



Virginia  
Regulatory  
Town Hall

## Exempt Action Final Regulation Agency Background Document

<b>Agency Name:</b>	Virginia Waste Management Board
<b>VAC Chapter Number:</b>	9 VAC 20-60
<b>Regulation Title:</b>	Hazardous Waste Management Regulations,
<b>Action Title:</b>	Amendment 17
<b>Date:</b>	May 19, 2004

*Where an agency or regulation is exempt in part or in whole from the requirements of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) (APA), the agency may provide information pertaining to the action to be included on the Regulatory Town Hall. The agency must still comply the requirements of the Virginia Register Act (§ 9-6.18 et seq. of the Code of Virginia) and file with the Registrar and publish their regulations in a style and format conforming with the Virginia Register Form, Style and Procedure Manual. The agency must also comply with Executive Order Fifty-Eight (99) which requires an assessment of the regulation's impact on the institution of the family and family stability.*

*This agency background document may be used for actions exempt pursuant to § 9-6.14:4.1(C) at the final stage. Note that agency actions exempt pursuant to § 9-6.14:4.1(C) of the APA do not require filing with the Registrar at the proposed stage.*

*In addition, agency actions exempt pursuant to § 9-6.14:4.1(B) of the APA are not subject to the requirements of the Virginia Register Act (§ 9-6.18 et seq. of the Code of Virginia) and therefore are not subject to publication. Please refer to the Virginia Register Form, Style and Procedure Manual for more information.*

### Summary

*Please provide a brief summary of the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation, instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

Hazardous Waste Management Regulations, 9 VAC 20-60, include both requirements in the form of incorporated federal regulatory text at Title 40 of the Code of Federal Regulations and other requirements unique to Virginia. Among these latter requirements are rules requiring the

payment of fees from the applicants for a permit to operate a treatment, storage or disposal facility. It is the purpose of Amendment 17 to alter this schedule of fees and to add new annual fees to be paid by facilities and large quantity generators of hazardous waste, as authorized by the 2004 General Assembly. The new rules specify procedures for the payment of the fees and describe discounts for participants in the Virginia Environmental Excellence program. All the altered or new requirements in Amendment 17 relate to the revised fee structure.

### Statement of Final Agency Action

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

The Virginia Waste Management Board approved Amendment 17 on June 18, 2004 as a final regulation, a revision of 9 VAC 20-60, the Hazardous Waste Management Regulations.

### Additional Information

*Please indicate that the text of the proposed regulation, the reporting forms the agency intends to incorporate or use in administering the proposed regulation, a copy of any documents to be incorporated by reference are attached.*

*Please state that the Office of the Attorney General (OAG) has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law. Note that the OAG's certification is not required for Marine Resources Commission regulations.*

*If the exemption claimed falls under § 9-6.14:4.1(C) (4)(c) of the APA please include the federal law or regulations being relied upon for the final agency action.*

A copy of Amendment 17, the final regulation, is attached; there are no forms associated with the action; and the only incorporated material is from the U. S. Code of Federal Regulations. Comments were solicited from individual registered as having an interest in these regulations and from key interest groups. A comment and response document is attached. The Office of the Attorney General has certified that the agency has the statutory authority to promulgate the regulation and that it comports with applicable state law.

### Family Impact Statement

*Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which 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.*

There is no direct impact on the institution of the family and family stability. However, owners or operators of facilities or hazardous waste generators may attempt to recoup their increased costs by increasing the costs of their goods and services, and disposable family income may be decreased for those families affected by such increases.

**Comments and Response**  
**Hazardous Waste Management Regulations, 9 VAC 20-60**  
**Amendment 17**

Regulation	Commenter(s)	Comment and Response
General	2	If the stakeholders group did not include local governments who hold permits, then the comment period should be extended. (Other comments by this commenter do not address the content of the hazardous waste regulations.)
	Response	The Virginia Association of Counties and the Virginia Municipal League participated in the stakeholder meetings along with several representatives of local governments. (See “Waste, Air and Water Program Funding Strategies,” November 2003, available on the VDEQ website.) No change or delay is recommended.
9 VAC 20-60-1270 F	3	Regulation should specifically exempt Technical Escort Unit and other Federal government entities trained in explosive or munitions emergency response.
	Response	Comment recommends a reasonable change that will be made in the final regulations.
9 VAC 20-60-1280 B	3	Request that credit cards be used for payments.
	Response	The department is diligently working to enhance our accounts receivable system to allow electronic payments. This enhancement involves staff resources and procuring a third party vendor to handle the banking interface. The department expects arrangements to be made to allow for electronic payments by the 2005 annual fee cycle.
9 VAC 20-60-1283	3	Because October 1, 2004 is already budgeted by the Federal agencies, the due date for the first payment should be October 1, 2005.
	Response	Unfortunately, the fees represent critical support funds for the department’s basic and essential programs and the recommended delay in payments is not practicable.

9 VAC 20-60-1283 E	1	Annual fees for an episodic or provisional generator should only apply after it has been a large quantity generator for 90 days. Text is suggested.
	Response	These administrative costs accrue to the Department of Environmental Quality whether the large quantity generator holds that status for 1 day, 89 days or a full year. It would be unfair to other who must pay the fees to allow short-term episodic or provisional large quantity generators to avoid payment of the costs associated with their activity. No change is recommended.
9 VAC 20-60-1284 A	3	Due date specified calls for payment of fees for services provided prior to the passage or adoption of the fee regulations.
		The comment contains an incorrect citation to 9 VAC 20-90-65. Also, the intent of the cited text seems to have been misunderstood. In both fee regulations, the intention is to collect fees for services rendered in 2003 on October 1, 2004. The text of 9 VAC 20-90 offers alternate payment timetables as directed by the statute and that do not apply to 9 VAC 20-60. No change is recommended.
9 VAC 20-60-1284 B	3	Request that credit cards be used for payments.
	Response	The department is diligently working to enhance our accounts receivable system to allow electronic payments. This enhancement involves staff resources and procuring a third party vendor to handle the banking interface. The department expects arrangements to be made to allow for electronic payments by the 2005 annual fee cycle.
9 VAC 20-60-1286	4	We believe that the proposed percentage reductions for facilities in the department's Environmental Excellence Program are too small and encourage the Board to provide at least a 20% reduction in annual fees for E-3 sites and 10% reduction in annual fees for E-2 sites.

	Response	The regulations provide reductions in annual fees for those at the Environmental Enterprise (E2) or Exemplary Environmental Enterprise E3 level of participation of the Environmental Excellence Program. Due to budget limitations, larger discounts cannot be automatically offered. The regulations do contain provisions that allow for additional discounts to be offered in the event that additional funds become available. The availability of additional funds will be calculated based on a percentage of: the total program revenues minus the direct program costs. As any additional discounts shall be distributed to all participants at the E3 level of participation, the number of facilities at the E3 level of participation will also determine what additional discounts will be offered.
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### Commenters

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