



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Waste Management Board
<b>Virginia Administrative Code (VAC) citation</b>	9VAC20-60
<b>Regulation title</b>	Hazardous Waste Management Regulations
<b>Action title</b>	Immediate Final Rule 2008 - 2010
<b>Final agency action date</b>	December 3, 2010
<b>Document preparation date</b>	October 27, 2010

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 14 (2010) and 58 (99).

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

Hazardous Waste Management Regulations, 9VAC20-60, include requirements in the form of incorporated federal regulatory text at Title 40 of the Code of Federal Regulations. The federal regulatory text as it existed on June 30, 2010 was specified as that incorporated. Immediate Final Rule 2008 - 2010 addresses 9VAC20-60-18; 9VAC20-60-260; 9VAC20-60-261, and 9VAC20-60-270. Section 9VAC20-60-18 was revised, making the specification of the date of the incorporated text. This section is altered by striking the previous prescribed date and adopting the new date of July 1, 2010, thus making it the new date of reference of all incorporated federal regulatory text. Sections 9VAC20-60-260; 261; & 270 have been amended to revise a Federal Register reference. These sections are altered with the revision of a Federal Register reference. Section 9VAC20-60-261 has also been amended to update the Department of Environmental Quality mailing address and to provide for the adoption of more stringent conditions applicable to comparable fuels that were promulgated concurrently with the "emission comparable fuel" (ECF) exclusion on December 19, 2008. This section is altered with the updating of the DEQ

address; the revision of a Federal Register reference and the deletion of the previous exclusion of "optional requirements" related to the RCRA Comparable Fuel Exclusion.

**Statement of final agency action**

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

The Virginia Waste Management Board approved the amendment, Immediate Final Rule 2008 - 2010, on December 3, 2010, as a final regulation, a revision of 9VAC20-60-18; 9VAC20-60-260; 9VAC20-60-261; and 9VAC20-60-270 of the Hazardous Waste Management Regulations.

**All changes made in this regulatory action**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
9VAC20-60-18		Incorporates U.S. EPA federal documents by reference.	Most recent adoption date updated to 2010. Needed to ensure that the most recent and accurate federal documents are adopted and enforceable by Virginia.
9VAC20-60-260 B 11		Federal Register Reference related to the definition of solid waste rule.	Revise Federal Register reference to read: 73 FR 64757 - 64788.
9VAC20-60-261 B 1		Mailing address for the Department of Environmental Quality.	Update address to current address: P.O. Box 1105, Richmond, Virginia 23218.
9VAC20-60-261 B 8		Federal Register Reference related to the definition of solid waste rule.	Revise Federal Register reference to read: 73 FR 64757 - 64788.
9VAC20-60-261 B 9		Excluded reference to optional revisions to 40 CFR Part 261 as promulgated by EPA on December 19, 2008, (73 FR 77953) (RCRA Comparable Fuel Exclusion).	Previous exclusion deleted to allow for the incorporation by reference of more stringent conditions applicable to comparable fuel (73 FR at 77963-64) that were promulgated on December 19, 2008 but were not affected by the withdrawal of the rest of the ECF exclusion.
9VAC20-60-270 B 17		Federal Register Reference related to the definition of solid waste rule.	Revise Federal Register reference to read: 73 FR 64757 - 64788.

### Regulatory flexibility analysis

*Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

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The regulations apply to all facilities, including small businesses. Any (1) establishment of less stringent compliance or reporting standards; (2) establishment of less stringent schedules or deadlines for compliance and reporting requirements; (3) consolidation or simplification of compliance or reporting requirements; (4) establishment of performance standards for small businesses to replace design or operational standards required in the regulation; or (5) exemption of small businesses from all or any part of the requirements contained in this regulation for all small businesses would directly, significantly and adversely affect the benefits that would be achieved through the implementation of the regulations.

### Family impact

*Assess the impact of this regulatory action on the institution of the family and family stability.*

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There is no impact on the institution of the family or family stability.

## Changes to Federal Hazardous Waste Management Regulations Between July 1, 2008 and June 30, 2010

USEPA Checklist Number	Date(s) Final Federal Regulations Published	40 CFR Sections Affected by Federal Amendment(s)	Federal Rule Reference(s)	Summary of Changes
221	December 19, 2008 & June 15, 2010	261	73 FR 77963-64 & 75 FR 33712 -33724	Expansion of RCRA Comparable Fuel Exclusion: EPA amended several provisions that apply to the comparable fuel conditions. The amendments: 1) clarify the consequences of failure to satisfy the conditions of the existing comparable fuel exclusion; 2) clarify the status of tank systems and container storage units that cease to be operated as comparable fuel storage units; 3) waive the RCRA closure requirements for tank systems and container storage units that are used only to store hazardous wastes that are subsequently excluded as comparable fuel; 4) clarify the regulatory status of boiler residues, including bottom ash and emission control residue; 5) require that the one-time notice by the generator to regulatory officials include an estimate of the average and maximum monthly and annual quantity of comparable fuel for which an exclusion is claimed.
222	January 8, 2010	262, 263, 264, 265 & 266	75 FR 1236-1262	OECD Requirements; Export Shipments of Spent Lead-Acid Batteries: The rule implements recent changes to the agreements concerning the transboundary movement of hazardous waste among countries belonging to the Organization for Economic Cooperation and Development (OECD), establishes notice and consent requirements for spent lead-acid batteries intended for reclamation in a foreign country, specifies that all exception reports concerning hazardous waste exports be sent to the International Compliance and Assurance Division in the Office of Enforcement and Compliance Assurance's Office of Federal Activities in Washington, D.C., and requires U.S. receiving facilities to match EPA-provided import consent documentation to incoming hazardous waste import shipments and to submit to EPA a copy of the matched import consent documentation and RCRA hazardous waste manifest for each import shipment.
223	March 18, 2010 & June 4, 2010	260, 261, 262, 263, 264, 265, 266, 268 & 270	75 FR 12989 - 13009 & 75 FR 31716 - 31717	Hazardous Waste Technical Corrections and Clarifications and Clarifications Partial Withdrawal of Direct Final Rule: The rule makes a number of technical changes that correct existing errors in the hazardous waste regulations that have occurred over time in numerous final rules published in the Federal Register, such as typographical errors, incorrect or outdated citations, and omissions. Some of the corrections are necessary to make conforming changes to all appropriate parts of the RCRA hazardous waste regulations for new rules that have since been promulgated. In addition, these changes clarify existing parts of the hazardous waste regulatory program and update references to Department of Transportation (DOT) regulations that have changed since the publication of various RCRA final rules.