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## Periodic Review Report of Findings

<b>Agency name</b>	Virginia Waste Management Board
<b>Virginia Administrative Code (VAC) citation</b>	9VAC20-110
<b>Regulation title</b>	Regulations Governing the Transportation of Hazardous Materials
<b>Date this document prepared</b>	November 26, 2018

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

## Acronyms and Definitions

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

CFR - Code of Federal Regulations

## Legal Basis

*Please 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 10.1-1450 of the Code of Virginia directs the Waste Management Board to "promulgate regulations designating the manner and method by which hazardous materials shall be loaded, unloaded, packed, identified, marked, placarded, stored and transported. Such regulations shall be no more restrictive than any applicable federal laws or regulations." The Waste Management Board has adopted this regulation and incorporates federal hazardous materials transportation requirements into this regulation by reference.

## Alternatives

*Please describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.*

This regulation incorporates federal hazardous materials regulations (49 CFR) into state regulations. This maintains consistency for the regulated community. Transporters of hazardous materials are already required to comply with federal requirements. Implementing Virginia specific requirements for transporters of hazardous materials in Virginia would lead to confusion and would be burdensome on the

regulated community. Section 10.1-1450 of the Code of Virginia also prohibits this regulation being more restrictive than federal laws and regulations. No viable alternatives to this regulation were identified.

**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. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

An informal advisory group was not formed for the purpose of this periodic review. No comments were received during the public comment period.

**Effectiveness**

*Pursuant to § 2.2-4017, please indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) 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. The regulation incorporates federal transportation regulations into state regulation. The regulations are needed to ensure that hazardous materials are transported safely.

**Decision**

*Please explain the basis for the rulemaking entity’s decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

The regulation is being retained. This regulation is needed to ensure that hazardous materials are transported safely. This regulation is periodically updated to maintain consistency with the Code of Federal Regulations (CFR).

**Small Business Impact**

*As required by § 2.2-4007.1 E and F of the Code of Virginia, 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. Also, discuss why the agency’s decision, consistent with the stated objectives of applicable law, will minimize the economic impact of regulations on small businesses.*

This regulation is needed to ensure that hazardous materials are transported safely.

No comments were received during the public comment period.

The regulation incorporates applicable CFR sections into the regulation. This minimizes the complexity of the regulation since Virginia’s regulation incorporate sections of the CFR by reference; thereby making the federal and state requirements identical. Section 10.1-1454 of the Code of Virginia states:

Any person transporting hazardous materials in accordance with regulations promulgated under the laws of the United States, shall be deemed to have complied with the provisions of this article, except when such transportation is excluded from regulation under the laws or regulations of the United States.

The regulation has been written to maintain consistency with the federal regulatory requirements pertaining to the transportation of hazardous materials due to the requirements of §10.1-1454 the Code of Virginia.

Small businesses are required to comply with federal requirements concerning the transportation of hazardous materials; therefore, the adoption of less stringent requirements for small businesses in this regulation to minimize the economic impact of the regulation would not be consistent with federal and state law.