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Final Regulation Agency Background Document

Agency name	Board for Waste Management Facility Operators
Virginia Administrative Code (VAC) Chapter citation(s)	18VAC155-20
VAC Chapter title(s)	Waste Management Facility Operators Regulations
Action title	General Regulatory Reduction Initiative
Date this document prepared	January 6, 2025

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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 Board for Waste Management Facility Operators (“the Board”) is amending the Waste Management Facility Operators Regulations to (i) update and clarify provisions of the regulation to include ensuring that the regulation reflects current agency procedures and practices; (ii) ensure the regulation compliments current Virginia law and is clearly written and understandable; (iii) remove requirements in the regulation that are not necessary to protect the public welfare; and (iv) reduce regulatory burdens, while still protecting the public health, safety, and welfare.

The amendment includes significant changes to (i) the definitions section; (ii) the classification of licenses; (iii) entry qualifications for licensure; (iv) continuing education requirements; (v) record-keeping requirements for training providers; and (vi) sections pertaining to the Board’s disciplinary authority and prohibited acts.

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.

“DEQ” means the Department of Environmental Quality.

“DPOR” means the Department of Professional and Occupational Regulation.

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.

On November 19, 2024, the Board adopted final amendments to the Waste Management Facility Operators Regulations.

Mandate and Impetus

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.

There are no changes to the previously reported information.

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 and 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.

The promulgating agency is the Board for Waste Management Facility Operators. Chapter 22.1 of Title 54.1 of the Code of Virginia enumerates the legal authority for the Board to administer the licensure and training programs for waste management facility operators.

Section 54.1-2211 of the Code of Virginia states, in part:

- A. The Board shall promulgate regulations and standards for the training and licensing of waste management facility operators.

In addition, § 54.1-201 of the Code of Virginia provides, in part:

- A. The powers and duties of regulatory boards shall be as follows:
 - 1. To establish the qualifications of applicants for certification or licensure by any such board, provided that all qualifications shall be necessary to ensure either competence or integrity to engage in such profession or occupation.

5. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board. The regulations shall not be in conflict with the purposes and intent of this chapter or of Chapters 1 (§ 54.1-100 et seq.) and 3 (§ 54.1-300 et seq.) of this title.

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 is intended to solve.

The General Assembly has charged the Board with the responsibility for regulating those who engage in the operation of waste management facilities by requiring that such individuals obtain the appropriate licensure and training. Waste management facilities are used for planned treatment, storage, or disposal of nonhazardous solid waste.

The operating of waste management facilities by those who lack sufficient expertise poses a risk to the public health, safety, and welfare. These risks include the potential for environmental damage.

As mandated by the General Assembly, the Board protects the public health, safety, and welfare, in part, by establishing through regulation the minimum qualifications for entry into the profession.

The goals of this regulatory action are:

1. Updating and clarifying the provisions of the regulation. This includes ensuring the regulation reflects current agency procedures and practices;
2. Ensuring the regulation complements current Virginia law, and is clearly written and understandable;
3. Remove requirements in the regulation that are not necessary to protect the public welfare; and
4. Reduction of regulatory burdens, while still protecting the public health, safety, and welfare.

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.

1. Section -10 is significantly revised. The definitions section is revised to clarify the meaning of Class I, Class II, Class III, and Class IV licenses and to make the scope of licensure consistent with the types of facilities regulated by DEQ. Several definitions are removed as they are not used in the regulation or are no longer necessary.
2. Section -40 is revised to remove an unnecessary provision that checks for payment of fees be made payable to the Treasurer of Virginia.
3. Section -110 is revised make the section clearer and in alignment with current DEQ regulations.
4. Section -120 is revised to reduce the experience required to qualify for licensure from one year to six months.
5. Section -120 is also revised to reduce the stringency of the disclosure requirement for an applicant’s prior criminal history. Applicants will be required to disclose any felony conviction within the last 10 years and any non-marijuana misdemeanor within the last three years. The

section is also revised to remove (i) a provision stipulating that a plea of *nolo contendere* is considered a conviction; and (ii) a provision stipulating that the record of conviction received from a court be accepted as prima facie evidence of a conviction or finding of guilt.

6. Section -130 is revised to remove a duplicative provision located in section -285.
7. Section -140 is revised to remove unnecessary language regarding an applicant's requirement to follow instructions provided at the site where the license examination is administered.
8. Section -160 is revised reduce the hours of continuing education required for renewal of a license from eight hours per license cycle to six hours per license cycle.
9. Section -160 is revised to reflect revised procedures for renewal of licenses in anticipation of DPOR's new, paperless application process, which will become effective with the implementation of a new licensing system currently in development.
10. The license reinstatement provisions in section -190 are revised to remove an unnecessary and burdensome requirement that an applicant for reinstatement provide the Board with the reasons a license was allowed to expire.
11. Section -210 is revised to remove an unnecessary administrative provision regarding the reinstatement of expired licenses.
12. Section -220 is revised to replace a requirement that an applicant for Board-approval of a training course provide a telephone number with a less restrictive requirement that the applicant provide contact information for the training course provider.
13. Sections -230 and -235 are revised to reduce the record retention period for providers of Board-approved education courses from 10 years to five years.
14. Section -280 is revised to eliminate a provision that bars an individual whose license is revoked from reapplying for licensure for one year.
15. Section -285 is revised to remove a provision that a plea of *nolo contendere* is considered a conviction for purposes of Board disciplinary action. Also removed is a provision that a certified copy of an order, decree, or case decision is considered prima facie evidence of conviction.

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.

The primary advantages to the public and the regulated community are that the amendments to the regulation will:

1. Reduce the stringency of entry qualifications for licensure while ensuring minimum competency and protection of the health, safety, and welfare of the public;
2. Allow for more individuals to enter the profession sooner;
3. Reduce the burden of continuing education requirements for individuals to renew licenses, while still ensuring licensees receive training to remain minimally competent;
4. Remove other regulatory burdens that are not necessary to protect the health, safety, and welfare of the public;
5. Provide needed updating and clarification to the regulation; and
6. Ensure the regulation complements current Virginia law, is clearly written and understandable, and reflects current agency procedures.

There are no identifiable disadvantages to the public or the Commonwealth. It is not anticipated that the regulatory change will create any substantial disadvantages to the regulated community.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are no changes to the previously reported information.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

There are no changes to the previously reported information.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency’s response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

No public comments were received following publication of the previous stage.

Detail of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
20-10	N/A	N/A	A stylistic change is made to remove the word “shall” from the section.	There is no likely impact as a result of this change.
20-40	N/A	The section provides that all checks for payment of fees	*Language stating that all checks must be made payable to	This language is removed as it is not a rule or requirement necessary for

		must be made payable to the Treasurer of Virginia.	the Treasurer of Virginia is removed.	<p>licensure. This language is instructional and is present on DPOR’s website and on application forms.</p> <p>There is no likely impact as a result of this change.</p>
20-120	N/A	The section requires applicants for licensure to disclose prior criminal convictions. The section provides that (i) a plea of <i>nolo contendere</i> is considered a conviction; and (ii) the record of conviction received from a court must be accepted as prima facie evidence of a conviction or finding of guilt.	<p>*Language related to pleas of <i>nolo contendere</i> being considered convictions is removed.</p> <p>*A provision that the record of conviction received from a court be accepted as prima facie evidence of a conviction or finding of guilt is also removed.</p>	<p>This language is removed as it is not necessary and is being removed from other DPOR regulations.</p> <p>Provisions regarding <i>nolo contendere</i> pleas and record of conviction as being prima facie evidence of guilt appear to be contrary to the provisions of § 54.1-204 of the Code of Virginia. Under the regulation, any conviction of a regulant must be considered in accordance with § 54.1-204 of the Code of Virginia.</p> <p>Removing this language reduces the stringency of the regulation.</p>
20-140	N/A	The section provides that an applicant must follow all rules established by the Board or by the testing service acting on behalf of the Board with regard to the conduct at the examination site. These include any oral or written instructions given at the site on the date of the examination.	*Subsection B is revised to remove “oral or written” as it relates to instructions given at an examination site.	This language is removed as it is not necessary and is being removed from other DPOR regulations. There is no likely impact as a result of this change.
20-160	N/A	The section provides for the procedures for renewal of licenses. These include provisions that the Board will mail the licensee a renewal notice at the licensee’s address on file with the Board.	*The procedures for renewal of licenses in subsection B are revised to (i) provide that the Board will send, instead of mail a renewal notice to a licensee; and (ii) remove the word “written” regarding	This language is removed in anticipation of DPOR’s new, paperless, application process, which will become effective with the implementation of a new licensing system currently in development.

		<p>The section also provides that a licensee’s failure to receive the renewal notice does not relieve the licensee of the obligation to renew the license. If a licensee fails to receive the renewal notice, the licensee may submit a copy of the license with (i) evidence of completion of continuing education requirements and (ii) the renewal fee.</p>	<p>the description of the renewal notice.</p> <p>*Additionally, language providing that a license who fails to receive a renewal notice may submit a copy of the license with evidence of completing continuing education requirements is removed.</p>	<p>Similar provisions are being removed from other DPOR regulations.</p> <p>There is no likely impact as a result of this change.</p>
20-190	N/A	<p>The section provides that a licensee must provide the Board with the reasons that the license was allowed to expire in order to reinstate a license. The Board may grant reinstatement of the license, require requalification or reexamination, or both.</p>	<p>*The requirement that an applicant is required to present reasons that a license was allowed to expire as a condition of reinstalment is removed; as are the provisions that the Board may grant reinstatement of the license or require requalification or reexamination.</p>	<p>This language is being removed as it is unnecessary and overly burdensome to applicants.</p> <p>Removing this language reduces the stringency of the regulation.</p>
20-210	N/A	<p>The section provides that a license that is reinstated will continue to have the same license number and will be assigned an expiration date two (2) years from previous expiration date of the license.</p>	<p>Subsection A, which states that a reinstated license will continue to have the same license number and will be assigned an expiration date two years from the previous expiration date, is removed.</p>	<p>This subsection is removed as the provision relates to administrative practices which do not require a rule in the regulation.</p> <p>There is no likely impact as a result of this change.</p>
20-220	N/A	<p>The section provides for the application requirements for training course providers. Application requirements include the provider contact person, address, and telephone number.</p>	<p>*The requirement that a pre-license education provider provide a “telephone number” is revised to require “contact information.”</p>	<p>This amendment is made so as to include other forms of contact, such as email.</p> <p>This change reduces the stringency of the regulation.</p>

<p>20-285</p>	<p>N/A</p>	<p>The prohibited act in subdivision #3 regarding having been found guilty by the Board, an administrative body, or by a court of any material misrepresentation was amended to remove the words “any material” immediately preceding the word “misrepresentation.” As proposed, a licensee would be subject to disciplinary action by the Board if found guilty of misrepresentation in the course of performing operating duties.</p> <p>The prohibited act in subdivision #4 regarding criminal convictions currently provides that a licensee may be subject to discipline if convicted or found guilty of a violation that resulted in “significant” harm or the imminent and substantial threat of “significant” harm to human health or the environment. The proposed regulation removed the word “significant” from this standard. As proposed, a licensee may be subject to disciplinary action by the Board for having been convicted or found guilty of any violation that resulted in harm or the imminent and</p>	<p>*Previously stricken language in subdivisions #3, #4, #5, and #7 is restored.</p> <p>As revised, subdivision #3, will provide that a regulant who is found guilty of “any material misrepresentation” in the course of performing operating duties may be subject to discipline by the Board.</p> <p>As revised, subdivision #4 will restore the standard that a conviction for any violation that resulted in significant harm or the imminent and substantial threat of significant harm to human health or the environment may be a cause for discipline by the Board.</p> <p>As revised, subdivision #5 will restore the standard that a licensee’s failure to report a violation that resulted in significant harm or the imminent and substantial threat of significant harm to human health or the environment may be a cause for discipline by the Board.</p> <p>As revised, subdivision #7 will restore the standard that a licensee’s violating facility permit conditions or federal, state, or local laws or regulations</p>	<p>This change is made as the Board determined that removing the terms “any material” and “significant” unintentionally broadened the scope of prohibited acts.</p> <p>This change is not likely to have any impact as it reflects what is currently in the regulation.</p> <p>Language related to pleas of <i>nolo contendere</i> and certified copies of orders, decrees, or case decisions is removed as this language is not necessary and is being removed from other DPOR regulations.</p> <p>Provisions regarding <i>nolo contendere</i> pleas and certified record of conviction as being prima facie evidence of guilt appear to be contrary to the provisions of § 54.1-204 of the Code of Virginia. Under the regulation, any conviction of a regulant must be considered in accordance with § 54.1-204 of the Code of Virginia.</p> <p>This change reduces the stringency of the regulation.</p>
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		<p>substantial threat of harm to human health or the environment.</p> <p>The prohibited act in subdivision #5 regarding notification of criminal convictions currently provides that a licensee must report a violation that resulted in the “significant” harm or the imminent and substantial threat of “significant” harm to human health or the environment. The proposed regulation removed the word “significant” from this standard. As proposed, a licensee may be subject to disciplinary action by the Board for failing to inform the Board of pleading guilty, pleading <i>nolo contendere</i>, being convicted, or being found guilty of any violation that resulted in harm or the imminent and substantial threat of harm to human health or the environment.</p> <p>The prohibited act in subdivision #7 regarding violating facility permit conditions or federal, state, or local laws or regulations currently provides that a licensee may be subject to discipline when a violation resulted in the “significant” harm or</p>	<p>that resulted in significant harm or the imminent and substantial threat of significant harm to human health or the environment may be a cause for discipline by the Board.</p> <p>*Language regarding (i) pleas of <i>nolo contendere</i> being considered convictions; and (ii) the record of conviction received from a court being accepted as prima facie evidence of a conviction or finding of guilt is removed.</p>	
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		<p>imminent and substantial threat of “significant” harm to human health or the environment. The proposed regulation removed the word “significant” from this standard. As proposed, a licensee may be subject to disciplinary action for violating the permit conditions for a facility, or violating federal, state, or local laws or regulations which resulted in the harm or imminent and substantial threat of harm to human health or the environment.</p> <p>The prohibited act in subdivision #4 regarding criminal convictions provides that:</p> <ul style="list-style-type: none"> • Any plea of <i>nolo contendere</i> is considered a conviction. • A certified copy of the final order, decree, or case decision by a court or regulatory agency with lawful authority to issue such order, decree, or case decision is admissible as prima facie evidence of conviction. 		
20-9998	N/A	N/A	Application forms are updated to reflect the lowered experience requirement and	The Forms section is revised to reflect the changes in the entry requirements in the regulation.

			conviction reporting requirements.	
			Application form for Universal License Recognition is added to the Forms section of the regulation.	

Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
20-10	N/A	This section provides definitions for terms used throughout the regulation.	<p>*This section is revised to clarify the meaning of Class I, Class II, Class III, and Class IV licenses. Additionally, several definitions are removed.</p> <p>*The definition of "Class I license" is amended to clarify that a Class I license permits the holder to operate any of the following:</p> <ul style="list-style-type: none"> • A transfer station; • A material recovery facility; • An experimental facility; • A composting facility; • A centralized waste treatment facility; • A surface impoundment or lagoon; • A waste pile; • A remediation waste management unit; or • A miscellaneous unit. <p>The changes to the definition of Class I license are made at the recommendation of DEQ staff to align the scope of licensure with the types of facilities that are regulated by DEQ under the Solid Waste Management Regulations (9VAC20-81).</p>

			<p>*The definition of “Class II license” is amended to replace “a construction landfill, or a debris landfill” with “or a construction/demolition/debris (CDD) landfill.” This change makes the definition consistent with the term used in the Solid Waste Management Regulations for this type of facility and is recommended by staff for DEQ.</p> <p>*The definition of “Class III license” is amended to replace “an infectious waste incinerator or autoclave” with “a regulated medical waste management facility.” This change makes the definition consistent with the term used in the Regulated Medical Waste Management Regulations (9VAC20-121) for this type of facility. This change is recommended by staff for DEQ.</p> <p>*The definition of “Class IV license” is amended to clarify that a Class IV license permits the holder to operate any of the following:</p> <ul style="list-style-type: none"> • A municipal waste combustion unit; • A waste energy facility; or • An incineration facility. <p>The changes to the definition of Class IV license are made at the recommendation of DEQ staff to align the scope of licensure with the types of facilities that are regulated by DEQ under the Solid Waste Management Regulations.</p> <p>The definition of “solid waste” is revised to clarify that solid waste are those materials defined as solid waste in 9VAC20-81-85 of the Solid Waste Management Regulations.</p> <p>*The definitions for “full-time employment;” “licensee;” “municipal waste combustor;” “organized program;” and “owner” are removed as these terms do not need to be defined.</p> <p>A stylistic change is made to remove the word “shall” from the section.</p>
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			These changes are not likely to have any impact and do not entail new requirements.
20-40	N/A	<p>This section provides for requirements applicable to fees received on behalf of the Board and outlines the application fees for an initial licensure, renewal of a license, late renewal of a license, and reinstatement of a license. The section also provides for examination fees.</p> <p>Fees are non-refundable and will not be prorated. All checks must be made payable to the Treasurer of Virginia.</p> <p>An application is not considered to be complete and will not be processed without the required fee. Receipt and deposit of application fees does not indicate licensure.</p> <p>The fee for examination is charged to the applicant by an outside vendor contracted for under the Virginia Public Procurement (§ 2.2-4300 et seq. of the Code of Virginia) and may be adjusted in accordance with the contract.</p>	<p>*Language stating that all checks must be made payable to the Treasurer of Virginia is removed as it is not a rule or requirement necessary for licensure. This language is instructional and is present on DPOR's website and on application forms.</p> <p>Stylistic changes to this section, including replacing the word "shall" with "must" or "will" where appropriate, are made. These changes are not likely to have an impact.</p>
20-50	N/A	<p>This section provides for reporting requirements for licensees.</p> <p>Licensees must provide DPOR with written notification of (i) any change of address; or (ii) any change of name. Notification must be provided within 30 days of the change. For a change in name, a licensee must also provide proof of the name change.</p> <p>The section also provides that a license issued by the Board cannot be transferred or otherwise assigned.</p>	<p>Stylistic changes to this section include replacing the word "shall" with "must" and "shall not" with "will not."</p> <p>These changes will not likely have an impact.</p>
20-110	N/A	<p>This section provides for the classification of licenses.</p>	<p>*Changes to this section are made to provide clarification regarding facilities regulated by DEQ.</p>

	<p>An applicant must apply for at least one of the following classes of license:</p> <ul style="list-style-type: none"> • Class I; • Class II; • Class III; or • Class IV. <p>An individual who operates (i) a transfer station; (ii) a materials recovery facility receiving mixed waste; (iii) an experimental facility; or (iv) a composting facility, as these terms are defined in 9VAC20-81-10 of the Solid Waste Management Regulations, must hold a Class I license. Individuals who hold Class II, Class III, or Class IV license may also operate such facilities.</p> <p>An individual who operates (i) a sanitary landfill; (ii) industrial waste landfill; or (iii) construction/demolition/debris (CDD) landfill, as these terms are defined in 9VAC20-81-10 of the Solid Waste Management Regulations, must hold a Class II license.</p> <p>An individual who operates a facility regulated under the Regulated Medical Waste Management Regulations (9VAC20-120) must hold a Class III license.</p> <p>An individual who operates a municipal waste combustion unit, as that term is defined in 9VAC5-40-6560 of the Emission Standards for Small Municipal Waste Combustors (Rule 4-46), must hold a Class IV license.</p> <p>The section provides that a licensee cannot operate a facility outside of their classification.</p> <p>The section provides that an individual operating a solid waste management facility that has</p>	<p>*The provisions regarding facilities that must be operated by a Class I licensee are revised to add (i) centralized waste treatment facility; (ii) surface impoundment or lagoon; (iii) waste pile; (iv) remediation waste management unit; and (v) miscellaneous unit as types of facilities that must be operated by a Class I licensee. This change is made at the recommendation of DEQ staff to align the scope of regulated activity with the types of facilities that are regulated by DEQ under the Solid Waste Management Regulations (9VAC20-81).</p> <p>All solid waste management facilities are required to operate under the direct supervision of a waste management facility operator licensed by the Board, However, the regulation does not specify licensing requirements for centralized waste treatment facilities, surface impoundments and lagoons, waste piles, remediation waste management units, and miscellaneous units.</p> <p>*The provisions regarding facilities that must be operated by a Class IV licensee are revised to add waste to energy facility or incineration facility, regulated under the Solid Waste Management Regulations (9VAC20-81) as a type of facility that must be operated by a Class IV licensee.</p> <p>This change is made at the recommendation of DEQ staff to align the scope of regulated activity with the types of facilities that are regulated by DEQ under the Solid Waste Management Regulations.</p> <p>*The provisions requiring individuals who operate facilities for which the Board has not yet established training and licensure requirements to hold a Class I license are repealed. These provisions are repealed because they are unnecessary.</p> <p>Citations of DEQ regulations in this section are clarified or updated.</p>
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		<p>been issued a permit by DEQ, but for which the Board has not established training and licensure requirements must hold a Class I license until such training and licensure requirements are established.</p>	<p>Stylistic changes to the section, including replacing the word “shall” with “must” are made. These changes not likely to have an impact.</p>
<p>20-120</p>	<p>N/A</p>	<p>This section establishes the qualifications and requirements for licensure.</p> <p>To qualify for licensure, an applicant must:</p> <ul style="list-style-type: none"> • Be at least 18 years of age; • Complete (i) a Board-approved basic training course; and (ii) a Board-approved training course specific to a Class II, Class III, or Class IV license if seeking such a license; • Pass the applicable license examination provided by the Board or a testing organization on behalf of the Board; • Have verified operational experience of a minimum of one (1) year with a waste management facility of the same class for which the applicant is applying. <ul style="list-style-type: none"> ○ Experience must be verified by the individual’s supervisor or personnel officer. Individuals under contract with a facility owner may obtain a letter from the owner to verify experience. • Disclose any conviction for (i) a felony; or (ii) a non-marijuana misdemeanor. <ul style="list-style-type: none"> ○ The Board has the discretion to deny licensure for a criminal conviction in accordance with § 54.1-204 of the Code of Virginia. ○ A plea of <i>nolo contendere</i> is considered a conviction. ○ The record of conviction received from a court 	<p>Changes to this section are as follows:</p> <p>*The minimum required amount of verified experience is reduced from one year to six (6) months. This change reduces the stringency of the regulation and will allow more individuals to qualify for licensure.</p> <p>*Criminal history disclosure requirements are changed to provide that applicants only disclose (i) any felony within the last 10 years; and (ii) any non-marijuana misdemeanor within the last three (3) years. This change reduces the stringency of the regulation and will allow individuals with older criminal histories to qualify for licensure.</p> <p>*Language related to (i) pleas of <i>nolo contendere</i>; and (ii) the record of conviction received from a court being accepted as prima facie evidence of a conviction or finding of guilt are removed as it is not necessary and is also being removed from other DPOR regulations. Removing this language reduces the stringency of the regulation.</p> <p>Provisions regarding <i>nolo contendere</i> pleas and record of conviction as being prima facie evidence of guilt appear to be contrary to the provisions of § 54.1-204 of the Code of Virginia. Under the regulation, any conviction of a regulant must be considered in accordance with § 54.1-204 of the Code of Virginia.</p> <p>Making such changes will likely have a positive impact as individuals seeking licensure may face less obstacles in doing so.</p> <p>Stylistic changes to the section, including changing the word “shall” to</p>

		<p>must be accepted as prima facie evidence of a conviction or finding of guilt.</p> <ul style="list-style-type: none"> • Report (i) any suspensions, revocations, or surrendering of a certificate or license in connection with a disciplinary action; and (ii) if a license has been subject to discipline in any jurisdiction prior to applying for licensure in Virginia. <ul style="list-style-type: none"> ○ The Board has the discretion to deny licensure based on prior suspensions, revocations, or surrender of license or certification. <p>The section provides that applicants who are certified or licensed as waste management facility operators by governing bodies outside of Virginia are considered to be in compliance if the Board has determined the certifying system to be substantially equivalent to Virginia’s system.</p> <p>The section also provides the Board may make further inquiries and investigations with respect to an applicant’s qualifications.</p>	<p>“must” are made. These are not likely to have any impact.</p>
20-130	N/A	<p>Provides procedures for submitting applications.</p> <p>Application must be made on forms supplied by DPOR. Application forms must be completed in accordance with the instructions on the forms. Failure to provide a complete application and applicable addenda may result in denial of approval.</p> <p>Failure to provide complete information may be interpreted as misrepresentation and may result in disciplinary action as provided for in the regulation.</p>	<p>*This section is amended to remove the provision that failure to provide complete information may be interpreted as misrepresentation, and potentially subjecting an applicant to disciplinary action.</p> <p>This provision is not necessary as it is a duplicate of a prohibited act enumerated in section -285.</p> <p>This change is not likely to have an impact as it does not establish a new requirement, rather it simply eliminates redundant language.</p> <p>Stylistic changes in this section include replacing “shall” with “must,” which is not likely to have an impact.</p>

20-140	N/A	<p>Provides procedures associated with examinations required for licensure.</p> <p>Applicants will be approved for examination once all training and experience requirements are satisfied and documentation pertaining to other qualifications have been received by the Board.</p> <p>An applicant must follow all rules regarding conduct at the examination site established by the Board or the testing service acting on behalf of the Board. These include any written instructions communicated prior to the examination date and any oral or written instructions given at the site on the date of the examination.</p>	<p>*Subsection B is revised to remove the language “oral or written” regarding instructions as they relate to examination sites.</p> <p>This language is removed as it is not necessary and is being removed from other DPOR regulations.</p> <p>Stylistic changes are made to this section. These changes are not likely to have an impact.</p>
20-160	N/A	<p>Provides procedures for renewal of a license.</p> <p>The section provides that licenses expire two years from the last day of the month in which they were issued.</p> <p>The section provides that the Board will mail the licensee a renewal notice at the licensee’s address on file with the Board. The notice outlines the procedures for renewal and the required renewal fee.</p> <p>Failure to receive the renewal notice does not relieve the licensee of the obligation to renew the license. If a licensee fails to receive the renewal notice, the licensee may submit a copy of the license with (i) evidence of completion of continuing education requirements and (ii) the renewal fee.</p> <p>The date the renewal fee is received by DPOR or its agent determines whether a penalty fee or reinstatement of the license is required.</p>	<p>*The continuing education requirement for license renewal is reduced from eight (8) hours to six (6) hours.</p> <p>This change reduces regulatory burdens on licensees while still ensuring that licensees have sufficient continuing education to remain competent to practice.</p> <p>Additional language is revised in anticipation of DPOR’s new, paperless, application process, which will become effective with the implementation of a new licensing system currently in development.</p> <p>*The procedures for renewal of licenses in subsection B are revised to (i) to provide that the Board will send, instead of mail a renewal notice to a licensee; and (ii) remove the word “written” regarding the description of the renewal notice.</p> <p>*Additionally, language providing that a license who fails to receive a renewal notice may submit a copy of the license with (i) evidence of completing continuing education requirements and (ii) the renewal fee is removed.</p>

		<p>A licensee must satisfactorily complete eight (8) hours of continuing education from a Board-approved provider in order to renew the license. Licensees who are on their first renewal of license following the issuing of the initial license are not required to complete continuing education.</p>	<p>Stylistic changes to this section are made. These changes are not likely to have an impact.</p>
20-180	N/A	<p>This section provides for the imposition of a late renewal fee.</p> <p>If the renewal fee is not received by DPOR within 30 days after the license expiration date, the late renewal fee specified in 18VAC155-20-40 is required.</p>	<p>A stylistic change to the section is made. This change is not likely to have any impact.</p>
20-190	N/A	<p>Provides for reinstatement of expired licenses.</p> <p>If a licensee fails to renew the license within six (6) months of the license expiration date, the licensee must apply to reinstate the license.</p> <p>The licensee must provide the Board with the reasons that the license was allowed to expire. The Board may grant reinstatement of the license, require requalification or reexamination, or both.</p> <p>The licensee must pay a reinstatement fee.</p> <p>An individual who has not been reinstated within two (2) years of license expiration must apply as a new applicant and provide evidence of satisfactory completion of training courses required by the regulation and pass the license examination.</p>	<p>*The requirement that an applicant is required to present reasons that a license was allowed to expire is removed. The provisions providing that the Board may grant reinstatement, or require requalification or reexamination are removed. These changes reduce the stringency of the regulation and is anticipated to have a positive impact on regulants.</p> <p>Stylistic changes, including replacing the word "shall" with "must" or "will" where appropriate are made. These changes will likely not have any impact.</p>
20-210	N/A	<p>Provides for the status of a license during the period prior to reinstatement.</p> <p>A license that is reinstated will continue to have the same license number and will be assigned an expiration date two (2) years from previous expiration date of the license.</p>	<p>*Subsection A, which states that a reinstated license will continue to have the same license number and will be assigned an expiration date two years from the previous expiration date is removed.</p> <p>This subsection is removed as the provision relates to administrative</p>

		<p>A reinstated license is regarded as being continuously licensed without interruption. The holder of a reinstated license is subject to the Board’s disciplinary authority for the entire period and may be held accountable for the licensee’s activities during this period.</p> <p>Licenses that are not renewed or reinstated are regarded as expired from the date of expiration forward.</p> <p>The section provides that the Board is not divested of its authority to take disciplinary action for a violation of law or regulation during the period of time when an individual was licensed.</p>	<p>practices which do not require a rule in the regulation.</p> <p>There is no anticipated impact from this change.</p> <p>Stylistic changes, including replacing the word “shall” are made. These changes are not likely to have any impact.</p>
20-220	N/A	<p>Provides requirements for education courses and approval of education courses.</p> <p>The section provides that all training courses must be completed through:</p> <ul style="list-style-type: none"> • Accredited colleges, universities, or junior and community colleges; • Virginia Apprenticeship Council programs; • Proprietary schools approved by the Virginia Department of Education; or • Other programs approved by the Board. <p>For pre-license education, courses must be related to the operation of the class of waste management facility for which the course is being offered and must be approved by the Board.</p> <p>For continuing education, courses must be related to the operation of waste management facility for which the course is being offered and may be reviewed by the Board.</p>	<p>*The requirement that a pre-license education provider provide a “telephone number” on the application for course approval is revised to require “contact information.”</p> <p>This amendment is made to include other forms of contact, such as email.</p> <p>This change reduces the stringency of the regulation.</p> <p>Stylistic changes, including replacing the word “shall” with “must” are made. These changes are not likely to have any impact.</p>

		<p>The provider of a pre-license course or person submitting a course for continuing education credit must submit an application on a form provided by the Board.</p> <p>The application must include:</p> <ul style="list-style-type: none"> • The name of the provider; • Provider contact person, address, and telephone number; • Course contact hours; • Schedule of courses (if established), including dates, times, and locations; • Course syllabus; and • Instructor information, including: <ul style="list-style-type: none"> ○ Name; ○ License number (if applicable); ○ Education and training background; and ○ List of other appropriate trade designations or training certifications. 	
20-230	N/A	<p>Provides requirements for retention of records by a training provider.</p> <p>An approved training provider must retain records of all participants for a period of 10 years and maintain a written policy on the retention and release of records.</p> <p>All records pertaining to approved training and participants must be made available to the Board immediately upon request.</p>	<p>*The period for which a training provider must retain records is reduced from 10 years to five (5) years.</p> <p>This change reduces the regulatory burden on training providers.</p> <p>Stylistic changes include replacing “shall” with “must” throughout the section, which are not likely to have an impact.</p>
20-235	N/A	<p>Provides for the grounds upon which the Board may deny or withdraw approval of a training or continuing education course.</p> <p>The Board may deny approval or withdraw approval of a training or continuing education course if:</p> <ul style="list-style-type: none"> • The course being offered no longer meets the standards established by the Board; 	<p>*This section is amended to align the record retention period applicable to course providers with the change made in section -230 which reduces the record retention period from 10 years to five (5) years.</p> <p>A stylistic change is made. This change is not likely to have any impact.</p>

		<ul style="list-style-type: none"> • The course provider advertises its services in a fraudulent or deceptive way; • The course provider, instructor, or designee of the provider (i) falsifies any information relating to the application for approval, course information, or student records; or (ii) fails to produce records required by the Board. • The course provider fails to maintain student course completion records for a minimum of 10 years. 	
20-280	N/A	<p>Provides grounds for which the Board has the authority to deny an application, renewal of a license or training course approval, and discipline a licensee or approved training provider.</p> <p>The section provides the Board has the authority to (i) deny an application for or deny renewal of a license or training course approval; (ii) revoke or suspend a license or training course approval; or (iii) discipline a licensee or approved training provider who is found to be in violation of the statutes or regulations governing the practice of licensed waste management facility operators.</p> <p>An individual whose license is revoked is ineligible to apply for licensure for a period of one year from the effective date of order revoking the license. After this one-year period, the individual must meet all education, examination, experience and training requirements, complete the license application, and provide the required fee for consideration as a new applicant.</p> <p>The section provides that disciplinary procedures will be conducted in accordance with the APA.</p>	<p>*An amendment is made to remove language prohibiting a revoked licensee from applying for re-licensure for a period of one year.</p> <p>This change reduces the stringency of the regulation. An individual whose license is revoked by the Board must apply as a new applicant and meet entry requirements. These include disclosure of prior disciplinary history as provided for in section -120. The Board has the discretion deny licensure based on prior disciplinary action.</p> <p>Stylistic changes, including replacing the word "shall" with "must" or "will" are made. These changes are not likely to have any impact.</p>

<p>20-285</p>	<p>N/A</p>	<p>Provides for the acts prohibited by the Board.</p> <p>Prohibited acts include:</p> <ul style="list-style-type: none"> • Obtaining or renewing a license through fraudulent means or misrepresentation; • Having been found guilty by the Board, an administrative body, or by a court of any material misrepresentation in the course of performing operating duties; • Gross negligence or a continued pattern of incompetence in the practice of a waste management facility operator; • Violating the permit conditions for the facility, or violating federal, state, or local laws or regulations, which resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment; • Having been convicted or found guilty of (i) any felony; or (ii) any violation that resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment. <ul style="list-style-type: none"> ○ Any plea of <i>nolo contendere</i> is considered a conviction. ○ A certified copy of the final order, decree, or case decision by a court or regulatory agency with lawful authority to issue such order, decree, or case decision is admissible as prima facie evidence of conviction. • Failing to report pleading guilty to or being convicted of (i) any felony; or (ii) any violation that resulted in the 	<p>*Language in subdivision #4 related to pleas of <i>nolo contendere</i> and certified copies of orders, decrees, or case decisions is removed as this language is not necessary and is being removed from other DPOR regulations.</p> <p>Provisions regarding <i>nolo contendere</i> pleas and certified record of conviction as being prima facie evidence of conviction appear to be contrary to the provisions of § 54.1-204 of the Code of Virginia. Under the regulation, any conviction of a regulant must be considered in accordance with § 54.1-204 of the Code of Virginia</p> <p>This change reduces the stringency of the regulation.</p>
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		significant harm or the imminent and substantial threat of significant harm to human health or the environment.	
20-9998	N/A	This section contains application and other forms used in administering the regulation.	<p>Application forms are updated to reflect the lowered experience requirement and conviction reporting requirements.</p> <p>Application form for Universal License Recognition is added to the Forms section of the regulation.</p>