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## Exempt Action: Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Waste Management Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	9VAC20-81
<b>VAC Chapter title(s)</b>	Virginia Solid Waste Management Regulations
<b>Action title</b>	<b>HB 1352 (2020) Amendment</b>
<b>Final agency action date</b>	September 21, 2020
<b>Date this document prepared</b>	August 20, 2020

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, 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*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

The 2020 General Assembly amended the Virginia Waste Management Act (Act) under Chapter 14 of Title 10.1 of the Code of Virginia. Chapter 621 of the 2020 Acts of Assembly prohibits the disposal of solid waste in an unpermitted facility and provides that the presence of unpermitted solid waste on a person's property is prima facie evidence that the person allowed solid waste to be disposed of on his property without a permit. Based on this action by the General Assembly, this regulatory action will amend Section 40 of the Virginia Solid Waste Management Regulations to comport with the Chapter 621 of the 2020 Acts of Assembly.

### Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or*

*board decision). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."*

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The regulatory amendments were required through action of the 2020 General Assembly under Chapter 621 of the 2020 Acts of Assembly (HB 1352).

This final exempt action is being taken under § 2.2-4006.A.4.a of the Administrative Process Act.

### **Acronyms and Definitions**

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

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VSWMR – Virginia Solid Waste Management Regulations

### **Statement of Final Agency Action**

*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.*

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The Virginia Waste Management Board adopted this regulatory action on September 21, 2020, as a final regulation and affirmed that the Board will receive, consider and respond to requests by any interested person at any time with respect to reconsideration or revision.

### **Legal Basis**

*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.*

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The statutory authority for these regulations is under § 10.1-1402 of the Code of Virginia and the prohibition is mandated by § 10.1-1408.1.G of the Code of Virginia.

### **Purpose**

*Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.*

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The purpose of this regulatory action is to amend the VSWMR to incorporate changes mandated by the 2020 General Assembly under Chapter 621 of the 2020 Acts of Assembly.

### **Substance**

*Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.*

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This regulatory action will amend Section 40 of the Virginia Solid Waste Management Regulations to comport with the Chapter 621 of the 2020 Acts of Assembly by adding the prohibition under § 10.1-1408.1.G of the Code of Virginia. The prohibition added by this regulatory action will prohibit any person from disposing of or managing solid waste in an unpermitted facility. This prohibition includes unpermitted facilities which may not meet the criteria of an open dump which are prohibited under Section 45 of the VSWMR.

### Issues

*Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.*

There are no disadvantages to the public or the Commonwealth associated with the proposed regulatory changes.

### Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this exempt action and the rationale for the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \*Please put an asterisk next to any substantive changes.*

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
9VAC20-81-40		Prohibitions	Added a prohibition under Subsection G. <u>No person shall dispose of or manage solid waste in an unpermitted facility, including by disposing, causing to be disposed, or arranging for the disposal of solid waste upon a property for which the Director has not issued a permit and that is not otherwise exempt from permitting requirements.</u> This change is necessary based on Chapter 621 of the 2020 Acts of Assembly (HB1352).

### Regulatory Flexibility Analysis

*Pursuant to § 2.2-4007.1B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.*

There are no alternative regulatory methods for incorporating the mandated amendments adopted by the General Assembly.

### **Family Impact**

*In accordance with § 2.2-606 of the Code of Virginia, please assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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