



Periodic Review / Retain Regulation Agency Background Document

Agency name	Department of Environmental Quality
Virginia Administrative Code (VAC) citation	9VAC15-30
Regulation title	Regulations for the Certification of Recycling Machinery and Equipment for Local Tax Exemption Purposes
Document preparation date	April 2, 2012

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

Promulgating Entity

The promulgating entity for this regulation is the Department of Environmental Quality.

State and Federal Legal Authority

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. This section allows the governing body of any county, city or town to exempt or partially exempt qualifying machinery or equipment from local taxation.

There are no federal statutory or regulatory requirements that form a basis for this regulation.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were

rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

Alternatives to the proposal have been considered by the Department. The Department has determined that the retention of the regulation (the first alternative) is appropriate, as it is the least burdensome and least intrusive alternative that fully meets statutory requirements and the purpose of the regulation. The alternatives considered by the Department, along with the reasoning by which the Department has rejected any of the alternatives considered, are discussed below.

1. Retain the regulation without amendment. This option is being selected because the current regulation provides the least onerous means of complying with the minimum requirements of the legal mandates.
2. Make alternative regulatory changes to those required by the provisions of the legally binding mandates, and associated regulations and policies. This option was not selected because it could result in the imposition of requirements that place unreasonable hardships on the regulated community without justifiable benefits to human health and protection of the environment.
3. Repeal the regulation. This option was not selected because it does not satisfy the provisions of legally binding mandates and because the regulation is effective in meeting its goals and satisfies those mandates.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Notice of Periodic Review was published in the Virginia Register of Regulations on February 13, 2012. The comment period closed on March 5, 2012. No comments were received concerning this regulation.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

This regulation provides the minimum requirements to comply with the mandate of Code of Virginia § 58.1-3661 and is necessary for the protection of public health and the environment.

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.

Result

Please state that the agency is recommending that the regulation should stay in effect without change.

This regulation satisfies the provisions of the law and legally binding state requirements and is effective in meeting its goals; therefore, the Director of the Department of Environmental Quality recommends that this regulation be retained without amendment.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (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, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to 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 meet their legal mandates as efficiently and cost-effectively as possible.

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 2005. 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 and relevant public comments, 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 may be reduced.

Family impact

Please provide an analysis 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.

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