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

Agency name	Virginia Department of Labor and Industry/Safety and Health Codes Board
Virginia Administrative Code (VAC) citation	16 VAC-25-30
Regulation title	Regulations for Asbestos Emissions Standards for Demolition and Renovation Construction Activities and the Disposal of Asbestos-Containing Construction Waste – Incorporation By Reference, 40 CFR 61.140 through 61.156
Date	July 28, 2017

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

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 40.1-22(5) of the Code of Virginia mandates the Safety and Health Codes Board adopt standards that most adequately assure that no employee will suffer material impairment of health or functional capacity.

Chapter 541 of the 1992 Acts of Assembly transferred regulatory authority and enforcement responsibility for demolition and removal of asbestos facilities to the Department of Labor and Industry. Sections 40.1- 51.23 through 40.1-51.39 of the Code of Virginia mandate that the Department of Labor and Industry enforce EPA's NESHAP regulations, 40 CFR 61.140 through 61.156.

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.

The Department of Labor and Industry did not consider any alternatives to this regulation because it directly incorporates federal law 40 CFR 61-140 through 61.156 by reference and does not exceed the federal requirements.

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

No public comments were received on this regulation during the public comment period which began on March 20, 2017, and ended on April 14, 2017. The Department of Labor and Industry and the Safety and Health Codes Board did not establish an informal advisory group for the purpose of assisting in 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 has two goals:

- Reduce the incidence of material impairment of the health of Virginians due to exposure to asbestos in the workplace or as an environmental pollutant.
- The protection of the public’s health, safety and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.

Standards related to asbestos emission and disposal of asbestos-containing construction waste are necessary to protect the safety, health, and welfare of the workers from the health hazards associated with airborne pollutants. The regulation does so by adopting the federal requirements set forth in 40 CFR 61.140 through 61.156. The regulation is clearly written and not overly complex.

Result

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

The Department of Labor and Industry and the Safety and Health Codes Board recommend retaining the regulation without change.

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.

There is a continued need for this regulation as the requirements are mandated by federal law. The regulation, as written, continues to protect the safety, health, and welfare of the public by regulating the hazards associated with asbestos emission and disposal of asbestos-containing construction waste, with the least cost to citizens and businesses of the Commonwealth. No comments were received during this periodic review. The regulation is not overly complex and is clearly written. It does not duplicate, overlap, or conflict with state or federal laws or regulations, and there is no apparent negative impact on the regulated community. The regulation was last reviewed in 2013. There have been little or no changes in technology, economic conditions, and other factors which would affect the regulation.