%202024-04.pdf	

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

This regulatory amendment does not place any additional regulatory requirements on the regulated community. Rather, it updates the document incorporated by reference to conform to the latest (2024) federal guidelines on Category A waste management. The document incorporated by reference does not create new regulatory requirements, nor does it remove the obligation to comply with existing applicable federal, state, and local laws and regulations. No other regulatory text requires revision. This regulatory action provides the most accurate and up-to-date information from the federal government on Category A waste management, makes the Commonwealth’s regulations consistent with the latest federal guidelines, decreases confusion by the public and regulated community, and increases the ease of use of the regulations. This regulatory action will help generators and facilities more easily and more quickly locate applicable regulatory requirements and best management practices as well as increase understanding of the safest and most effective ways to manage more highly infectious regulated medical waste.

Change in Regulatory Requirements

VAC Section(s) Involved*	Authority of Change	Initial Count	Additions	Subtractions	Total Net Change in Requirements
9VAC20-121 (Documents Incorporated)	(M/A):	0	0	0	0
	(D/A):	0	0	0	0
	(M/R):	0	0	0	0
	(D/R):	0	0	0	0

by Reference)					
				Grand Total of Changes in Requirements:	(M/A):0
					(D/A):0
					(M/R):0
					(D/R):0

Key:

Please use the following coding if change is mandatory or discretionary and whether it affects externally regulated parties or only the agency itself:

(M/A): Mandatory requirements mandated by federal and/or state statute affecting the agency itself

(D/A): Discretionary requirements affecting agency itself

(M/R): Mandatory requirements mandated by federal and/or state statute affecting external parties, including other agencies

(D/R): Discretionary requirements affecting external parties, including other agencies

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	Original Word Count	New Word Count	Net Change in Word Count
N/A	N/A	N/A	N/A

*If the agency is modifying a guidance document that has regulatory requirements, it should report any change in requirements in the appropriate chart(s).

Project 7943 - Fast-Track

Virginia Waste Management Board

Regulated Medical Waste DIBR Update

Documents Incorporated by Reference (9VAC20-121)

~~[Managing Solid Waste Contaminated with a Category A Infectious Substance \(June 2022\), approved for publication by the National Security Council \(NSC\)-led Homeland and Critical Infrastructure Resilience \(HCIR\) and Countering Biological Threats \(CBT\) Interagency Policy Committees on June 3, 2022](#)~~

[Managing Solid Waste Contaminated with a Category A Infectious Substance \(April 2024\), approved for publication by the National Security Council \(NSC\)-led Countering Biological Threats \(CBT\) Interagency Policy Committee on March 13, 2024.](#)