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Final Regulation Agency Background Document

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| Agency name | Board for Waste Management Facility Operators |
| Virginia Administrative Code (VAC) citation(s) | 18 VAC 155-20 |
| Regulation title(s) | Board for Waste Management Facility Operators Regulations |
| Action title | Addition of license class |
| Date this document prepared | July 12, 2016 |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The Board for Waste Management Facility Operators seeks to amend its regulations regarding the definition of the classes of licensure and the scope of practice permitted by Class I and Class II licenses as it pertains to composting facilities. The amendments will place composting facilities under the definition of a Class I license.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

There are no acronyms, abbreviations, or definitions in the Agency Background Document that are not defined in the referenced section or the “Definitions” section of the regulations.

Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

At its meeting of July 12, 2016, the Board for Waste Management Facility Operators adopted as final, these amendments to the Board for Waste Management Facility Operators Regulations.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.

§ 54.1-2211 A of the Code of Virginia states that, “The Board shall promulgate regulations and standards for the training and licensing of waste management facility operators.”

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

These amendments will consolidate all composting requirements from being separated between Class I and Class II licenses into only the Class I license. Currently a Class II license is for composting municipal solid waste as well as all types of landfills. The Class I license is for composting yard waste in addition to transfer stations. The Board has determined that it would be less burdensome to its licensees for all composting to be put together under the Class I license. These amendments will ensure that operators of those types of facilities are adequately trained and meet the minimum competency requirements, ultimately producing updated regulations that will effectively protect the health, safety, and welfare of the public.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both.

Section 18 VAC 155-20-10 is amended to clarify definitions of the Class I and II license types.

Section 18 VAC 155-20-110 is amended to clarify license classifications in Subsections A (1) and A (2).

Issues

Please identify the issues associated with the proposed regulatory action, 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, please indicate.

- 1) The proposed amendments are to consolidate composting requirements into one license type. The changes would be advantageous to public and to the waste management facilities as they would not need to know the differences between composting types to determine which class of license is required.
- 2) In amending the regulations, the Board for Waste Management Facility Operators is continuing to provide necessary public protection tasked to them through existing statutes.
- 3) There are no apparent disadvantages or other pertinent matters of interest to the regulated community, government officials, and the public.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include 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 statement to that effect.

There are no requirements in these proposed amendments to the regulations that are more restrictive than any federal statutes or regulations.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

Only localities that have composting facilities will be affected as a result of these amendments. Since, however, the proposed changes result in regulations that are easier to understand and are less burdensome, the net affect will be positive.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

These amendments will have no impact on the institution of the family or family stability.

Changes made since the proposed stage

*Please list all changes that made to the text of the proposed regulation and the rationale for the changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. *Please put an asterisk next to any substantive changes.*

There have been no changes made since the proposed change.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate. Please distinguish between comments received on Town Hall versus those made in a public hearing or submitted directly to the agency or board.

| Commenter | Comment | Agency response |
|------------------|--|--|
| Pat Crepeau | Requests that the Board look to requiring more extensive training for waste management collections companies, as well as homeowners associations that enter into contracts with them. Also that there be more stringent regulation non-profits that collect donations of household goods and clothing. | The Board for Waste Management Facility Operators does not have the authority to adopt regulations that would require training for waste management collection companies, homeowners associations, or non-profit organizations that collect donations of household goods and clothing. Your comment will be forwarded to the appropriate regulatory or consumer protection agency. |

All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections. Explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation

| Current section number | Proposed new section number, if applicable | Current requirement | Proposed change and rationale |
|------------------------|--|---------------------|--|
| 18 VAC 155-20-10 | | | <p>Deletes “receiving yard waste” from the definition of Class I license. The Class I definition will not be for all composting facilities.</p> <p>Deletes “a facility that composts municipal solid waste” from the Class II license definition</p> |
| 18 VAC 155-20-110 | | | <p>Deletes “receiving yard waste” from A (1). The Class I classification will now be for all composting facilities.</p> <p>Deletes “composts municipal solid waste, or” from the A (2).</p> |