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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board for Waste Management Facility Operators
Virginia Administrative Code (VAC) Chapter citation(s)	18 VAC 155-20
VAC Chapter title(s)	Board for Waste Management Facility Operators Regulations
Action title	General Regulatory Reduction Initiative
Date this document prepared	November 18, 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 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 the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

The Board for Waste Management Facility Operators seeks to amend regulations that are determined to be overly burdensome or no longer applicable and provide clarity and/or combine other regulations.

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

There are no acronyms, abbreviations, or technical definitions.

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, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "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the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

On November 10, 2022, the Board approved a Notice of Intended Regulatory Action to review each of its regulations to potentially amend any overly burdensome requirements, remove any obsolete information and provide more clarity with clear and direct regulations.

The Board is conducting a review of its Regulations in accordance with Governor Youngkin's Executive Directive 1.

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.

§ 54.1-2211 A of the Code of Virginia states that, "The Board shall promulgate regulations and standards for the training and licensing of waste management facility operators."

Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

The Board will be conducting a general review of their regulations in accordance with the provisions of Executive Directive 1, the Board identified areas they could provide clarity to and combine and areas that were no longer applicable.

Substance

Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

18 VAC 155-20-10 of the regulations defines terms used in the regulations. There are definitions that would potentially be removed, definitions that potentially need greater detail and definitions that no longer apply.

18 VAC 155-20-40 of the regulations are the fees. While the fees will not change, the language around the fees could potentially be amended.

18 VAC 155-20-50 of the regulations is the Change of Status. This section could potentially be amended for clarity.

18 VAC 155-20-110 of the regulations is the License Classifications. This section could potentially be amended for clarity.

18 VAC 155-20-120 of the regulations is Qualifications for License. This section could potentially be amended to remove any overly burdensome entry requirements.

18 VAC 155-20-130 of the regulations is the Application Procedures. This section may be amended to provide clarity.

18 VAC 155-20-140 of the regulations is the Examinations. This section could potentially be amended for clarity.

18 VAC 155-20-160 of the regulations are the Procedures for Renewal. This section could be amended for continuing education and clarity.

18 VAC 155-20-180 of the regulations is Late Renewal. This section could potentially be amended for clarity or repealed.

18 VAC 155-20-190 of the regulations is Reinstatement. This section could potentially be amended to revise the timeframe that requires reinstatement.

18 VAC 155-20-200 of the regulations is the Boards discretion to deny renewal or reinstatement. This section will be reviewed to ensure it aligns with other sections of the regulations.

18 VAC 155-20-210 of the regulations is the Status of licensure during the period prior to reinstatement. This section could potentially be amended for clarity.

18 VAC 155-20-220 of the regulations is Education courses. This section could potentially be amended for clarity by combining sections.

18 VAC 155-20-230 of the regulations is Training records. This section could potentially be amended to adjust the number of years records must be retained.

18 VAC 155-20-235 of the regulations is Denial or withdrawal of approval. This section addresses education providers and could potentially be amended to for clarity and to match any changes in 18 VAC 155-20-230.

18 VAC 155-20-280 of the regulations is Grounds for denial of application, denial of renewal or discipline. This section could potentially be amended for clarity and to revise the period in which an applicant must wait to reapply if their license was previously revoked.

18 VAC 155-20-285 of the regulations is the Prohibited Acts. This section could potentially be amended to combine items and provide clarity.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

No viable alternatives have been identified.

Periodic Review and Small Business Impact Review Announcement

If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and the ORM procedures), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify it as necessary for your agency. Otherwise, delete the paragraph below and insert “This NOIRA is not being used to announce a periodic review or a small business impact review.”

This NOIRA is not being used to announce a periodic review or a small business impact review.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

INSERT:

The Board for Waste Management Facility Operators is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Marjorie King c/o Board for Contractors, 9960 Mayland Drive, Suite 400, Richmond, Virginia 23233, telephone (804) 367-2785, fax (866) 430-1033, email: wastemgt@dpor.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.