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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Department of Environmental Quality
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC15-30
VAC Chapter title(s)	Regulations for the Certification of Recycling Machinery and Equipment for Local Tax Exemption Purposes
Date this document prepared	January 3, 2022

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.

N/A

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 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 Department of Environmental Quality previously adopted 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.

State law directs the Department of Environmental Quality to adopt this regulation, therefore eliminating this regulation is not a viable alternative. The department considered amending this regulation, but rejected this alternative since the regulation, as currently written, is effective in achieving 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.

No public comments were received. An informal advisory group was not formed to assist with this periodic review.

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.

Section 58.1-3661 of the Code of Virginia specifies that recycling machinery and equipment certified by the Department of Environmental Quality may be eligible for a local property tax exemption. Section 58.1-3661 of the Code of Virginia allows the governing body of any county, city or town to exempt or partially exempt qualifying machinery or equipment from local taxation. This regulation promulgated by the Department of Environmental Quality establishes the procedure and rules for the certification, to avoid confusion concerning equipment that is eligible for reduced tax rates. The regulation has been effective in protecting public health and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth, ensuring that certified recycling equipment is eligible for reduced tax rates.

The Department has determined that the regulation is clearly written and easily understandable by the individuals and entities affected. It is written so as to permit only one reasonable interpretation, is written to adequately identify the affected entity, and, insofar as possible, is written in non-technical language.

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).

This regulation satisfies the provisions of state law and is effective in meeting its goals; therefore, the regulation is being retained without amendment.

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. It provides recycling facilities with criteria concerning equipment that is eligible for reduced tax rates.

No complaints or comments were received concerning the regulation from the public during the comment period.

The regulation's level of complexity is appropriate to ensure that the regulated entities are able to provide the necessary information for the department to review recycling equipment and certify it is eligible for reduced tax rates.

This regulation does not overlap, duplicate, or conflict with any state law or other state regulation. This regulation provides a means for persons (businesses) to claim a unique tax exemption for costs incurred for recycling equipment.

This regulation was last reviewed in 2017. Technology, economic conditions, and other factors have not changed in ways that would make this regulation less efficient and cost-effective in terms of protecting human health and the environment or meeting legal mandates.

The Department, through examination of the regulation, has determined that the regulatory requirements currently minimize the economic impact of these regulations on small businesses and thereby minimize the impact on existing and potential Virginia employers and their ability to maintain and increase the number of jobs in the Commonwealth. If small businesses purchase eligible recycling equipment, their tax rates assessed by the governing body of any county, city or town may be reduced.

Family Impact

Please assess the potential impact 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 families or family stability.