

**VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY
WASTE DIVISION
OFFICE OF WASTE PERMITTING**

PERMITTING GUIDANCE FOR TEN YEAR PERMIT REVIEW

The procedures set forth in this document are intended solely for the guidance of solid waste permit writers at the Department of Environmental Quality (Department). They are not intended to, nor do they constitute rulemaking by the Department. They may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law or in equity, by any person. Whether and how the Department applies these procedures in any given case will depend on the facts of the case.

1. Introduction

The Virginia Waste Management Act and the Solid Waste Management Regulations, state that at least once every ten years, the Director must review and issue written findings on the environmental compliance history of each permittee, material changes, if any, in key personnel, and technical limitations, standards, or regulations on which the original permit was based. The reviews are to be undertaken in accordance with time periods established by regulation of the Virginia Waste Management Board for different categories of permits. The purpose of this guidance is to provide global guidance to the Permit Writers on the 10-year review process and to provide specific detail on how to review a permit as part of 10-year review process.

The reviews must include both an environmental compliance history review and a technical review. The environmental compliance history review consists of a compilation of the past ten years of inspection records. The findings include the number of inspections conducted each year and the number of alleged violations. The requirements for disclosure statements, including changes to key personnel, are among the criteria examined in the environmental compliance history review. The technical review compares the contents of the existing, individual permits to the contents now required for issuance of a permit. Over the years, the permitting standards have been changed by statute and by amendments to the governing regulations in March 1993, and May 2001 and September 2003. The findings of the technical review identify the components, or modules, that are required in current permits but that have not been included in the existing, individual permits.

By statute, if the Director finds repeated material or substantial violations of the permittee or material changes in the permittee's key personnel that would make continued operation of the facility not in the best interest of human health or the environment, the Director shall amend or revoke the permit. Also, the Director may amend the permit to include additional limitations, standards or conditions when the underlying standards have been changed by statute or regulation, or as otherwise provided by law.

The Director will solicit comments on the report and findings from facilities that are subject to the review. Comments from the public will also be accepted.

Any permit amendment will take place in accordance with the Virginia Waste Management Act, the Virginia Solid Waste Management Regulations and the Virginia Administrative Process Act.

The Director retains authority to revoke, amend, or suspend permits in accordance with applicable laws and regulations. The Director also retains authority to address violations of statutory, regulatory, or permit requirements by order or other remedy, including immediate action as necessary, in appropriate circumstances.

2. Authority

The Virginia Waste Management Act, at Va. Code § 10.1-1408.1 E., requires the Director of the Department of Environmental Quality (Director and Department, respectively) to review and issue written findings on specific aspects of permitted solid waste management facilities at least once every ten years. The reviews are to be undertaken in accordance with time periods established by regulation of the Virginia Waste Management Board for different categories of permits. The pertinent part of Va. Code § 10.1-1408.1 E. states as follows:

At least once every ten years, the Director shall review and issue written findings on the environmental compliance history of each permittee, material changes, if any, in key personnel and technical limitations, standards, or regulations on which the original permit was based. The time period for review of each category of permits shall be established by Board regulation.

The same section of the Code addresses amendment or revocation of solid waste management permits based on the required review and findings:

If, upon such review, the Director finds that repeated material or substantial violations of the permittee or material changes in the permittee's key personnel would make continued operation of the facility not in the best interests of human health or the environment, the Director shall amend or revoke the permit, in accordance herewith. Whenever such review is undertaken, the Director may amend the permit to include additional limitations, standards, or conditions when the technical limitations, standards, or regulations on which the original permit was based have been changed by statute or amended by regulation or when any of the conditions in subsection B of § 10.1-1409 exist. The Director may deny, revoke, or suspend any permit for any of the grounds listed under subsection A of § 10.1-1409.

3. Definitions

Project Coordinator- staff person responsible for coordinating reviews, overseeing the project timeline, compiling the report, distributing the report, and coordinating responses to comments.

The current Project Coordinator responsibilities are in the Waste Division-Central Office.

Regional staff- includes waste compliance/permit managers (WC/PM), permit writers (PW) and compliance staff.

Central office waste staff- includes waste staff providing technical assistance to regional staff concerning solid waste permitting (Permit Coordinator-PC) and compliance issues.

Final Prioritization and Closure Schedule- refers to the Schedule for closure of disposal areas of a permitted sanitary landfill that have substandard liners and leachate collection. The schedule was issued September 2001. This prioritization includes a schedule for areas that were permitted before October 9, 1993, to cease accepting waste and prepare for final closure.

4. Requirements-Permit Manual

Section VII 10 YEAR PERMIT REVIEW

A. 10 YEAR PERMIT REVIEW PROCESSING

1. Waste Compliance Managers will receive a draft list of permits to be reviewed each year from the Project Coordinator. Regional staff are to review the list and verify the permits are subject to the ten-year permit review. Permit Writers must identify those permits in the list that are in their region. The Permit Writer will use the permit review [Checklist](#) to complete the review in accordance with the guidance provide here.

The Permit Writer needs to be aware that the review is just one component of the report the Agency must produce to satisfy this legislative requirement. The Agency produces is an Annual Report of the permits and facilities reviewed for that year for both permit and compliance conformance to the current (at review time) Virginia Solid Waste Regulations (9 VAC 20-80-10 *et seq.*). The Annual Report is coordinated and produced by the Project Coordinator. The criteria for permits to be reviewed are as follows:

- the permit is active or is a valid permit that has not been acted upon by the permittee;
 - the permit issue date is between 9 and 10 years ago (for example, the 2002 review included permits issued between July 1, 1991 and July 1, 1992); and
 - the facility is not operating under PBR status.
2. The Project Coordinator will develop an Annual Report Schedule each year. A schedule of due dates for deliverables will be established on an annual basis and will depend on many factors, including the number and types of facilities, and the regional workload. The following is a example of tasks to be completed to produce the report:

- Project coordinator identifies permits to be reviewed
 - Revisions to template checklists and worksheets to be completed by permit coordinator and compliance coordinator
 - Regional staff verify permits identified are to be reviewed
 - Regional staff begin compliance and permit reviews
 - Completed permit review checklists and compliance review worksheets due to project coordinator
 - Draft report due for internal review
 - Final draft for executive management review
 - Distribute report to permit holders and post report on website
 - Draft Responses to comments
 - Finalize Report
3. The Permit Review [Checklist](#) for landfills was developed from the current permit application review checklist that is in the current Permit Manual. A checklist template has not been developed for all the types (8) of facilities that maybe permitted under the Regulations. The checklist can be duplicated each year. The Permit Coordinator will develop and provide standardized permit review checklists to permit writers for facilities required to be reviewed.
 4. The Permit Writer will need to have access to supplemental permit information that is available from various sources to perform a permit review. The permit review checklist for a facility will include information pertaining to Part A status, groundwater monitoring, air permitting, legislative requirements, financial assurance and historical permit information as well as the more familiar Part B permit type items. A Permit Writer is directly responsible for reviewing and approving Part B permit applications items. Gathering information on non-Part B items for the 10-year review will be a little more challenging, but with-in the scope of responsibility for all Permit Writers. There is an expectation that Permit Writers have a working knowledge of all aspects of SW permitting included with their direct Part B review knowledge. Gathering permit information for the non-Part B items can be obtained primarily from the CEDS database and from the individual permits. Additional resources are available from the Waste Division-Groundwater Program, the Permit Coordinator, and the Financial Assurance Program.
 5. The primary task of completing the checklist is to remember that all entries on the checklist must be based on whether that information is in the permit or not in the permit. Review deficiencies should be identified where the permit has information that does not meet the current standards in the Regulations or the State Law. The Findings/Limitations (F/L) block on the first page of the checklist is reserved to summarize the major deficiencies after the entire checklist has been completed. Any item in the checklist where the permit does not address the current standard in the

Regulations for that item and a “no” answer was listed for that item should be summarized in the F/L block. If a permit application has been submitted for this facility and the permit application will address that item, a note should be made in the F/L block. A line-by-line description of the checklist template is not provided. Additionally, a permit application review checklist is very similar in scope and detail to the 10-year review permit checklist and the permit application checklist is described in the current [permit manual](#). This guidance will provide descriptions of the major items of the checklist template.

6. The following are descriptions of the major items on the review checklists.
 - HB 1205 Ranking/Title V-these items refer to Sanitary Landfills only. HB 1205 is for information only and is generally not in the permit. The answers to this item are High, Medium and Low, based on their closure date as assigned in the [Final Prioritization and Closure schedule](#). [A list of these facilities can be obtained by clicking here](#). Title V, of the Clean Air Act, is an air permit requirement for Sanitary Landfills. CEDS-Air Permits should be checked to determine if the Title V permit has been issued. If you are unsure the Air information in CEDS, contact the Air Permit Writer listed in CEDS for that facility. The Air permit requirements are for the largest 35 sanitary landfills in the State. Contact the Regional Air Permit Manager to obtain the status of the Title V permit. There are two acceptable answers to this item. Either yes-the Title V Air permit is required and a copy or reference to the Air permit is in the SW Permit; or no-the status of the Air permit is not identified in the SW permit and the status of the Air requirement is known. If you are unsure of the requirement, contact the Air permit writer.
 - Part A Approval & Status-A copy of the most recent approval letter and a copy of the approved drawing of the Part A siting issues should be in the permit-answer, yes or no. Enter the date of the approval on the checklist.
 - Groundwater Monitoring- The current GW monitoring plan is in the permit. The current status of the GW monitoring plan is in CEDS. Answer yes if CEDS is consistent with the GW Plan in the permit or no if the permit is not consistent. The Reviewer should keep in mind that the review standard is; “Does the permit contain the current GW monitoring plan?” CEDS will provide information to determine if a GW amendment was processed for the permit. That specific amendment should be in the current edition of the permit.
 - Permit Amendments should be listed in CEDS. CEDS can assist the reviewer with obtaining information on amendment requests as well as the status of the amendments. All permits amendments should be listed by date on the checklist. If CEDS has an entry that indicates an amendment has been processed for the facility, but that amendment is not in the permit document, indicate “yes” on the checklist and note that the information came from CEDS and not the permit

- Financial Assurance-Answer yes if the cost estimate is in the permit and no if it is not. Most estimates should be in the permit. If you are not sure of what estimate should be in the permit you can check with CEDS or OFA. A financial mechanism might be in the permit, answer-yes or no. The reviewer should verify with OFA the current estimate that is approved for the facility.
7. After filling out the checklist and checking it, email a copy to the WC/PM for review. For the first year of this guidance the WC/PM will review and email the draft to the Permit Coordinator for review. The Permit Coordinator will forward any comments to the WC/PM and the comments will be addressed. The checklist will be modified, if required and forwarded to the Project Coordinator. For the second year of this guidance the WC/PM will forward the Checklist directly to the Project Coordinator after he has reviewed it and determined that it is complete. This shall be accomplished within the timeframes set by the Project Coordinator. The Permit Coordinator will be available for questions at anytime during the process.