

**9 VAC 20-80-790. Administrative procedures.**

A. Submission of petition.

1. General petitioning requirements. All petitions submitted to the director shall include:

- a. The petitioner's name and address;
- b. A statement of petitioner's interest in the proposed action;
- c. A description of desired action and a citation to the regulation from which a variance is requested;
- d. A description of need and justification for the proposed action;
- e. The duration of the variance, if applicable;
- f. The potential impact of the variance on public health or the environment;
- g. Other information believed by the applicant to be pertinent; and
- h. The following statements signed by the petitioner or his authorized representative:

"I certify that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

- i. In accordance with the provisions of § 10.1-1408.1 B of the Code of Virginia, no application for a variance allowing a category 2 landfill to expand or increase capacity shall be allowed without providing local government certification and disclosure information in accordance with the provisions of 9 VAC 20-80-500.

2. Additional requirements for petitions under 9 VAC 20-80-740. In addition to the general information required of all petitioners under subdivision 1 of this subsection:

- a. To be successful the petitioner shall address the applicable standards and criteria listed in 9 VAC 20-80-740 C.
- b. For petitions submitted under 9 VAC 20-80-740 B 4 the following additional information is required:
  - (1) A description of the waste and an estimate of the average and maximum monthly and annual quantities of waste covered by the petition;

(2) A description of the methodologies and equipment used to obtain representative samples and analyses, to include:

- (a) The name and address of the laboratory facility performing the sampling on tests of the waste, if different from that of the petitioner;
- (b) The qualifications of the persons sampling and testing the wastes;
- (c) The dates of sampling and testing;
- (d) A description of sample handling and preparation techniques, including techniques used for extraction, containerization and preservation of samples; and
- (e) A description of the tests performed and the results obtained.

(3) The description of the reclamation processes.

3. Additional requirements for petitions under 9 VAC 20-80-750. In addition to the general information required of all petitioners under subdivision 1 of this subsection, the petitioner shall submit:

- a. An explanation of the applicant's particular situation which prevents the facility from achieving compliance with the cited regulation;
- b. Other information as may be required by the department.

B. Petition processing.

1. After receiving a petition that includes the information required in subsection A of this section, the director will determine whether the information received is sufficient to render the decision. If the information is deemed to be insufficient, the director will specify additional information needed and request that it be furnished.

2. The petitioner may submit the additional information requested, or may attempt to show that no reasonable basis exists for the request for additional information. If the director agrees that no reasonable basis exists for the request for additional information, he will act in accordance with subdivision 3 of this subsection. If the director continues to believe that a reasonable basis exists to require the submission of such information, he will proceed with the denial action in accordance with the Virginia Administrative Process Act.

3. After the petition is deemed complete:

- a. The director will make a tentative decision to grant or deny the petition;

b. In case that petition may be tentatively denied, the director will offer the petitioner the opportunity to withdraw the petition, submit additional information, or request the director to proceed with the evaluation;

c. Unless the petition is withdrawn, the director will issue a draft notice tentatively granting or denying the application. Notification of this tentative decision will be provided by newspaper advertisement ~~and radio broadcast~~ in the locality where the applicant is located. The director will accept comment on the tentative decision for 30 days.

d. Upon a written request of any interested person, the director may, at his discretion, hold an informal fact finding meeting described in Article 3 (§ 2.2-4019 et seq.) of the Virginia Administrative Process Act. A person requesting a hearing shall state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The director may in any case decide on his own motion to hold such a meeting.

e. After evaluating all public comments the director will, within 15 days after the expiration of the comment period:

(1) Notify the applicant of the final decision; and

(2) Notify all persons who commented on the tentative decision.

C. Petition resolution.

1. In the case of a denial, the petitioner has a right to request a formal hearing to challenge the rejection.

2. If the director grants a variance request, the notice to the petitioner shall provide that the variance may be terminated upon a finding by the director that the petitioner has failed to comply with any variance requirements.

Certified True and Accurate: \_\_\_\_\_  
Robert G. Burnley, Director, DEQ

Date: \_\_\_\_\_