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Exempt Action Final Regulation Agency Background Document

Agency name	Department of Environmental Quality
Virginia Administrative Code (VAC) citation(s)	9VAC15-30
Regulation title(s)	Regulations for the Certification of Recycling Machinery and Equipment for Local Tax Exemption Purposes
Action title	<i>Correction of Administrative Process Act citations</i>
Final agency action date	October 16, 2017
Date this document prepared	October 5, 2017

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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

Section 58.1-3661 of the Code of Virginia directs the Department of Environmental Quality to "promulgate regulations establishing criteria for recycling equipment, facilities, or devices." This regulation establishes standards, forms and procedures for the assessment of the equipment, facilities and devices for certification of local tax exemption. The amendments update the references to the Administrative Process Act in sections 140 and 170.

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.

On October 16, 2017, the Director of the Department of Environmental Quality adopted the amendments to this regulation.

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.

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

Periodic review/small business impact review report of findings

Please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and (2) indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by §2.2-4007.1 E and F, please include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

The following is a summary of the comments received during the periodic review comment period and the agency response.

Commenter	Comment	Agency response
Michael Benedetto, President/Owner TFC Recycling	Supports maintaining or expanding the existing Regulations for the Certification of Recycling Machinery and Equipment for Local Tax Exemption Purposes (9 VAC 15-30). The existing recycling tax credits provides for continued investment in state-of-the-art technology to ensure more recyclables are captured and processed efficiently.	The agency agrees the Regulations for the Certification of Recycling Machinery and Equipment for Local Tax Exemption Purposes (9 VAC 15-30) should be retained.

An informal advisory group was not formed to assist with this review.

This regulation is clearly written and easily understandable. These regulations are required by state law. While these regulations do not directly protect public health, safety or welfare, they establish the criteria to be met before a certification of recycling machinery and equipment for a local tax exemption is issued. This prevents potential fraudulent claims of tax exemptions which would reduce the amount of funds available for use by localities to provide services to the public, including services that protect public health, safety and welfare.

The current regulation continues to be needed and is required by §58.1-3661 of the Code of Virginia. The sole commenter during the public comment period was supportive of maintaining and expanding the regulation.

The regulation has been written to minimize the complexity of the regulation and an accompanying form has been included in the regulation to assist the regulated community with complying with the requirements of this regulation.

This regulation is a state only regulation and there is no related federal law or regulation. This regulation does not overlap with other state regulations. Localities have the option of adopting an ordinance to exempt or partially exempt the certified recycling machinery and equipment from local property taxes.

This regulation was last revised in 2011 to update references and citations to the Virginia Solid Waste Management Regulations. Prior to that revision, the regulation was updated in 2001 to include changes made to state statute. The content of the regulation continues to be relevant except for outdated citations referencing the Administrative Process Act.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
140		Appeal procedure	The citation referencing the Administrative Process Act has been revised to reference the correct citation of the Administrative Process Act.
170		Administrative procedures for variances	The citation referencing the Administrative Process Act has been revised to reference the correct citation of the Administrative Process Act.

This is a regulatory amendment only for form, style, and technical changes to the Regulations for the Certification of Recycling Machinery and Equipment for Local Tax Exemption Purposes (9VAC15-30). The regulation was amended to update the references to the Administrative Process Act. Section 2.2-

4006 A 3 exempts regulatory amendments that consist only of changes in style or form or corrections of technical errors from the requirements of the Administrative Process Act.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The agency analyzed alternative regulatory methods, consistent with health, safety, environmental and economic welfare that would accomplish the objectives of the law while minimizing the adverse impacts on small business. This regulation establishes standards, forms and procedures for the assessment of the equipment, facilities and devices for certification of local tax exemption. Information on specific recycling machinery is provided to the department for review prior to the department providing a certification of local tax exemption. Documentation related to the equipment the recycling certification is sought is reviewed by the agency. Once equipment is certified, there is no additional reporting or re-certification required. The information concerning the equipment that is required to be submitted is the minimum information that needs to be submitted. The agency was unable to identify any exemptions for small business that could be added to the regulation that would accomplish the objectives of the law.