



townhall.virginia.gov

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

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) citation	9VAC20-130
Regulation title	Solid Waste Planning and Recycling Regulations
Date	May 20, 2015

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

Legal basis

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

Section 10.1-1411 of the Code of Virginia authorizes the Virginia Waste Management Board to promulgate regulations for local and regional solid waste management plans. Statute requires the Board's regulations to address all aspects of solid waste management including waste reduction, reuse, recycling, storage, treatment and disposal. Solid waste planning units are required to maintain minimum recycling rates specified in statute. This regulation was originally adopted by the Board in 1990 and has been amended in 2001, 2007, 2011, and 2012.

Alternatives

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

Statute requires the Virginia Waste Management Board to adopt this regulation and specifies specific items to be included in plans developed and submitted for approval. The specific requirements of state statute limit the viable alternatives the board may consider using to achieve the purpose of the existing regulation.

For example, one alternative the board considered was to require solid waste planning units to be locality based, not regionally based. This alternative was rejected as not being a viable alternative since it would limit the ability of localities to create regional plans to manage multiple jurisdictions' recycling and disposal activities. This approach would also conflict with the establishment of regional authorities allowed by §15.2-5100 et seq. of the Code of Virginia. (§15.2-5102.1). Due to these issues, this alternative was not considered a viable alternative.

Another alternative the board considered was to develop a standard solid waste management plan for regions and localities to adopt and implement. This alternative was rejected as not viable since each region and locality within Virginia is unique and has different waste management challenges to address such as available recycling markets and waste management facilities. Removing the flexibility for regions and localities to develop and maintain their own solid waste management plans would not benefit regions, localities, or the environment.

The Board believes that the regulation, as currently written, is the least burdensome alternative available for achieving the purpose of the regulation.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response
Central Virginia Waste Management Authority (CVWMA)	CVWMA supports conducting a periodic review of 9VAC20-130 Solid Waste Planning and Recycling Regulations.	The agency appreciates CVWMA's support of conducting this periodic review.

An informal advisory group was not formed for the purpose of assisting with the periodic review.

Effectiveness

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

This regulation is necessary for the protection of public health, safety and welfare and is clearly written and easily understandable.

Result

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

The agency is recommending the Solid Waste Planning and Recycling Regulations stay in effect.

The agency plans to discuss this regulation with stakeholders in the near future to identify potential changes that would increase the clarity of this regulation. Any changes to the regulation would be made as a separate regulatory action.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: 1) the continued need for the regulation; 2) the nature of complaints or comments received concerning the regulation from the public; 3) the complexity of the regulation; 4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and 5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the basis for the agency's determination to retain the regulation as is, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

The agency believes this regulation continues to be needed. It establishes requirements for the formation of solid waste management planning units and for the development of solid waste management plans. These plans address the management of solid waste and the recycling of solid waste within the solid waste management planning unit. These plans promote source reduction, reuse, and recycling of materials, thereby reducing the amount of solid waste that needs to be disposed of in landfills.

During the public comment period for this periodic review only one comment was submitted. The Central Virginia Waste Management Authority (CVWMA) submitted a comment supporting the review of the regulation. CVWMA however did not provide any suggestions for changes to the regulation.

As part of this review, the agency considered the impact this regulation has on small businesses. The regulation does not directly impact small businesses. This regulation provides local governments and solid waste management planning units with details that need to be included in solid waste management plans. All entities generating solid waste may be required to follow waste management practices established by the solid waste management planning units. The solid waste management planning unit has the ability to adopt plans that include measures that minimize impacts to small businesses.

The agency also considered the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation. This regulation is a state only regulation and there is no equivalent federal regulation. This regulation does overlap to an extent with the Solid Waste Management Regulation, 9VAC20-81-10 et. seq. Both regulations address solid waste and the need to properly manage solid waste in permitted facilities. Some facilities that manage solid waste receive permits from the department that are issued through the Solid Waste Management Regulation 9VAC20-81-10 et seq.

Since initially adopted, the regulation has been revised numerous times to address various issues. This regulation was last amended in 2012 to revise the frequency of the recycling rate report for some localities. This regulation was also updated in 2011 to revise regulatory citations referencing the Solid Waste Management Regulations. Revisions were made in 2007 to the regulation to change the calculation of the mandatory recycling rate, the formation and dissolution of planning regions, and to

remove references to the Solid Waste Information and Assessment Program. Revisions in 2001 were made to make the regulation consistent with state statute and legislation passed during the 1999 General Assembly session.

The department has determined that the regulation should be retained. The agency plans to discuss this regulation with stakeholders in the near future to identify potential changes that would increase the clarity of this regulation, while maintaining the objectives of applicable law. Any changes to the regulation would be made through a regulatory action separate from this periodic review.

Family impact

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

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