



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action
Agency Background Document

Agency Name:	Virginia Department of Environmental Quality
VAC Chapter Number:	9 VAC 20-90-10 et seq.
Regulation Title:	Solid Waste Management Facility Permit Application Fees
Action Title:	Amendment 1
Date:	April 22, 2002

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose*

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

The Virginia Waste Management Board's Solid Waste Management Facility Permit Application Fee Regulation, 9 VAC 20-90-10 et seq., establishes procedures pertaining to the payment and collection of and the amount of fees from any applicant seeking a new permit or seeking a modification to an exiting permit for the construction and operation of a solid or regulated medical waste management facility. The purpose of this action is to study, in collaboration with the regulated community and the public, appropriate changes to provide clarification to the regulations, to consolidate the regulations and to update the permit fee system. In addition, this action will replace emergency regulations authorized by the 2002 General Assembly.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory

action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

Section 10.1-1402(11) of the Code of Virginia provides the Waste Management Board the authority to promulgate regulations to carry out its powers and duties.

Section 10.1-1402(16) of the Code of Virginia provides the Waste Management Board the authority to collect permit application fees for nonhazardous facilities sufficient only to defray the costs of issuing permits.

Section 10.1-1402.1 of the Code of Virginia provides governing standards for the development of these regulations.

Need*

Please detail the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied

The current permit fee schedule has not been updated since June 8, 1992. In accordance with the requirements of the regulations, the fee schedule is to be evaluated annually (9 VAC 20-90-70 B) and results of the evaluations provided to the Waste Management Board, with recommendations for adjustments to the fee .

The percentage of the permit program supported by fees has steadily decreased since the program's inception. Modification of the fee schedule is needed to restore consistency in the percentage of funds from permit fees supporting the solid waste program thereby ensuring appropriate funding for the program.

While considering these issues it is appropriate to also consider the clarity of the regulations as a whole, statutory changes, and appropriate improvements wherever possible.

Substance*

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed.

The concept of the amendment is to study appropriate changes to provide clarification to the regulation, to consolidate the regulations and to update the permit fee system. Developing the amendment in collaboration with the regulated community and the public through a technical advisory committee will provide the opportunity to draw on the expertise of these groups. Alternative approaches will be discussed during the development of the regulation, and the

alternative chosen will be subject to public comment during the public comment period and public hearing(s). Key issues will be hi-lighted and the public's opinion is specifically requested.

This action will consider if the fee system in the regulations continues to be appropriate in it's structure and amounts. Fees were last adjusted in 1992.

Alternatives*

Please describe the process by which the agency has considered, or will consider, less burdensome and less intrusive alternatives for achieving the need. Also describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action, and the reasoning by which the agency has rejected any of the alternatives considered.

A technical advisory committee will advise the Department of Environmental Quality on what amended regulatory text to recommend to the Board as proposed regulations. This panel will advise the department on less intrusive and less burdensome alternatives, where such exists, and during the public participation process, the public will be asked to suggest less intrusive and burdensome alternatives. No action alternatives have been considered or rejected.

Public Participation*

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also indicate whether a public meeting is to be held to receive comments on this notice. Indicate that 1) the agency is not holding a meeting because the agency has authorized proceeding without holding a meeting or 2) the agency is holding a meeting. If a public meeting is to be held, indicate where information on the public meeting (i.e., date, time and place) may be found.

The Board is seeking comments on the intended regulatory action, including (i) ideas to assist in the development of a proposal, (ii) the costs and benefits of the alternatives stated in this notice or other alternatives and (iii) impacts of the regulation on farm or forest lands. Anyone wishing to submit written comments for the public comment file may do so at the public meeting, by mail, or by email to Michael J. Dieter, Department of Environmental Quality, P.O. Box 10009 Richmond, Virginia 23240, mjdieter@deq.state.va.us Written comments must include the name and address of the commenter. In order to be considered comments must be received by the close of the comment period.

A public meeting will be held and notice of the meeting can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Participatory Approach*

Please indicate the extent to which an ad hoc advisory group will be used in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The Board is using the participatory approach to develop a proposal.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent 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, it is anticipated that owners or operators of affected facilities may attempt to recoup the increased cost by increasing connection and user fees, or the costs of goods and/or services. Should this occur, disposable family income may be decreased for those families affected by the increase.