

9 VAC 20-80-60. Applicability of chapter.

A. This chapter applies to all persons who manage or dispose of solid wastes as defined in Part III (9 VAC 20-80-140 et seq.) of this chapter.

B. All facilities that were permitted prior to March 15, 1993, and upon which solid waste has been disposed of prior to October 9, 1993, may continue to receive solid waste until they have reached their vertical design capacity or until the closure date established pursuant to § 10.1-1413.1 of the Code of Virginia, provided:

Note: Municipal solid waste landfills (sanitary landfills) are subject to prioritization and a schedule for closure pursuant to § 10.1-1413.2 of the Code of Virginia.

1. The facility is in compliance with the requirements for liners and leachate control in effect at the time of permit issuance.
2. On or before October 9, 1993, the owner or operator of the solid waste management facility has submitted to the director:
 - a. An acknowledgment that the owner or operator is familiar with state and federal law and regulations pertaining to solid waste management facilities operating after October 9, 1993, including post-closure care, corrective action and financial responsibility requirements;
 - b. A statement signed by a registered professional engineer that he has reviewed the regulations established by the department for solid waste management facilities, including the open dump criteria contained therein, that he has inspected the facility and examined the monitoring data compiled for the facility in accordance with

applicable regulations and that, on the basis of his inspection and review, he has concluded:

- (1) That the facility is not an open dump;
- (2) That the facility does not pose a substantial present or potential hazard to human health and the environment; and
- (3) That the leachate or residues from the facility do not pose a threat of contamination or pollution of the air, surface water or ground water in a manner constituting an open dump or resulting in a substantial present or potential hazard to human health or the environment; and

c. A statement signed by the owner or operator:

- (1) That the facility complies with applicable financial assurance regulations; and
- (2) Estimating when the facility will reach its vertical design capacity.

3. The facility may not be enlarged prematurely to avoid compliance with this chapter when such enlargement is not consistent with past operating practices, the permit or modified operating practices to ensure good management.

C. Facilities are authorized to expand laterally beyond the waste boundaries existing on October 9, 1993, as follows:

1. Existing captive industrial landfills.
 - a. Existing nonhazardous industrial waste facilities that are located on property owned or controlled by the generator of the waste disposed of in the facility shall

comply with all the provisions of this chapter except as shown in subdivision 1 of this subsection.

b. Facility owners or operators shall not be required to amend their facility permit in order to expand a captive industrial landfill beyond the waste boundaries existing on October 9, 1993. Liners and leachate collection systems constructed beyond the waste boundaries existing on October 9, 1993 shall be constructed in accordance with the requirements in effect at the time of permit issuance.

c. Owners or operators of facilities which are authorized under subdivision 1 of this subsection to accept waste for disposal beyond the waste boundaries existing on October 9, 1993, shall ensure that such expanded disposal areas maintain setback distances applicable to such facilities in 9 VAC 20-80-270 A.

d. Facilities authorized for expansion in accordance with subdivision 1 of this subsection are limited to expansion to the limits of the permitted disposal area existing on October 9, 1993, or the facility boundary existing on October 9, 1993, if no discrete disposal area is defined in the facility permit.

2. Other existing industrial waste landfills.

a. Existing nonhazardous industrial waste facilities that are not located on property owned or controlled by the generator of the waste disposed of in the facility shall comply with all the provisions of this chapter except as shown in subdivision 2 of this subsection.

b. Facility owners or operators shall not be required to amend their facility permit in order to expand an industrial landfill beyond the waste boundaries existing on

October 9, 1993. Liners and leachate collection systems constructed beyond the waste boundaries existing on October 9, 1993, shall be constructed in accordance with the requirements of 9 VAC 20-80-270 B.

c. Prior to the expansion of any such facility, the owner or operator submits to the department a written notice of the proposed expansion at least 60 days prior to commencement of construction. The notice shall include recent ground water monitoring data sufficient to determine that the facility does not pose a threat of contamination of ground water in a manner constituting an open dump or creating a substantial present or potential hazard to human health or the environment (see 9 VAC 20-80-180 B 4). The director shall evaluate the data included with the notification and may advise the owner or operator of any additional requirements that may be necessary to ensure compliance with applicable laws and prevent a substantial present or potential hazard to health or the environment.

d. Owners or operators of facilities which are authorized under subdivision 2 of this subsection to accept waste for disposal beyond the waste boundaries existing on October 9, 1993, shall ensure that such expanded disposal areas maintain setback distances applicable to such facilities in 9 VAC 20-80-270 A.

e. Facilities authorized for expansion in accordance with this subsection are limited to expansion to the limits of the permitted disposal area existing on October 9, 1993, or the facility boundary existing on October 9, 1993, if no discrete disposal area is defined in the facility permit.

3. Existing construction/demolition/debris landfills.

- a. Existing facilities that accept only construction/demolition/debris waste shall comply with all the provisions of this chapter except as shown in subdivision 3 of this subsection.
- b. Facility owners or operators shall not be required to amend their facility permit in order to expand a construction/demolition/debris landfill beyond the waste boundaries existing on October 9, 1993. Liners and leachate collection systems constructed beyond the waste boundaries existing on October 9, 1993, shall be constructed in accordance with the requirements of 9 VAC 20-80-260 B.
- c. Prior to the expansion of any such facility, the owner or operator submits to the department a written notice of the proposed expansion at least sixty days prior to commencement of construction. The notice shall include recent ground water monitoring data sufficient to determine that the facility does not pose a threat of contamination of ground water in a manner constituting an open dump or creating a substantial present or potential hazard to human health or the environment (see 9 VAC 20-80-180 B 4). The director shall evaluate the data included with the notification and may advise the owner or operator of any additional requirements that may be necessary to ensure compliance with applicable laws and prevent a substantial present or potential hazard to health or the environment.
- d. Owners or operators of facilities which are authorized under this subdivision 3 to accept waste for disposal beyond the active portion of the landfill existing on October 9, 1993, shall ensure that such expanded disposal areas maintain setback distances applicable to such facilities in 9 VAC 20-80-260 A and B.

e. Facilities, or portions thereof, which have reached their vertical design capacity shall be closed in compliance with 9 VAC 20-80-260 E.

f. Facilities authorized for expansion in accordance with subdivision 2 c of this subsection are limited to expansion to the permitted disposal area existing on October 9, 1993, or the facility boundary existing on October 9, 1993, if no discrete disposal area is defined in the facility permit.

4. Facilities or units undergoing expansion in accordance with the partial exemptions created by subdivision 1 b, 2 b, or 3 b of this subsection may not receive hazardous wastes generated by the exempt small quantity generators as defined by the Virginia Hazardous Waste Management Regulations (9 VAC 20-60), wastes containing free liquids for disposal on the expanded portions of the facility. Other wastes that require special handling in accordance with the requirements of Part VIII (9 VAC 20-80-630 et seq.) of this chapter or which contain hazardous constituents which would pose a risk to health or environment, may only be accepted with specific approval by the director.

5. Nothing in subdivisions 1 b, 2 b, and 3 b of this subsection shall alter any requirement for ground water monitoring, financial responsibility, operator certification, closure, post-closure care, operation, maintenance or corrective action imposed under this chapter, or impair the powers of the director to revoke or amend a permit pursuant to § 10.1-1409 of the Virginia Waste Management Act or Part VII (9 VAC 20-80-480 et seq.) of this chapter.

D. An owner or operator of a previously unpermitted facility that managed materials previously exempt from this chapter shall submit a complete application for a solid waste

management facility permit or a permit amendment in accordance with Part VII of this chapter within six months after these materials have been defined or identified as solid wastes. If the director finds that the application is complete, the owner or operator may continue to manage the newly defined or identified waste until a permit or permit amendment decision has been rendered or until a date two years after the change in definition whichever occurs sooner, provided however, that in so doing he shall not operate or maintain an open dump, a hazard, or a nuisance.

The owner or operator of an existing solid waste management facility shall comply with this regulation beginning September 24, 2003. Where necessary conflicts exist between the existing facility permit and the new requirements of the regulations, the regulations shall supercede the permit except where the standards in the permit are more stringent than the regulation. Language in an existing permit shall not act as a shield to compliance with the regulation, unless a variance to the regulations has been approved by the director in accordance with the provisions of Part IX (9 VAC 20-80-730 et seq.) of this chapter. Existing facility permits will not be required to be updated to eliminate requirements conflicting with the regulation, except at the request of the director or if a permit is amended for another reason. However, all sanitary landfills and incinerators that accept waste from jurisdictions outside of Virginia must submit the materials required under 9 VAC 20-80-113 D by March 22, 2004.

E. Conditional exemptions. The following solid waste management practices are exempt from this chapter provided no open dump, hazard, or public nuisance is created:

1. Composting of sewage sludge at the sewage treatment plant of generation without addition of other types of solid wastes.

2. Composting of household waste generated at a single-family residence at the site of generation.
3. Composting activities performed for educational purposes as long as no more than five tons of materials are on site at any time. Greater quantities will be allowed with suitable justification presented to the department. For quantities greater than five tons approval from the director will be required prior to composting.
4. Management of wastes regulated by the State Board of Health, the State Water Control Board, or any other state agency with such authority.
5. On-site management of soil contaminated with petroleum products required as part of an ongoing corrective action by the department under Article 9 (§ 62.1-44.34:8 et seq.) or Article 11 (§ 62.1-44.34:14 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia. Management of the contaminated soils away from the site of generation is subject to this chapter unless specifically provided for in the approved corrective action plan.
6. Management of solid waste in appropriate containers at the site of its generation, provided that:
 - a. Putrescible waste is not stored more than seven days between time of collection and time of removal for disposal; and
 - b. All nonputrescible wastes that are on a system of regularly scheduled collection for disposal with collections occurring at intervals of less than 90 days.
7. Landfilling of solid waste which includes only rocks, brick, block, dirt, broken concrete and road pavement and which contains no paper, yard, or wood wastes.

8. On-site management of solid wastes generated by the wastewater treatment facilities provided such management is subject to a regulation promulgated by the State Water Control Board.

9. Placing of stumps and other land clearing debris from agricultural or forestal activities on site of the clearing where no debris is accepted from off-site. This does not include the burial of these materials.

10. Placing of solid wastes including large tires from mining equipment from mineral mining activities on a mineral mining site in compliance with a permit issued by the Department of Mines, Minerals and Energy where no such waste is accepted from off-site and does not contain any municipal solid wastes or other special wastes. Placement of such solid wastes shall be accomplished in an environmentally sound manner.

11. Storage of less than 100 waste tires at the site of generation provided that no waste tires are accepted from off-site and that the storage will not present a hazard or a nuisance.

12. The storage of landclearing debris including stumps and brush, unadulterated wood wastes, log yard scrapings consisting of a mixture of soil and wood, cotton gin trash, peanut hulls and similar organic wastes that do not readily decompose, in piles are exempt from this chapter if they are stored as prescribed below:

a. The wastes are managed in the following manner:

- (1) They do not cause discharges of leachate, or attract vectors.
 - (2) They are managed to prevent dispersal by wind and rain.
 - (3) They are managed to reduce the potential for combustion and fire.
 - (4) The wastes are managed so that they do not become putrescent.
- b. Any facility storing waste materials under the provisions of this section obtains a storm water discharge permit if they are considered a significant source under the provisions of 9 VAC 25-31-120 A 1e.
- c. No more than an total of 1/3-acre of waste material is stored on-site and the waste pile does not exceed 15 feet in height above base grade.
- d. Siting provisions.
- (1) All waste materials are stored at the site of the industrial activity that produces them.
 - (2) A 50 foot fire break is maintained between the wastepile and any structure or treeline.
 - (3) The slope of the ground within the area of the pile and within 50 feet of the pile does not exceed 4:1.
 - (4) No waste material may be stored closer than 50 feet to any regularly flowing surface water body or river, floodplain, or wetland.

(5) No Stored waste materials shall extend closer than 50 feet to any property line.

e. If the industrial activities at the site cease, any waste stored at the site must be properly disposed in a permitted solid waste management facility within 90 days.

f. Waste piles that do not meet these provisions are required to obtain a permit in accordance with the provisions in 9 VAC 20-80-480 and meet all of the requirements in 9 VAC 20-80-400. Facilities that do not comply with the provisions of this subdivision and fail to obtain a permit are subject to the provisions of 9 VAC 20-80-90 for unpermitted facilities.

F. This chapter is not applicable to units or facilities closed in accordance with regulations or permits in effect prior to December 21, 1988, unless releases, as defined in Part I (9 VAC 20-80-10 et seq.) of this chapter, from such closed facilities cause the site to be classified as an open dump, a hazard or a nuisance under § 10.1-1402(21) of the Code of Virginia, or a site where improper waste management has occurred under § 10.1-1402(19) of the Code of Virginia.

9 VAC20-80-400. Waste piles.

A. Applicability.

1. The regulations in this section apply to owners and operators of facilities that store or treat non-putrescible solid waste in piles.

2. The regulations in this section do not apply to owners or operators of waste piles that will be closed with wastes left in place. Such waste piles are subject to regulations contained in Part V (9 VAC 20-80-240 et seq.) of this chapter.
3. This section applies to units that manage ~~uncontainerized putrescible wastes~~ inert waste and organic wastes that are not readily putrescible in piles that do not remain in the unit at the end of the working day. If such wastes remain in waste piles at the end of the day, this section does not apply and the management of such wastes shall be in accordance with the requirements shown in 9 VAC 20-80-330 or 9 VAC 20-80-470, as applicable. This section does not apply if materials will be actively composted according to the provisions of 9 VAC 20-80-330.
4. Any material from a state other than Virginia that is classified as a hazardous waste in that state shall be managed in accordance with the Virginia Hazardous Waste Management Regulations (9 VAC 20-60). Such wastes are not acceptable for treatment or storage in a solid waste management facility in the Commonwealth.
5. The regulations in this section do not apply to the management of industrial co-products in piles. A material shall be considered an industrial co-product if a demonstration can be made consistent with 9 VAC 20-80-140 D that the material is not a solid waste.
6. The regulations in this section do not apply to active logging operations subject to regulation under the provisions of the Code of Virginia, 10.1-1181 through 10.1-1181.12.

B. Siting.

1. Solid waste management facilities storing or treating waste in piles shall be adjacent to or have direct access to paved or gravel roads ~~which are paved or surfaced~~ ~~and~~ that are capable of withstanding anticipated load limits.
2. Waste piles shall not be sited or constructed in areas subject to base floods.
3. Facility treating or storing solid waste in piles shall not be closer than 50 feet to any ~~surface stream~~ surface water body or wetland.
4. No facility treating or storing wastes in piles shall extend closer than 50 feet to any property line nor closer than 200 feet to any residential area, health care facility, school or recreational park area, or similar type public institution.
5. Unless the waste pile is located inside or under a structure that provides protection from precipitation so that neither run-off nor leachate is generated, such units shall:
 - a. Be provided with an adequate area to allow for proper management of leachate and runoff; in accordance with subdivision C 2 and D 4 of this section.
 - b. ~~Not be located in areas which are geologically unstable or where site topography is heavily dissected; and~~
 - c. ~~Not be located in any area where a seasonal high water table lies within two feet of the ground surface.~~

C. Design/construction.

1. The owner or operator of any waste pile that is inside or under a structure that provides protection from precipitation so that neither run-off nor leachate is generated is not subject to regulation under subdivision 2 of this subsection, provided that:

- a. Liquids or materials containing free liquids are not placed in the pile;
- b. The pile is protected from surface water run-on by the structure or in some other manner;
- c. The pile is designed and operated to control dispersal of the waste by wind, where necessary, by means other than wetting;
- d. The pile will not generate leachate through decomposition or other reactions; and
- e. The structures, buildings, and ramps shall be of concrete, brick, or other material that can be easily cleaned.

2. Exposed waste piles.

a. Liners. A waste pile (except for an existing portion of a waste pile) shall have:

(1) A liner that is designed, constructed, and installed to prevent any migration of wastes out of the pile into the adjacent soil or ground water or surface water at any time during the active life (including the closure period) of the waste pile.

The liner shall be:

- (a) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with

the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(b) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(c) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(2) A leachate collection and removal system immediately above the liner that is designed, constructed, maintained, and operated to collect and remove leachate from the pile. The design and operating conditions shall ensure that the leachate depth over the liner does not exceed one foot at its lowest point. The leachate collection and removal system shall be:

(a) Constructed of materials that are:

(i) Chemically resistant to the waste managed in the pile and the leachate expected to be generated; and

(ii) Of sufficient strength and thickness to prevent collapse under the pressures exerted by overlaying wastes, waste cover materials, and by any equipment used at the pile; and

(b) Designed and operated to function without clogging through the scheduled closure of the waste pile.

(c) Leachate generated by the unit must be stored in lined impoundments or tanks sized using good engineering practice.

b. The owner or operator will be exempted from the requirements of subdivision 2 a of this subsection if the director finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any waste constituents into the ground water or surface water at any future time. In deciding whether to grant an exemption, the director will consider:

- (1) The nature and quantity of the wastes;
- (2) The proposed alternate design and operation;
- (3) The hydrogeologic setting of the facility, including attenuating capacity and thickness of the liners and soils present between the pile and ground water or surface water; and
- (4) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water;

c. During construction or installation, liners shall be inspected by the owner's or operator's construction quality assurance personnel for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials).

d. Immediately after construction or installation.

- (1) Synthetic liners shall be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

- (2) Soil-based liners shall be inspected for imperfections including lenses, cracks, channels, root holes, or other structural non-uniformities that may cause an increase in the hydraulic conductivity of the liner.
- (3) Any imperfections in the alternate liner design approved by the director will be repaired.
- e. The owner or operator shall design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the pile during peak discharge from at least a 25-year storm.
- f. The owner or operator shall design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.
3. Area, facilities and appropriate equipment shall be provided to segregate undesirable components from the incoming solid waste to be processed.
- ~~4. Roads serving the unloading, treatment, and storage areas shall be of all-weather construction.~~
- ~~5.~~ 4. The storage or treatment units shall be designed to reduce the potential for fires and migration of vectors, and to prevent escape of wastes, washwaters, waste decomposition odors, dust, and litter from the facility. The storage and treatment units will be designed to withstand the physical, chemical, and biological characteristics of the waste managed.
- ~~6.~~ 5. Materials and energy recovery, incineration, or thermal treatment facilities that treat or store materials in piles shall be provided with:

- a. Sufficient internal storage areas for unprocessed incoming solid waste to ensure an environmentally sound operation and afford sufficient space to allow for proper processing of maximum anticipated daily incoming solid waste.
- b. Areas and appropriate equipment to segregate non-recoverable or otherwise undesirable components from the solid waste being processed.
- c. Fire alarm and protection systems capable of detecting, controlling and extinguishing any and all fires shall be provided.
- d. Facilities shall be designed with perimeter security fencing and gate controls to prevent unauthorized access to the site.

D. Operation.

1. No ~~uncontainerized~~ putrescible solid waste shall remain at the storage and/or treatment facility at the end of the working day unless it is stored in lined or covered waste storage areas or, interim transportation vehicles (trailers, roll-off containers) designed specifically for storage.
2. A written operating plan for the waste management facility shall be prepared covering at the minimum:
 - a. Facility housekeeping, on-site traffic control, schedules for waste delivery vehicle flow, wastewater/leachate collection, storm water collection, vector control, odor control, dust suppression, noise control, and methods of enforcement of traffic flow plans for the waste delivery vehicles;

b. A description of types of wastes that will be managed at the facility, of the storage or treatment activity, of any required testing including test methods and frequencies, and sampling techniques.

c. A description of the management and disposition of waste materials will be provided that addresses waste materials that are undesirable and will not be received at the facility.

d. Descriptions of first-in, first-out waste management procedures to ensure that the oldest waste materials being stored are sent off-site for re-use or disposal prior to newer materials.

3. A written contingency plan shall be prepared covering operating procedures to be employed during periods of non-operation. This plan shall set forth procedures to be employed in the event of equipment breakdown which will require standby equipment, extension of operating hours, or diversion of solid waste to other facilities.

4. Leachate and run-off that have been in contact with the contents of the waste pile shall not be permitted to drain or discharge into surface waters except when authorized under a VPDES permit issued pursuant to 9 VAC 25-31.

5. No regulated hazardous wastes shall be accepted for processing unless they are specifically exempted by the provisions of the Virginia Hazardous Waste Management Regulations (9 VAC 20-60).

6. Collection and holding facilities associated with run-on and run-off control systems shall be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

7. If the pile contains any particulate matter₂ which may be subject to wind dispersal, the owner or operator shall cover or otherwise manage the pile to control wind dispersal.

8. While a waste pile is in operation, it shall be inspected weekly and after storms to detect evidence of any of the following:

- a. Deterioration, malfunctions, or improper operation of run-on and run-off control systems;
- b. Proper functioning of wind dispersal control systems, where present; and
- c. The presence of leachate in and proper functioning of leachate collection and removal systems, where present.

9. Incompatible wastes, or incompatible wastes and materials shall not be placed in the same pile.

10. Roads serving the unloading, treatment, and storage areas shall be maintained to be passable in all weather by ordinary vehicles when the facility is operating. All operation areas and units shall be accessible.

E. Closure.

1. Closure standards. The owner or operator shall close his facility in a manner that minimizes the need for further maintenance, and controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, the post-closure escape of uncontrolled leachate, surface runoff, or waste decomposition products to the ground water, surface water, or to the atmosphere.

a. At closure, the owner or operator shall remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate.

b. If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in subdivision 1 a of this subsection, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, he shall close the facility and perform post-closure care in accordance with the closure and post-closure care requirements of Part V of this chapter.

2. Closure plan and amendment of plan.

a. The owner or operator of a waste pile shall have a written closure plan. This plan shall identify the steps necessary to completely close the unit at its full operation under the permit conditions. The closure plan shall include at least a schedule for final closure including, as a minimum, the anticipated date when wastes will no longer be received, the date when completion of final closure is anticipated, and intervening milestone dates which will allow tracking of the progress of closure.

b. The owner or operator may amend his closure plan at any time during the active life of the facility. The owner or operator shall so amend his plan any time changes in operating plans or facility design affects the closure plan.

c. The owner or operator shall notify the department whenever an amended closure plan has been prepared and placed in the operating record. A copy of the closure plan will be maintained at the facility and provided to the department upon request.

d. Prior to beginning closure of each solid waste disposal unit, the owner or operator shall notify the department of the intent to close.

e. The owner or operator shall provide to the department a certification from a registered professional engineer that the facility has been closed in accordance with the closure plan.

3. Time allowed for closure. The owner or operator shall complete closure activities in accordance with the closure plan and within six months after receiving the final volume of wastes. The director may approve a longer closure period if the owner or operator can demonstrate that the required or planned closure activities will, of necessity, take longer than six months to complete; and that he has taken all steps to eliminate any significant threat to human health and the environment from the unclosed but inactive facility.

4. ~~The~~ Within 15 days of the last receipt of waste, the owner or operator shall post one sign notifying all persons of the closing, and providing a notice prohibiting further receipt of waste materials. The sign will remain in place until closure activities

are complete. Further, suitable barriers shall be installed at former accesses to prevent new waste from being deposited.

5. Inspection. The department shall inspect all solid waste management facilities at the time of closure to confirm that the closing is complete and adequate. It shall notify the owner of a closed facility, in writing, if the closure is satisfactory, and shall require any necessary construction or such other steps as may be necessary to bring unsatisfactory sites into compliance with this chapter.

9VAC20-80-480. Applicability.

A. No person shall construct, operate or modify a solid waste management facility in this Commonwealth without a permit issued by the director unless otherwise specified in subsection D of this section or section 485.

B. Each solid waste management facility permit shall be limited to one site and shall be non-transferable between sites.

C. Issuance of a new permit is required when there is:

1. Any new solid waste management facility; or
2. Any change in design or process of a solid waste management facility that will, in the opinion of the director, result in a substantially different type of facility.
3. Any expansion beyond the facility boundary, expansion of the waste management unit boundary or increase in the capacity of the facility specified in the existing permit. Expansions beyond the facility boundary solely for remedial purposes that do not provide for additional waste disposal area will be considered permit amendments

for the purpose of establishing permit fees under the provisions of 9VAC20-90-10 et seq. For all other considerations, expansions for remedial purposes will be considered a new permit.

D. Exemptions from permit requirements. Notwithstanding the above, the following shall not require a permit:

1. The management of materials excluded under 9VAC20-80-150 or conditionally exempt under 9VAC20-80-160;
2. The solid waste management practices conditionally exempt under 9VAC20-80-60 D;
3. Use or reuse or temporary storage incidental to use or reuse whereby material which would otherwise be solid waste is used or reused, or prepared for use or reuse, as an ingredient in an industrial process to make a product, or as an effective substitute for a commercial product;

NOTE: This exemption does not include reclamation processes, storage prior to reclamation, and storage of speculatively accumulated materials.

4. The management of wastes regulated under other regulations of the department as specified in 9VAC20-80-120; or
5. The management of wastes in remediation waste management units regulated under 9VAC20-80-450.

E. Variances. The director may grant a variance from any regulation contained in this part to a permittee provided the requirements of Part IX (9VAC20-80-730 et seq.) of this chapter are met.

9 VAC 20-80-485. Permits-by-rule and other special permits.

A. Permits by rule. Unless the owner or operator of the following facilities chooses to apply for and receive a full permit, he shall be deemed to have a solid waste management facility permit notwithstanding any other provisions of Part VII (9 VAC 20-80-480 et seq.) of this chapter, except 9 VAC 20-80-500 B 2 and B 3, if the conditions listed are met:

1. Transfer stations. The owner or operator of a transfer station, if he:
 - a. Notifies the director of his intent to operate such a facility and provides to the department documentation required under 9 VAC 20-80-500 B;
 - b. Provides the director with a certification that the facility meets the siting standards of 9 VAC 20-80-340 B;
 - c. Furnishes to the director a certificate signed by a registered professional engineer that the facility has been designed and constructed in accordance with the standards of 9 VAC 20-80-340 C;
 - d. Submits to the director an operational plan describing how the standards of 9 VAC 20-80-340 D will be met;
 - e. Submits to the director a closure plan describing how the standards of 9 VAC 20-80-340 E will be met; and
 - f. Submits to the director the proof of financial responsibility if required by the Financial Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment Facilities (9 VAC 20-70); and

g. Submits to the director the results of the public participation effort conducted in accordance with the requirements contained in subdivision 5 6 of this subsection.

2. Materials recovery facilities. The owner or operator of a materials recovery facility, if the owner or operator:

a. Notifies the director of his intent to operate such a facility and provides the department with documentation required under 9 VAC 20-80-500 B;

b. Provides the director with a certification that the facility meets the siting standards of 9 VAC 20-80-360 B, as applicable;

c. Furnishes to the director a certificate signed by a registered professional engineer that the facility has been designed and constructed in accordance with the standards of 9 VAC 20-80-360 C, as applicable;

d. Submits to the director an operational plan describing how the standards of 9 VAC 20-80-360 D, as applicable, will be met;

e. Submits to the director a closure plan describing how the standards of 9 VAC 20-80-360 E, as applicable, will be met;

f. Submits to the director the proof of financial responsibility if required by the Financial Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment Facilities (9 VAC 20-70);

g. Submits to the director the results of the public participation effort conducted in accordance with the requirements contained in subdivision 5 6 of this subsection;

and

h. In addition to the above, in the case of facilities engaged in reclamation of petroleum-contaminated materials, submits to the director:

(1) A copy of the facility permit issued in accordance with the regulations promulgated by the of Air Pollution Control Board when applicable; and

(2) A description how the requirements of 9 VAC 20-80-700 will be met.

i. Existing soil reclamation facilities which became operational prior to March 15, 1993, on the basis of written approval from the director, are considered to be operating under a permit-by-rule.

3. Energy recovery, thermal treatment, or incineration facility. The owner or operator of an energy recovery, thermal treatment, or incineration facility, if he:

a. Notifies the director of his intent to operate such a facility and provides to the department documentation required under 9 VAC 20-80-500 B;

b. Provides the director with a certification that the facility meets the siting standards of 9 VAC 20-80-370 B, as applicable;

c. Furnishes to the director a certificate signed by a registered professional engineer that the facility has been designed and constructed in accordance with the standards of 9 VAC 20-80-370 C, as applicable; and

d. Submits to the director an operational plan describing how the standards of 9 VAC 20-80-370 D, as applicable, will be met.

e. Submits to the director a closure plan describing how the standards of 9 VAC 20-80-370 E, as applicable, will be met;

- f. Submits to the director the proof of financial responsibility if required by the Financial Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment Facilities (9 VAC 20-70); and
 - g. Furnishes to the director a copy of the facility permit issued in accordance with the regulations promulgated by the Air Pollution Control Board.
 - h. In addition to the above, in the case of thermal treatment facilities engaged in reclamation of petroleum-contaminated materials, submits to the director a description of how the requirements of 9 VAC 20-80-700 will be met.
4. Composting facilities. The owner or operator of all Type A or Type B facilities that receive no more than 700 tons per quarter of compostable materials, if he:
- a. Notifies the director of his intent to operate such a facility and provides to the department documentation required under 9 VAC 20-80-500 B;
 - b. Provides the director with the description of the type of facility and the classification of materials that will be composted as classified under 9 VAC 20-80-330 A 4;
 - c. Provides the director with a certification that the facility meets the siting standards of 9 VAC 20-80-330 B;
 - d. Furnishes to the director a certificate signed by a registered professional engineer that the facility has been designed and constructed in accordance with the standards of 9 VAC 20-80-330 C;
 - e. Submits to the director an operational plan describing how the standards of 9 VAC 20-80-330 D will be met;

- f. Submits to the director a closure plan describing how the standards of 9 VAC 20-80-330 E will be met;
- g. Submits to the director the proof of financial responsibility if required by the Financial Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment Facilities (9 VAC 20-70); and
- h. Submits to the director the results of the public participation effort conducted in accordance with the requirements contained in subdivision 5 6 of this subsection.

5. Waste piles. The owner or operator of a waste pile, if the owner or operator:

- a. Notifies the director of his intent to operate such a facility and provides the department with documentation required under 9 VAC 20-80-500 B;
- b. Provides the director with a certification that the facility meets the siting standards of 9 VAC 20-80-400 B, as applicable;
- c. Furnishes to the director a certificate signed by a registered professional engineer that the facility has been designed and constructed in accordance with the standards of 9 VAC 20-80-400 C, as applicable;
- d. Submits to the director an operational plan, including a contingency plan, describing how the standards of 9 VAC 20-80-400 D, as applicable, will be met;
- e. Submits to the director a closure plan describing how the standards of 9 VAC 20-80-400 E, as applicable, will be met;
- f. Submits to the director the proof of financial responsibility if required by the Financial Assurance Regulations for Solid Waste Facilities (9 VAC 20-70);

g. Submits to the director the results of the public participation effort conducted in accordance with the requirements contained in subdivision 6 of this subsection; and

h. Submits to the director a copy of the facility's VPDES permit if applicable.

~~5.~~ 6. Public participation.

a. Before the initiation of any construction at the facility under subdivision 1, 2, 3, or 4 of this subsection, the owner or operator shall publish a notice once a week for two consecutive weeks in a major local newspaper of general circulation informing the public that he intends to construct and operate a facility eligible for a permit-by-rule. The notice shall include:

(1) A brief description of the proposed facility and its location;

(2) A statement that the purpose of the public participation is to acquaint the public with the technical aspects of the facility and how the standards and the requirements of this chapter will be met, to identify issues of concern, to facilitate communication and to establish a dialogue between the permittee and persons who may be affected by the facility;

(3) Announcement of a 30-day comment period, in accordance with subdivision ~~5~~ 6 d of this subsection, and the name, telephone number, and address of the owner's or operator's representative who can be contacted by the interested persons to answer questions or where comments shall be sent;

- (4) Announcement of the date, time, and place for a public meeting held in accordance with subdivision ~~5-e~~ 6 c of this subsection; and
- (5) Location where copies of the documentation to be submitted to the department in support of the permit-by-rule notification and any supporting documents can be viewed and copied.
- b. The owner or operator shall place a copy of the documentation and support documents in a location accessible to the public in the vicinity of the proposed facility.
- c. The owner or operator shall hold a public meeting not earlier than 15 days after the publication of the notice required in subdivision ~~5-a~~ 6 a of this subsection and no later than seven days before the close of the 30-day comment period. The meeting shall be held to the extent practicable in the vicinity of the proposed facility.
- d. The public shall be provided 30 days to comment on the technical and the regulatory aspects of the proposal. The comment period will begin on the date the owner or operator publishes the notice in the local newspaper.
- e. The requirements of this section do not apply to the owners or operators of a material or energy recovery facility, an incinerator or a thermal treatment unit that has received a permit from the department based on the regulations promulgated by the State Air Pollution Control Board or State Water Control Board that required facility-specific public participation procedures.

6. Upon receiving the certifications and other required documents, including the results of the public meeting and the applicant's response to the comments received, the director will acknowledge their receipt within 10 working days. If the applicant's submission is administratively incomplete, the letter will state that the facility will not be considered to have a permit-by-rule until the missing certifications or other required documentation is submitted. At the time of the initial receipt or at a later date, the director may require changes in the documents designed to assure compliance with the standards of Part VI (9 VAC 20-80-320 et seq.) and Part VIII (9 VAC 20-80-630 et seq.), if applicable. Should such changes not be accomplished by the facility owner or operator, the director may require the operator to submit the full permit application and to obtain a regular solid waste management facility permit.

7. Change of ownership. A permit by rule may not be transferred by the permittee to a new owner or operator. However, when the property transfer takes place without proper closure, the new owner shall notify the department of the sale and fulfill all the requirements contained in subdivisions 1 through 4 of this subsection with the exception of those dealing with the financial assurance. Upon presentation of the financial assurance proof required by 9 VAC 20-70 by the new owner, the department will release the old owner from his closure and financial responsibilities and acknowledge existence of the new permit by rule in the name of the new owner.

8. Facility modifications. The owner or operator of a facility operating under a permit by rule may modify its design and operation by furnishing the department a new certificate prepared by the professional engineer and new documentation required under subdivision 1, 2, 3, ~~or 4~~, or 5 as applicable, and ~~5~~ 6 of this subsection.

Whenever modifications in the design or operation of the facility affect the provisions of the approved closure plan, the owner or operator shall also submit an amended closure plan. Should there be an increase in the closure costs, the owner or operator shall submit a new proof of financial responsibility as required by the Financial Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment Facilities (9 VAC 20-70).

9. Loss of permit by rule status. In the event that a facility operating under a permit by rule violates any applicable siting, design and construction, or closure provisions of Part VI of this chapter, the owner or operator of the facility will be considered to be operating an unpermitted facility as provided for in 9 VAC 20-80-80 and shall be required to either obtain a new permit as required by Part VII or close under Part V or VI of this chapter, as applicable.

10. Termination. The director shall terminate permit by rule and shall require closure of the facility whenever he finds that:

- a. As a result of changes in key personnel, the requirements necessary for a permit by rule are no longer satisfied;
- b. The applicant has knowingly or willfully misrepresented or failed to disclose a material fact in his disclosure statement, or any other report or certification required under this chapter, or has knowingly or willfully failed to notify the director of any material change to the information in the disclosure statement;
- c. Any key personnel have been convicted of any of the crimes listed in § 10.1-1409 of the Code of Virginia, punishable as felonies under the laws of the

Commonwealth, or the equivalent of them under the laws of any other jurisdiction;
or has been adjudged by an administrative agency or a court of competent
jurisdiction to have violated the environmental protection laws of the United States,
the Commonwealth or any other state and the director determines that such
conviction or adjudication is sufficiently probative of the permittee's inability or
unwillingness to operate the facility in a lawful manner; or

d. The operation of the facility is inconsistent with the facility's operations manual
and the operational requirements of the regulations.

B. Emergency permits. Notwithstanding any other provision of Part VII of this chapter,
in the event the director finds an imminent and substantial endangerment to human health
or the environment, the director may issue a temporary emergency permit to a facility to
allow treatment, storage, or disposal of solid waste for a nonpermitted facility or solid
waste not covered by the permit for a facility with an effective permit. Such permits:

1. May be oral or written. If oral, it shall be followed within five days by a written
emergency permit;
2. Shall not exceed 90 days in duration;
3. Shall clearly specify the solid wastes to be received, and the manner and location
of their treatment, storage, or disposal;
4. Shall be accompanied by a public notice including:
 - a. Name and address of the office granting the emergency authorization;
 - b. Name and location of the facility so permitted;
 - c. A brief description of the wastes involved;

d. A brief description of the action authorized and reasons for authorizing it;

e. Duration of the emergency permit; and

5. Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this chapter.

C. Experimental facility permits.

1. The director may issue an experimental facility permit for any solid waste treatment facility which proposes to utilize an innovative and experimental solid waste treatment technology or process for which permit standards for such experimental activity have not been promulgated under Part VI of this chapter. Any such permit shall include such terms and conditions as will assure protection of human health and the environment. Such permits:

a. Shall provide for the construction of such facilities based on the standards shown in 9 VAC 20-80-470, as necessary;

b. Shall provide for operation of the facility for no longer than one calendar year unless renewed as provided in subdivision 3 of this subsection;

c. Shall provide for the receipt and treatment by the facility of only those types and quantities of solid waste which the director deems necessary for purposes of determining the efficiency and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment; and

d. Shall include such requirements as the director deems necessary to protect human health and the environment (including, but not limited to, requirements regarding

monitoring, operation, closure and remedial action), and such requirements as the director deems necessary regarding testing and providing of information to the director with respect to the operation of the facility.

2. For the purpose of expediting review and issuance of permits under this subsection, the director may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements in Part VII of this chapter except that there may be no modification or waiver of regulations regarding local certification, disclosure statement requirements, financial responsibility (including insurance) or of procedures regarding public participation.
3. Any permit issued under this subsection may be renewed not more than three times. Each such renewal shall be for a period of not more than one calendar year.