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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC20-190
VAC Chapter title(s)	Litter Receptacle Regulations
Date this document prepared	October 1, 2020

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 (1VAC7-10), and the **Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code**.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

This section is not applicable.

Legal Basis

Identify (1) the promulgating agency, 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 agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Section 10.1-1402 of the Code of Virginia authorizes the Virginia Waste Management Board to promulgate regulations to supervise, coordinate, and control waste management activities in order to protect human health and the environment.

Section 10.1-1419 of the Code of Virginia directs the Virginia Waste Management Board to adopt regulations containing guidelines for the use of litter receptacles in public places. It also establishes a \$25 per day penalty for violations of the regulation. Section 10.1-1414 of the Code of Virginia defines the term "litter" as "all waste material disposable packages or containers but

not including the wastes of the primary processes of mining, logging, sawmilling, farming, or manufacturing." Section 10.1-1421 of the Code of Virginia establishes the entity responsible for removing litter from receptacles.

The Virginia Waste Management Board previously adopted this regulation as directed by state statute. The regulation establishes which places must be provided with litter receptacles, the standards for the receptacles, and the requirements for removal of the litter from the receptacles. There is no corresponding federal legal authority for this regulation.

Alternatives to Regulation

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.

The department considered alternatives to this regulation. The department rejected repealing this regulation since state law specifically directs the Virginia Waste Management Board to adopt this regulation.

The department also considered amending the regulation. This alternative was rejected since the regulation as currently written meets statutory requirements. The regulation contains minimum requirements pertaining to the placement and management of litter receptacles.

The department has determined that retention of the regulation is appropriate, as it is the least burdensome and least intrusive alternative that fully meets statutory requirements and the purpose of the regulation.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

An informal advisory group was not formed to assist with the periodic review. No comments were received during the public comment period.

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, 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 to meet the requirements of the Code of Virginia and to protect human health and the environment. This regulation assists with the prevention of litter by providing requirements for litter receptacles to be placed and maintained for use by the public.

The department has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

Decision

Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

The regulation is effective and continues to be needed and is being retained.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (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 applicable law, will minimize the economic impact of regulations on small businesses.

This regulation continues to be needed to protect human health and the environment. This regulation requires litter receptacles to be placed and maintained for the public to use. These receptacles are a critical component of the prevention of litter in the Commonwealth. Without these receptacles, the public would not have receptacles to deposit their trash in while they are in public. This would potentially lead to an increase in littering in the Commonwealth and the associated negative impacts to human health and the environment.

No Public comments were received during the comment period.

This regulation is not complex. It requires placement of litter receptacles at certain places throughout the Commonwealth. In most cases, the regulation requires a minimum of one litter receptacle to be placed at locations where litter needs to be deposited to prevent it from being improperly discarded. The regulation allows the entity that is required to provide and maintain litter receptacles the ability to decide the appropriate number of litter receptacles needed to collect the litter, and the frequency for them to be emptied.

This regulation does not overlap, duplicate, or conflict with any state law or other state regulation. A periodic review was last conducted on this regulation in 2016. Since that time, changes to technology and economic conditions have not impacted this regulation.

As currently written, the regulation meets the requirements of state law while minimizing the impacts on small businesses.

Family Impact

Please assess the potential impact of the regulation's impact on the institution of the family and family stability.

This regulation does not have a direct impact on the family or family stability.