



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	Virginia Waste Management Board
VAC Chapter Number:	9 VAC 20-80
Regulation Title:	Virginia Solid Waste Management Regulations
Action Title:	Amendment 3
Date:	04-30-01

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary*

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed.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.

SUMMARY OF AMENDMENT 3 TO THE VIRGINIA SOLID WASTE MANAGEMENT REGULATIONS

The 1988 Virginia Solid Waste Management Regulations were designed to provide clear and appropriate standards for the management of non-hazardous solid waste, to prevent open dumping and to prescribe substantive and procedural requirements for the issuance of permits. Responding to the promulgation of federal RCRA Subtitle D regulations in October 1991, the Virginia Waste Management Board first amended the regulations in March 1993 to reflect the federal requirements contained in Part 258, Title 40, Code of Federal Regulations. Amendment 2 was effective on May 23, 2001.

Amendment 3 is intended to incorporate and address statutory changes enacted by the General Assembly since Amendment 2 of the Virginia Solid Waste Management Regulations. These remaining statutes to be addressed in the regulations include at least the following:

- 1) The disposal capacity guarantee as required by 10.1-1408.1.B.6.
- 2) Host community agreements as required by 10.1-1408.1.B.7.
- 3) Reporting requirements for locally owned facilities as required by 10.1-1408.1.B.8.
- 4) Director's determinations as required by 10.1-1408.1.D.1 and 2.
- 5) Permit condition for capacity guarantee as required by 10.1-1408.1.P.

In addition, the regulation will be updated to correct any errors or omissions resulting from previous amendments and any outdated material.

Basis*

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General 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.

40 CFR Part 258 provides the federal authority for the criteria for municipal solid waste landfills. The web site address for Part 258 is:

<http://www.epa.gov/epahome/rules.html#codified>

Amendment 3 deals with the portions of the regulations that are not affected by the federal requirements and that are not subject to the federal program approval. Amendment 3 does not propose changes that would cause the regulations to be more restrictive than federal statutes unless changes are necessary to comply with Virginia statutes.

The Virginia Waste Management Act authorizes the Waste Management Board to supervise and control waste management activities in the Commonwealth and to promulgate regulations necessary to carry out its powers and duties. Article 2 of the Act prohibits the ownership or operation of an open dump, which is defined in §10.1-1400 to be any:

“...site on which solid waste is placed, discharged, deposited, injected, dumped, or spilled so as to create a nuisance or present a threat of a release of harmful substances into environment or present a hazard to human health.”

The Act further prohibits any person from operating a facility for the disposal, treatment, or storage of non-hazardous solid waste without a permit from the director of the Department of Environmental Quality (§10.1-1408.1 A). The Act requires the permit to contain such conditions or requirements that would prevent a substantial present or potential danger to human health and the environment (§10.1-1408.1 E). Virginia code §10.1-1402(1), and (11) state:

“The Board shall carry out the purposes and provisions of this chapter and compatible provisions of federal acts and is authorized to:

1. Supervise and control waste management activities in the Commonwealth. “

...”11. Promulgate and enforce regulations, and provide for reasonable variances and exemptions necessary to carry out its powers and duties and the intent of this chapter and the federal acts, except that a description of

provisions of any proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed, shall be provided to the standing committee of each house of the General Assembly to which matters relating to the content of the regulation are most properly referable. “

The Virginia Waste Management Act is codified as chapter 14 sections 10.1-1400 through 10.1-1457 of the 1950 Code of Virginia, as amended. The web site address for the full text is:

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+toc1001000>

Purpose*

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The disposal capacity guarantee and the permit condition for the disposal capacity guarantee will ensure that localities can contract for disposal space at new, or expanding municipal solid waste landfills in order to comply with the local solid waste management plan.

Host community agreements ensure that municipalities (including public service authorities) hosting new or expanding municipal solid waste landfills have agreements, that contain detailed provisions for the operation of the landfill. For locally owned facilities, the new provisions will ensure certain operational details will be addressed in the agreement.

The director's determination provides for the evaluation and determination of a number of safety related provisions. The proposal must protect human health, safety and the environment; there must be a need for any additional capacity; there must be sufficient infrastructure to handle the waste flow safely; any increase must be consistent with any state or local disposal limits; and the public interest must be served. The director must determine that health and safety issues have been adequately addressed.

The above items will provide for the proper operation of landfills and for the safe disposal of waste. The modifications of the regulations further protect the health and safety of the residents of Virginia by ensuring that the public interest is served and health and safety issues have been addressed.

Substance*

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

Part II - General Information

Provisions have been added for increased inspections for facilities that receive wastes from states that have a less stringent regulatory structure than Virginia.

Part V - Solid Waste Disposal Facility Standards

A. Provides for the inspection of waste at a minimum frequency of 1% of the loads entering the sanitary landfill and an inspection frequency of 10% for those facilities receiving waste from states with a less stringent regulatory structure than Virginia.

B. Consolidates all groundwater provisions into a new groundwater section 9 VAC 20-80-300. The new groundwater section clarifies the administrative process for reporting data and providing demonstrations to the department. The section provides additional opportunities for the owner or operator to demonstrate that a source other than the landfill unit caused the contamination. The information to be included in the groundwater annual report has been restructured to provide additional detail.

Part VI - Other Solid Waste Management Facility Standards

Provides for the inspection of waste at a minimum frequency of 1% of the loads entering an incinerator and an inspection frequency of 10% for those facilities receiving waste from states with a less stringent regulatory structure than Virginia.

Part VII - Permitting of Solid Waste Management Facilities

A. Requires the submission of a certification demonstrating that the facility has provided localities the opportunity to contract for and reserve sufficient disposal capacity so that they can comply with their solid waste management plans consistent with 10.1-1408.1.B.6 of the Code of Virginia.

B. Requires certification that a host community agreement has been reached as required by 10.1-1408.1.B.7 of the Code of Virginia. The agreement is required to address several provisions as specified in the Code.

C. Requires a director's determination that there is a need for the facility as required under 10.1-1408.1.D.1 of the Code of Virginia.

D. Requires the director's determination that the site is suitable for the construction and operation of a landfill under the provisions of 10.1-1408.4 of the Code of Virginia. The regulation requires the submission of a VDOT adequacy report and a landfill impact statement, information necessary for the director to make the required determination.

In addition, the section requires the submission of information indicating that the facility is consistent with the local solid waste management plan, and information demonstrating that the facility is in the public interest as specified in 10.1-1408.1 D of the Code of Virginia.

E. Requires permits to incorporate conditions required for the disposal capacity guarantee in 10.1-1408.1 P of the Code of Virginia.

Issues*

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The proposed regulation provides the administrative procedures for the submission of information to support various determinations to be made by the director that are required by the Code of Virginia. The advantage to the public and DEQ is that the director has sufficient mechanisms to obtain the data necessary to make determinations required under the provisions of the Code.

The proposed regulation provides a procedure for the director to determine the need for the facility. The needs determination could be made by local governments. However, the needs determination is required by statute to be performed by the director of DEQ, therefore a needs determination is required at the state level. Under the provisions of the Code of Virginia, the director must also make a determination that the facility is consistent with the local solid waste management plan, which includes a local determination of the need for the facility. Some may feel that the 20-year permitting timeframe for sanitary landfills to demonstrate need is not sufficient and may be a disadvantage to the regulated community since capacity cannot be permitted beyond 20 years and would have to periodically update their permit to add new capacity. The determination of a statewide or regional need could be a disadvantage since the construction of a facility could be prevented if there is capacity in another area of the state or in an adjacent planning region. The timeframes provided for the determination of the need of the facility are necessary in order to provide a means to calculate the need.

The proposed regulation consolidates the provisions for groundwater monitoring into one section of the regulations. In addition, the groundwater provisions have been updated to clarify the administrative requirements for submission of reports and data to the department. The

advantages to the public and DEQ are that both the regulated community and the regulators can clearly understand the requirements of the regulations.

Locality Particularly Affected*

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There is no locality that bears a disproportionate impact.

Public Participation*

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal.

In addition to any other comments, the Waste Management Board is seeking comments on the costs and benefits of the proposal and the impacts of the regulation on farm or forest lands.

The board is requesting that comments be provided on the implementation of the needs determination incorporated in to 9 VAC 20-80-500 C 3 of the regulation.

The Commonwealth believes it has more stringent regulatory requirements regarding what types of wastes can be disposed of at a municipal solid waste facility than those found in New York Maryland and some other states. These differences may result in higher health and safety risks. The Board is requesting that comments be provided on the adequacy of the criteria and additional controls in 9 VAC 20-80-113 D of the regulation.

Anyone wishing to submit written comments for the public comment file may do so at the public hearing, by e-mail or by mail. Written comments should be signed by the commenter and include the name and address of the commenter. E-Mail comments must include the full name and mailing address of the person commenting. In order to be considered the comments must be received by the close of the comment period. Oral comments may be submitted at the public hearing.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; e) the projected cost of the regulation for

affected individuals, businesses, or other entities; and f) an estimate of the impact of the proposed regulation upon small businesses as defined in § 9-199 of the Code of Virginia or organizations in Virginia.

Requirements have been added into the regulation based on legislative changes. Many of these changes will require additional work by both department staff and the consulting community. Consultants will be required to prepare additional documentation and department staff will need additional time to review these submissions.

Host Community Agreement 9 VAC 20-80-500 B7 (10.1-1408.1.B.7)

A certification is required to be submitted to the department indicating that a host community agreement has been reached that addresses financial compensation, daily travel routes, traffic volumes, daily disposal limits and the anticipated service area of the facility. Since these elements are typically provided in host agreements no additional expense is anticipated from this portion of the legislation. However, the legislation also requires new private facilities to pay the full cost of one employee and costs associated with splitting air and water samples sampling. The full cost for an employee could exceed \$100,000 per year. Depending on the number of gas and groundwater wells on site and the monitoring requirements associated with wetlands, the additional analysis costs associated with splitting samples could vary between \$50,000 and \$140,000 per year.

The number of facilities that would be subject to these requirements is difficult to estimate. Additional facilities subject to this requirement should be minimal averaging well less than one facility per year.

New Requirements for Locally Owned and Operated Facilities 9 VAC 20-80-500 B 8 (10.1-1408.1. B.8)

Locally owned and operated facilities are required to discuss daily travel routes, traffic volumes, the daily disposal limit and the facility service are of the facility. Preparation of a traffic study addressing volumes and additional documentation in the permit will be required. Cost for the documentation will be \$1000 to \$2000. Preparation of a traffic study package will be \$20,000 to \$50,000. This expense is encountered for a facility every time an expansion takes place. Review by the department will average 5 hours at 51.00/hr totaling \$250 per review.

There are an average of 8 new or expanded public sanitary landfills per year.

Estimated consulting cost for eight public facilities yearly will be \$168,000 to \$416,000. Estimated department review for eight public facilities yearly will be \$2000

Director's Determination 9 VAC 20-80-500 C3, 510 J, and 510 K (10.1-1408.1 D 1 and 2)

In addition to materials that are already provided with a permit application, this legislation will require some additional submissions by applicants and analysis by the department. Additional materials include a demonstration of need, demonstration of consistency with the local solid

waste plan, demonstration of public interest. We anticipate costs for a consultant to prepare this documentation to be 20 hrs x \$70 = \$1,500 per site. The department's review costs will be 5 hrs x \$50 = \$250 per site. 11 permits are issued each year that would be subject to these requirements.

Estimated consulting cost for eleven facilities yearly will be \$16,500.
 Estimated department review for eight facilities yearly will be \$2750

Director's Certification of Site Suitability 9 VAC 20-80-500 C4, 510 E, 510 G and 510 H (10.1-1408.4)

In addition to the materials already provided in a permit application, this legislation requires the director to certify that the site is suitable for the construction of a municipal solid waste landfill. The certification requires the submission and evaluation of a traffic study, discussion of the impact on parks recreational areas etc. We anticipate the cost for a consultant to prepare this documentation for each site to be 140 hrs x \$70 = \$9800. The cost for department review will be 40 hrs x \$51 = \$2040. Nine landfills yearly would be subject to this requirement.

These estimates do not include the preparation and review of the traffic study which has previously been addressed.

Estimated consulting cost for nine landfills yearly will be \$88,000.
 Estimated department review for nine landfills yearly will be \$22,400

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

9 VAC 20-80-10 Definitions

Definitions added to support new concepts and for clarification:

- Benchmark
- Composting
- Host Agreement
- Landfill gas
- Vertical design capacity

Definitions modified for clarity:

- Facility boundary
- Solid waste disposal area
- Yard waste

9 VAC 20-80-60 Applicability of Chapter

9 VAC 20-80-60 B and C

This section of the regulation deals with the implementation of the provisions for vertical expansion and horizontal expansion required by the Code of Virginia. The section has been clarified to indicate when a permit amendment is required for a vertical or horizontal expansion.

9 VAC 20-80-60 D

The exemptions for, household composting, materials regulated by other agencies, petroleum contaminated soils and management of woody wastes have been modified to be clearer and more consistent with the regulations of other agencies.

9 VAC 20-80-80 and 90 Open Dumps and Unpermitted Facilities

Both sections have been revised to be more consistent with the language used in Part IV to address open dumps and unpermitted facilities.

9 VAC 20-80-110 Public Participation

The section has been modified to require a written response to citizen complaints only if the complaint is written and signed consistent with the complaint response procedures for other media.

9 VAC 20-80-113 Control Program for Unauthorized Waste

Provisions have been added for increased inspections for facilities that receive wastes from states that have a less stringent regulatory structure than Virginia.

9 VAC 20-80-150 Exclusions**9 VAC 20-80-150 E 2**

The language in the section has been modified so the applicability of the section is clear for both the listed beneficial use and beneficial use as determined by the department.

The section was changed to expand the uses of unadulterated wood and provide for the uses of whole tires.

9 VAC 20-80-180 Open Dump Criteria

The section has been modified allow open burning consistent with the air regulations on open burning.

9 VAC 20-80-205 Initial Site Evaluation

Procedures have been added to allow for the expeditious removal or other management of waste without going through a formal process should conditions at the site be favorable for a less regimented alternative. Requirements for the submission of an executive summary and quality control data have been added to the report for the remedial investigation.

9 VAC 20-80-250 Sanitary landfill**9 VAC 20-80- 250 A**

The section has been updated to recognize new siting restrictions required by the US Code and Virginia statutes for the siting of landfills adjacent to airports, wetlands, and in the vicinity of a water supply intake.

9 VAC 20-80-250 A 10 e

The section has been updated in order to clarify defects for siting a new landfill, unless the proposed unit can be isolated from the defect through design.

9 VAC 20-80-250 C

The section further clarifies operational requirements including inspection for unauthorized wastes, the maintenance of the vegetative cover, the facility's safety program, the contents of the fire control plan and requirements for special wastes. In addition, record keeping requirements have also been updated. Provisions have been added for increasing inspection for unauthorized waste at some facilities.

Groundwater provisions have been removed from this section and consolidated with groundwater provisions for other landfill types in section 300.

9 VAC 20-80-250 E

The timeframe for the submission of a notification of the intent to close has been clarified. In addition, the section was modified to provide criteria for determining when vegetative cover has been properly established. The criteria for an engineer's certification of closure activities has also been established.

9 VAC 20-80-260 Construction/demolition/debris landfills

The new provisions clarify that only split tires can be received by a CDD landfill.

9 VAC 20-80-260 B

The section provides specific requirements for the construction of the primary drainage layer of a facility with a double liner and clarifies provisions for unlined areas used for the disposal of stumps.

9 VAC 20-80-260 C

Clarifies the requirement for and the contents of the fire control plan as well as the proper construction of a firebreak and relates the firebreak to the installation of progressive cover materials.

9 VAC 20-80-260 D

The groundwater provisions have been removed from this section and consolidated with groundwater provisions for other landfill types in section 300.

9 VAC 20-80-270 Industrial Waste Disposal Facilities

9 VAC 20-80-270 D

The groundwater provisions have been removed from this section and consolidated with groundwater provisions for other landfill types in section 300.

9 VAC 20-80-280 Control of decomposition gas

9 VAC 20-80-280 E

The section has been modified to require the implementation of the gas remediation plan within 60 days of detection consistent with 40 CFR 258.23.

9 VAC 20-80-300 Groundwater Monitoring Program

Consolidated the provisions for groundwater monitoring into one section.

The section provides language indicating the requirements for quarterly groundwater monitoring consistent with 10.1-1408.5 of the Code of Virginia.

The section has been updated to provide clarification of the regulatory timeframes for the administrative process for reporting data and providing demonstrations to the department.

The section has been updated to require specific components to be submitted as part of the groundwater annual report. These are the components that are required to determine the facility's impact on groundwater.

9 VAC 20-80-310 Corrective Action Program

A schedule for evaluating the impact of a presumptive remedy has been added to the section. There is a requirement for a schedule for implementing the remedy, but no requirement for a schedule for determining if the remedy is working. The new provision is needed to provide an expeditious remedial action.

The section states that where off site contamination is present, a presumptive remedy may not be considered as the sole remedy unless the presumptive remedy addresses the reduction of contamination beyond the facility boundary.

Appendix 5.1, 5.4, 5.5, and 5.6 have all been moved to the groundwater section in 9 VAC 20-80-300.

9 VAC 20-80-340 Solid waste transfer stations

The applicability of the section has been clarified in areas related to hazardous waste. The section required clarification. Under the proposal hazardous waste may be brought to a permitted hazardous waste facility and no unauthorized hazardous wastes may be received by a solid waste facility.

9 VAC 20-80-370 Energy recovery and incineration facilities

The requirement for a waste supply analysis has been removed. Provisions have been added for increased inspections for facilities that receive wastes from states that have a less stringent regulatory structure than Virginia.

9 VAC 20-80-480 Applicability

The section provides a new statement that requires the facility to be operated consistent with the facility operations manual. The statement is needed in order to require a facility to comply with the operations requirements in their permit.

9 VAC 20-80-500 Permit Application Procedures

The provisions for the implementation of the Disposal Capacity Guarantee required under 10.1-1408.1 B 6 of the Code of Virginia have been added in this section. This provides for the submission of the certification required by the Code.

Provides for the Host Community Agreement required under 10.1-1408.1 B 7 of the Code of Virginia. These provisions are needed in order to obtain data in order to make determinations required by the Code.

Provides for the solicitation of comments from other jurisdictions (other local governments) as required under 10.1-1408.1 D 1 of the Code of Virginia.

Provides the director determination, in writing that the location is suitable for the construction and operation of a landfill consistent with 10.1-1408.4 of the Code of Virginia.

Provides for the director's determination of the need for the facility consistent with the provisions of 10.1 1408.1 D 1 of the Code of Virginia.

Indicates that the director cannot issue and may deny the permit if information consistent with §10.1-1408.1 D of the Code is not provided.

Provides for a permit for a new or amendment authorizing the expansion of an existing sanitary landfill to contain conditions required under the disposal capacity guarantee consistent with 10.1 1408.1 P of the Code of Virginia.

9 VAC 20-80-510 Part A permit application

Provides for the VDOT adequacy report, and a landfill impact statement that are needed to fulfill the requirements of 10.1-1408.4 of the Code of Virginia which are part of the director's determination of the suitability of the site under the provisions of section 500.

The section provides for the submission of information, which will allow the director to determine if the facility is consistent with the local solid waste management plan and if the public interest is served by the facility consistent with 10.1-1408.1 D 1 of the Code of Virginia.

9 VAC 20-80-530 Part B permit application requirement for energy recovery and incineration facilities

The requirement for a waste supply analysis has been removed. The information that is required in the operating record has been clarified. In addition, the section now states where the records need to be stored in order to be available for review by the department.

9 VAC 20-80-580 Permit Denial

The director may now base the denial of a permit application on failure to provide information consistent with §10.1-1408.1 D of the Code of Virginia.

9 VAC 20-80-620 Amendment of permits

A permit condition for amendments for expansions of existing sanitary landfills consistent with the requirements of 10.1-1408.1 P of the Code of Virginia has been added to the section.

Appendix 7.1 through 7.3

The appendices have been eliminated and have been incorporated as forms at the end of the regulation.

Appendix 7.4

The appendix has been eliminated and has been incorporated into a Table in 9 VAC 20-80-620 H.

Alternatives

Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

During the development of the regulation the department will consider less burdensome and less intrusive alternatives. If, during technical advisory committee (TAC) meetings or public participation, alternatives are offered or discussed, the less burdensome and less obtrusive alternative will be used that still achieves the need of the regulation. If the less burdensome or less intrusive alternative is not chosen, the department will justify the selected alternative.

A number of alternatives were considered to determine the need for the facility. The needs determination could be made by local governments. However, the needs determination is required by statute to be performed by the director of DEQ, therefore a needs determination is required at the state level. Under the provisions of the Code of Virginia, the director must also make a determination that the facility is consistent with the local solid waste management plan, which includes a local determination of the need for the facility.

Some have stated that alternatives to the 20-year permitting timeframe for sanitary landfills to demonstrate need should be considered. The timeframes provided for the determination of the need of the facility are necessary in order to provide a means to calculate the need and are based on the planning timeframe of 20 years required in the solid waste planning regulation.

The goals of these regulations are:

To protect the public health and/or welfare with the least possible costs and intrusiveness to the citizens and businesses of the Commonwealth.

To establish standards and procedures pertaining to the siting, design, construction, operation, maintenance, closure, post-closure care, and for undertaking corrective action, in order to protect the public's health, safety and welfare and the environment from harmful results of the mismanagement of solid wastes by its generators, as well as those that store, treat or dispose of solid waste.

The department will develop the regulation to meet both stated goals.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

One commenter requested that the groundwater provisions of 10.1-1408.5 of the Code be referenced in the regulation, and suggested clarification of timeframes for required actions under the groundwater programs for sanitary landfills as well as for CDD, Industrial and non-subtitle D sanitary landfills. These areas have been addressed in the new groundwater section of the regulation 9 VAC 20-80-300.

Another commenter provided specific comments taking exception to legislation regarding the disposal capacity guarantee and host community agreements. The commenter also indicated support for a balanced approach to the implementation of the new provision for a directors determination consistent with 10.1-1408.1 D 1 of the Code. The proposed regulations have incorporated elements addressing all of the provisions of recent legislation into the regulation and comments are welcome on the implementation of these provisions. However, many of the specific provisions that the commenter has objected to are required by the Code of Virginia.

The third commenter was a company that deals with both hazardous and solid waste. The comments provided indicated a concern that some of the new wording in Amendment 2 could be construed to prohibit some of the company's current activities. This is not the case and the regulation has been modified to clarify the relationship of between hazardous and solid waste operations.

The last commenter indicated problems with the definitions of coal combustion wastes. The commenter has since indicated that the definitions are acceptable as written. The regulation has not been modified in this area.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

DEQ, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

The agency intends to review the regulation every three years based on the following goals:

To protect the public health and/or welfare with the least possible costs and intrusiveness to the citizens and businesses of the Commonwealth.

To establish standards and procedures pertaining to the siting, design, construction, operation, maintenance, closure, post-closure care, and for undertaking corrective action, in order to protect the public's health, safety and welfare and the environment from harmful results of the mismanagement of solid wastes by its generators, as well as those that store, treat or dispose of solid waste.

To provide the means for identification and prevention of open dumping.

To establish sound regulatory and programmatic basis for obtaining and maintaining approval of Virginia's program by the U.S. Environmental Protection Agency.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential 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.

The regulations protect the public's health, safety and welfare and the environment from harmful results of the mismanagement of solid wastes. However, Amendment 3 of the Solid Waste Management Regulations has no other direct impact on the institution of the family.

