



Virginia
Regulatory
Town Hall

Final 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:	February 20, 2003

Please refer 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* for more information and other materials required to be submitted in the final regulatory action package.

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

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 of these regulations 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 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 regulations will be updated to correct any errors or omissions resulting from previous amendments and any outdated material.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

On March 28, 2003 the Waste Management Board approved Amendment 3 of the Virginia Solid Waste Management Regulations, 9 VAC 20-80-10 et seq.

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, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final 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

A...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 final 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.

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 of the regulatory action's detail.

Modification to the regulations include:

Part II - General Information

Provisions have been added for increased inspections for facilities that receive wastes generated in jurisdictions having laws and regulations that allow treatment or disposal of wastes in municipal solid waste facilities that Virginia's laws and regulations prohibit or restrict.

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. An inspection frequency of 10% is required for those facilities receiving waste from jurisdictions having laws and regulations that allow treatment or disposal of wastes in municipal solid waste facilities that Virginia's laws and regulations prohibit or restrict.
- 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. Provisions for facilities in the monitoring program for sanitary facilities and the state monitoring program are more consistent when a facilities exceed the groundwater protection standard.
- C. Provides the department additional opportunities to obtain information and ensure remedies are performing properly during corrective action.

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. An inspection frequency of 10% is required for those facilities receiving waste from jurisdictions having laws and regulations that allow treatment or disposal of wastes in municipal solid waste facilities that Virginia's laws and regulations prohibit or restrict.

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 the submission of information for the director to consider when making 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 final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the 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.

Advantages to public:

1. Provides additional inspection requirements for facilities that may have a greater potential for receiving unauthorized wastes.
2. Allows localities to reserve disposal capacity in a facility.
3. Requires specific information to be included in a host community agreement.
4. Provides information that the director can consider in order to determine if there is a need for the construction or expansion of a facility.
5. Clarifies process for corrective action.
6. Makes the regulation more consistent with applicable state and federal laws.

Advantages to the agency and the Commonwealth.

1. Makes the requirements of the regulations easier to understand, and therefore easier to implement.
2. Provides clear timetables for submission of materials to the department and proceeding from one phase of groundwater monitoring to the next, thereby eliminating inconsistency. Additional clarification has been provided for content of submissions to the department.

Disadvantages to the public, the agency, and the Commonwealth:

There are no immediately apparent disadvantages that could be determined.

Statement of Changes Made Since the Proposed Stage

Please highlight any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication.

General

Where the regulations indicated that submissions should be made to the director, the regulations now state that submissions are made to the department.

9 VAC 20-80-10 Definitions

The following definitions were modified in order to make the regulation clearer: agricultural waste, benchmark, director, leachate, operating record, and speculatively accumulated material.

A definition of fossil fuel combustion products was added. Recently published guidelines from the EPA provide the framework for the management of this material.

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

New inspection provisions for sanitary landfills and incinerators have been added to the regulation. Additional requirements for the inspections must be in place within 6 months of the effective date of the regulation.

References to less stringent standards in other states and references to states have been removed from the regulation. The new provisions in the control program for unauthorized wastes are related to the management of all waste from outside of Virginia, not just waste from other states. Rather than stating that other states standards are more or less stringent, the section has been revised to indicate that the other states allow for the disposal of wastes that Virginia's laws and regulation prohibit or restrict.

9 VAC 20-80-150 Exclusions

The exclusions available to coal combustion by-products have been extended to a new category of material, fossil fuel combustion products. The terminology used in the definition of "fossil fuel combustion products" has been taken from recent EPA publications on the subject.

9 VAC 20-80-205 Initial Site Evaluation

The regulation has been clarified to indicate that the department performs the initial site evaluation. In addition, the section has been modified to indicate that when the department is satisfied that wastes have been removed from a site, no other provisions of section 210 need to be addressed.

9 VAC 20-80-250 Sanitary Landfill

The regulation has been modified to be consistent with the provisions governing landfill expansions impacting wetlands in §10.1-1408.5 of the Code of Virginia. The section now states that expansions impacting less than 1.25 acres of wetlands are allowed.

The regulation has been clarified to indicate that all jurisdictions outside of Virginia, not just other than states, need to be considered when increased inspections are required under the provisions of the control program for unauthorized wastes.

The regulation was clarified to indicate that the areas where waste has been disposed are the areas that are subject to the slope restrictions outlined in this section.

Additional facility appurtenances were added to the list of items that are subject to inspection by the department.

The regulation was clarified to indicate that notification of the department is required when a facility receives over 20 cy of animal carcasses. Previously the regulation stated that notification was required when a large number of carcasses were received.

Language in this section was added in order to clarify the requirements for landfill cap construction. The specific design requirements for sanitary facilities were not altered.

The section was modified to indicate that the sign indicating that the facility is closed is to be posted at the entrance of the facility.

The requirement discussing when facilities are subject to 30 years of post closure have been clarified. The timeframes correspond to federal timeframes associated with a facility ceasing waste acceptance and closing.

9 VAC 20-80-260 Construction/Demolition/Debris (CDD) Landfill

This section has been modified to provide language parallel to clarifying language provided in 9 VAC 20-80-250 for sanitary landfills. The new language clarifies the site characteristics that may prevent construction of a landfill or conditions that may require engineering controls in order to allow the construction of a landfill. The section was also modified to provide parallel language regarding the establishment of vegetation at CDD landfills.

The drainage layer and liner requirements for CDD landfills have been clarified. The intent and design requirements for CDD facilities were not altered.

The gas management system was added to the construction quality assurance program.

A clarification was provided to language concerning the timeframes for construction certification of the final cover system.

The section was modified to indicate that the sign indicating that the facility is closed is to be posted at the entrance of the facility.

A certification for closure of CDD landfills was added to parallel the requirements for sanitary landfills.

The timeframe for post-closure care was clarified.

9 VAC 20-80-270 Industrial Landfill

This section has been modified to provide language parallel to clarifying language provided in 9 VAC 20-80-250 for sanitary landfills. The new language clarifies the site characteristics that may prevent construction of a landfill or conditions that may require engineering controls in order to allow the construction of a landfill. The section was also modified to provide parallel language regarding the establishment of vegetation at industrial landfills.

The drainage layer and liner requirements for industrial landfills have been clarified. The intent and design requirements for industrial facilities were not altered.

The gas management system was added to the construction quality assurance program.

A clarification was provided to language concerning the timeframes for construction certification of the final cover system.

The section was modified to indicate that the sign indicating that the facility is closed is to be posted at the entrance of the facility.

A certification for closure of industrial landfills was added to parallel the requirements for sanitary landfills.

The timeframe for post-closure care was clarified.

9 VAC 20-80-280 Control of Decomposition Gases

The section was modified to clarify when and how a gas remediation plan is implemented, consistent with federal requirements.

9 VAC 20-80-300 Ground Water Monitoring Program

The language regarding providing certification of well installation has been clarified.

Redundant language for alternate source demonstrations has been eliminated from several sections and then consolidated into one section. This assists in providing consistency and clarifying timeframes for proceeding from one phase or monitoring to the next and entering the corrective action program.

The effective dates of the groundwater monitoring program for sanitary landfills have been clarified consistent with federal requirements.

Terminology that is used in the section has been clarified (initial, subsequent, and semi-annual) in detection monitoring program.

A requirement has been added indicating that in addition to providing information to the department, the facility is required to place the results of assessment monitoring events in the facility's operating record.

Additional time has been provided to establish background for assessment monitoring.

A clarification has been provided indicating that the director approves groundwater protection standards.

The timeframes for actions that are required by the owner or operator following establishment groundwater protection standards have been clarified.

A clarification was provided defining when the director will not require a ground water monitoring plan to be updated.

A clarification has been provided indicating that groundwater protection standards will be determined for detected constituents, not all constituents.

The section was modified so that only relevant concentration data is required to be submitted to support groundwater protection standards.

The section was modified to eliminate a requirement for a variance for establishing MCLs.

The state groundwater monitoring program was modified to have the same required actions as the program for sanitary landfills when the groundwater protection standard is exceeded.

The section describing implementation of corrective action was eliminated. Implementation of a corrective action program is described, for both the sanitary and the state program, in the section of the regulations dealing with exceeding groundwater protection standards.

The phase III groundwater monitoring requirements were eliminated. This was part of the state groundwater monitoring program intended to support the corrective action ground water monitoring program. The state and federal programs now have the same type of ground water monitoring program to support corrective action.

The requirements of the modified program allowed under the state ground water monitoring program have been clarified.

9 VAC 20-80-310 Corrective Action Program

Several provisions from 9 VAC 20-80-210 of these regulations have been added to this part (Part 310). When the owner or operator has entered the corrective action program, the director may require periodic progress reports. The director may require interim measures to be implemented in order to protect human health or the environment. The director may require the owner or operator to consider alternative remedies. Additional provisions have been added for the

evaluation of the effectiveness of the remedy. Specific examples of cost data have been provided for the evaluation of the owner's capability to implement the remedy.

Additional clarification has been provided concerning the scope of the assessment of corrective measures. A specific recommendation for a remedy must be provided with the assessment of corrective measures.

An evaluation of current trends in ground water quality data is required as part of the submission for presumptive remedies. Specific criteria have been included in the section that must be evaluated initially and every 3 years to determine the effectiveness of the presumptive remedy.

Clarification has been provided in section on the presumptive remedy and the corrective action plan clarifying that these modifications must be incorporated into the facility permit.

Modifications have been made to clarify how the facility will move from the assessment of corrective measures to implementation of a corrective action plan. The section provides for departmental review of the assessment of corrective measures and notification to proceed with the preparation of the corrective action plan.

9 VAC 20-80-330 Compost Facilities

The pad design for composting was modified to allow lime stabilized soil to be used for active composting operations.

The compost stabilization criteria were modified to allow temperature decline as a method to determine stabilization for all composting facility types.

Testing for viruses was eliminated from the testing requirements for finished compost.

9 VAC 20-80-370 Energy Recovery and Incineration Facilities

For unauthorized waste inspection programs at incinerators, references to states have been removed from the regulation. The new provisions in the control program for unauthorized wastes are related to the management of all waste from outside of Virginia, not just waste from other states.

9 VAC 20-80-500 Permit Application Procedures

The section has been clarified to indicate that the provisions for a disposal capacity guarantee and host agreements do not apply to localities that only accept waste within their jurisdiction. These provisions have been included consistent with the Code of Virginia.

A clarification has been provided to indicate that all of the alternatives for submitting information to the director on which he can base a determination of the need for the facility are available to sanitary landfills.

The section has been modified to require the department rather than the facility owner and operator to notify neighboring jurisdictions of the pending approval or a permit application and provide opportunity for the neighboring jurisdictions to comment during the public participation period for the permit.

9 VAC 20-80-520 Energy Recovery and Incineration Facilities

The permit application provisions have been clarified to specifically require that monitoring and maintenance activities should be addressed in the facility's operations manual and inspection plan.

9 VAC 20-80-640 Asbestos-Containing Waste Materials

The section was modified so that the definitions appearing in the section are consistent with the federal requirements for the management of asbestos waste. The section is intended to be completely consistent with the federal program and conflicting terminology and definitions have been modified.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

Please see attached table outlining public comments received according to the regulatory section they pertain to. A table listing the individuals and companies that commented on the regulation has also been provided.

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 crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

9 VAC 20-80-10 Definitions

Definitions added to support new concepts and for clarification:

Benchmark

Composting

Fossil fuel combustion products

Host Agreement

Landfill gas

Vertical design capacity

Definitions modified for clarity:

Agricultural waste

Benchmark

Director

Facility boundary

Leachate

Operating record

Speculatively accumulated material

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 of landfills allowed 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

Sanitary landfills and incinerators meeting the requirements in 113 D must update their unauthorized waste acceptance plan within 180 days of the effective date of the regulations.

9 VAC 20-80-60 E

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 jurisdictions whose laws and regulations allow for the treatment or disposal of waste in municipal solid waste facilities that Virginia's laws and regulations prohibit or restrict from management sanitary landfills or incinerators.

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 for beneficial use 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. Beneficial uses allowed for coal ash are extended to a new category of materials "fossil fuel combustion products" which will allow beneficial use of ash resulting from fossil fuel combustion.

9 VAC 20-80-160 Conditional Exemptions

Exemptions that were previously available to coal ash now allow fossil fuel combustion products to be used under the same conditions. This will expand the use of fossil fuel combustion products.

9 VAC 20-80-180 Open Dump Criteria

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

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 C 13 h

The section requires the maintenance of facility features in order to ensure that they are in good working order.

9 VAC 20-80-250 C 13 h

Notification of the department is required when over 20 cy of animal carcasses are disposed in order for the department to determine if inspection personnel should be present when carcasses are disposed.

9 VAC 20-80-250 D

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

9 VAC 20-80-250 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.

The sign indicating the facility is closed is required to be posted at the entrance of the facility.

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 A 8 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 20-80-260 B

The section clarifies requirements for liner and leachate collection systems and clarifies provisions for unlined areas used for the disposal of stumps.

9 VAC 20-80-260 C

The modification 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 20-80-260 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.

The sign indicating the facility is closed is required to be posted at the entrance of the facility.

9 VAC 20-80-270 Industrial Waste Disposal Facilities

9 VAC 20-80-270 A 7 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 20-80-270 B

The section clarifies requirements for liner and leachate collection systems

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 20-80-270 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.

The sign indicating the facility is closed is required to be posted at the entrance of the facility.

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

The provisions for groundwater monitoring have been consolidated 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 and for proceeding from one phase of monitoring to the next.

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.

Modifications have been made to make the timeframes in the sanitary and state programs more consistent when ground water protection standards are exceeded. In addition, clarification has been provided regarding timeframes and requirements directing an owner or operator to begin a corrective action program.

The phase III groundwater monitoring requirements were eliminated. This portion of the state ground water monitoring program was intended to support the corrective action ground water monitoring program. The state and federal programs now have the same ground water monitoring program to support corrective action.

The requirements of the modified program allowed under the state ground water monitoring program have been clarified.

9 VAC 20-80-310 Corrective Action Program

Several provisions from Part 210 of these regulations have been added to Part 310. When the owner or operator has entered the corrective action program, the director may require periodic progress reports. The director may require interim measures to be implemented in order to protect human health or the environment. The director may require the owner or operator to consider alternative remedies. Additional provisions have been added for the evaluation of the effectiveness of the remedy. Specific examples of cost data have been provided for the evaluation of the owner's capability to implement the remedy.

Additional clarification has been provided concerning the scope of the assessment of corrective measures. A specific recommendation for a remedy must be provided with the assessment of corrective measures.

An evaluation of current trends in ground water quality data is required as part of the submission for presumptive remedies. Specific criteria must be evaluated initially and every 3 years to determine the effectiveness of the presumptive remedy.

Clarifications have been provided in the section discussing the presumptive remedy and the corrective action plan, clarifying that these modifications must be incorporated into the facility permit.

Modifications have been made to clarify how the facility will move from the assessment of corrective measures to implementation of a corrective action plan. The section provides for departmental review of the assessment of corrective measures and notification to proceed with the preparation of the corrective action plan.

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 20-80-300 Compost Facilities

The pad design for composting was modified to allow lime stabilized soil to be used for active composting operations. This will provide economical alternatives to processing areas on concrete and asphalt.

The compost stabilization criteria were modified to allow temperature decline as a method to determine stabilization for all composting facility types. This will provide economical alternatives to ensure compost stability consistent with recommended industry standards.

Testing for viruses was eliminated from the testing requirements for finished compost. Proper facility operation at elevated temperatures would prevent the threat of viruses.

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. Unauthorized hazardous wastes may not 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 receiving waste from jurisdictions having laws and regulations that allow treatment or disposal of wastes in municipal solid waste facilities that Virginia's laws and regulations prohibit or restrict

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 ensure a facility to complies 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. The department will inform other jurisdictions of pending public comment periods.

Provides for the director's 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 that 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 20-80-520 Energy Recovery and Incineration Facilities

The permit application provisions have been clarified to specifically require that monitoring and maintenance activities are addressed in the facility's operations manual and inspection plan.

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.

9 VAC 20-80-640 Asbestos-Containing Waste Materials

The section was modified so that the definitions appearing in the section are consistent with the federal requirements for the management of asbestos waste. The section is intended to be completely consistent with the federal program and conflicting terminology and definitions have been modified.

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 7.2 in 9 VAC 20-80-620 H. A minor modification has been provided for surface impoundment units

Family Impact Statement

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

Joyce Engineering	Phillips	Terri	C.		JE
	DiFrancesco	James	R.	Jr., P.E.	JE
Safety Kleen MACA	Lanahan	Jay		CHMM	SK
Department of Waste Management of Shenandoah County Virginia	Evanylo	Gregory	K.		GE
ReUse Technology, Inc.	Mikus	Henry	J.		SH
Waste Management Southeastern Public Service Authority	Waldrop	Robert	J.		RU
MeadWestvaco Corp. Dominion	Cooper	Troy	A.K.		WM
Mirant Americas, Inc. Cogentrix	Cheliras	Richard	M.		SPSA
	Cox	Gregory	W.	P.E.	MWV
	Faggert	Pamela	F.		Dom
	Williams	Mark		P.E.	MIR
	Casper	Mark	A.		COG
Facility Engineering Associates	Roskoski	M.	Kathryn	R.E.P.A.	FEA
Mecklenburg County Board of Supervisors	Carter	H.	Wayne	III	MC
American Electric Power Gannet Fleming	Banner	Claudia			AEP
	Hasemeier	Robert	F.	P.E.	GF

Code	Number	Citation	Comment	Response
GF	3		Definition of "Agricultural Waste" is too broad in light of large commercial processing plants. Should provide a distinction between on-farm and processing wastes.	Revised
GF	4		Definition of "Benchmark" should require the base to be set below the frost line.	Revised
GF	5		Definition of "Industrial Waste" and "Agricultural Waste" appear to conflict	No Change. The definition of "industrial waste" comes directly from 40 CFR Part 258 and should not be modified.
GF	6		Definition of "Qualified Groundwater Scientist" should be amended to provide for professional registration as a geologist similar to requirement for PE	No Change. Such a definition would be too restrictive. The definition is consistent with 40 CFR 258.50 (g).
GF	7		Definition of "Yard Waste" should be modified to allow for material that have been size reduced to less than 6" in maximum dimension.	No Change. The definition of yard waste is consistent with the definition in 10.1-1400 of the Code of Virginia.
AEP	1	10	Supports definition change of coal-combustion by-products.	No Change Requested. Acknowledged.
AEP	2	10	Supports addition of specific definition of "Fossil fuel combustion products"	Acknowledged
COG	1	10	Supports change to the definition of "coal combustion by-products"	Acknowledged
COG	2	10	Provide new definition of "fossil fuel combustion products" consistent with EPA 65 FR 99, May 22, 2000, Page 32215	Revised.
DOM	1	10	Supports change to the definition of "coal combustion by-products"	Acknowledged
DOM	2	10	Provide new definition of "fossil fuel combustion products" consistent with EPA 65 FR 99, May 22, 2000, Page 32215	Revised.

JE	1	10	Consolidate the boundary definitions further. Consolidate at least the following terms (existing unit, facility boundary, landfill disposal area, solid waste boundary, solid waste disposal area, unit, waste management unit boundary)	No Change. The numerous boundary definitions are provided in order to address numerous references in federal and state law, federal and state regulations, and federal and state guidance.	
JE	2	10	Clarify the meaning of the term "Certification" as follows "Certification or Certify when used relative to the services of a registered professional engineer, professional geologist, or qualified groundwater scientist, shall mean an expression of the professionals opinion to the best of his or her information, knowledge and belief, and does not constitute a warranty or guarantee by the professional."	No Change. Such a statement would define the contractual arrangements between a professional engineer or geologist and their client as well as standards of professional conduct that are not the function of this regulation.	
JE	3	10	The term "department" should replace "director" in most places in the VSWMR.	Revised. Where submissions are made the terms have been modified.	*
MIR	1	10	Supports change to the definition of "coal combustion by-products"	Acknowledged	
MIR	2	10	Provide new definition of "fossil fuel combustion products" consistent with EPA 65 FR 99, May 22, 2000, Page 32215	Revised.	
RU	1	10	Supports change to the definition of "coal combustion by-products"	Acknowledged	
RU	2	10	Provide new definition of "fossil fuel combustion products" consistent with EPA 65 FR 99, May 22, 2000, Page 32215	Revised.	
JE	5	105	Delete item 1 since the time period has already passed.	No Change. Timeframes will remain in the regulation for compliance and enforcement purposes.	*

FEA	1	110.E.1	Clarification needed regarding the department's response to e-mail.	No Change. The section was modified to make DEQ complaint investigation and response consistent between various programs. This language is consistent with other program language in 9 VAC 25-31-910 and 9 VAC 25-32-280. The modification was not made due to complaints received by e-mail.
GF	8	110.E.1	DEQ should not be required to investigate all complaints but should be allowed to exercise due diligence in complaint investigation	No Change. The section was modified to make DEQ complaint investigation and response constant between various programs. This language is consistent with other program language in 9 VAC 25-31-910 and 9 VAC 25-32-280.
JE	6	113.A	Delete the date that has already passed.	No Change. Timeframes will remain in the regulation for compliance and enforcement purposes.
SPSA	2	113.A	Specify the less stringent schemes are for the disposal and the incineration of RMW, PCB and CESQG wastes	Clarification provided. The new requirements are for the screening of all unauthorized wastes. The criteria for program implementation include a screening procedure using RMW, PCB and CESQG wastes.
GF	9	113.D	Increased inspections should be for all unauthorized waste types.	Clarification provided. The new requirements are for the screening of all unauthorized wastes. The criteria for program implementation include a screening procedure using RMW, PCB and CESQG wastes.

JE	7	113.D		eliminate "or restrict"	No Change. Virginia requires the submission of a special waste request prior to the disposal of a some special wastes. Therefore, Virginia has placed restrictions on the disposal of these wastes. Other states that allow the disposal of that same waste without notification or special handling may send that restricted waste to a Virginia landfill without the knowledge of the facility. The language is appropriate for these cases.
SPSA	3	113.D	Also address waste from outside of the US		Revised.
WM	1	113.D	There is no clear definition of less stringent		Revised to eliminate language suggesting other regulatory schemes are less stringent. Language was modified from the language suggested.
WM	2	113.D	There is no indication or evidence that receiving waste from other states constitutes a problem for which facilities should be subjected to additional inspections		No Change. Landfills should be aware of the types of wastes that are being received. Virginia regulations prohibit the receipt of some wastes unless the director is notified because the wastes may require special handling or present additional concerns for workers. In addition, some facilities may not have liners and leachate collection systems or may have contaminated the groundwater. In cases where the facility has had violations related to waste handing or where groundwater is contaminated or for other reasons where human health or the environment must be protected, the director may choose to restrict the receipt of some waste at a

facility.

WM2	1	113.D	Suggested language provided	Revised to eliminate language suggesting other regulatory schemes are less stringent. Language was modified from that suggested.
WM2	2	113.D.2	Eliminate language stating that the regulations for these other states are less stringent. Eliminate requirement that allows the department to impose limit based on ability to inspect. Suggested language provided.	Revised to eliminate language suggesting other regulatory schemes are less stringent. Language was modified from that suggested.
JE	8	113.D.3	Eliminate this section in it's entirety. There is no statutory basis for limiting the number or volume of loads.	No Change. Although we do not anticipate restricting a facilities ability to accept waste, the director may impose requirements on a facility in order to protect human health and the environment. These statements simply clarify that restricting waste volumes may be one option when facilities fail to implement an effective unauthorized waste control program.
WM	3	113.D.3	It is unclear what "increased monitoring" refers	Clarification provided.

WM	4	113.D.3	A limit on loads from other states is unconstitutional. The section should be deleted.	to No Change. Although we do not anticipate restricting a facilities ability to accept waste, the director may impose requirements on a facility in order to protect human health and the environment. These statements simply clarify that restricting waste volumes may be one option when facilities fail to implement an effective unauthorized waste control program.
AEP	3	150	Supports Dominions suggestion for exclusions	Revised
COG	3	150	All exclusions applying to coal combustion by-products should apply to fossil fuel combustion products (specific examples provided)	Revised
DOM	3	150	All exclusions applying to coal combustion by-products should apply to fossil fuel combustion products (specific examples provided)	Revised
MIR	3	150	All exclusions applying to coal combustion by-products should apply to fossil fuel combustion products (specific examples provided)	Revised
RU	3	150	All exclusions applying to coal combustion by-products should apply to fossil fuel combustion products (specific examples provided)	Revised
AEP	4	160	Supports Dominions suggestion for exemptions	Revised
COG	4	160	All conditional exemptions applying to coal combustion by-products should apply to fossil fuel combustion products (specific examples provided)	Revised
DOM	4	160	All conditional exemptions applying to coal combustion by-products should apply to fossil fuel combustion products (specific examples provided)	Revised

MIR	4	160	All conditional exemptions applying to coal combustion by-products should apply to fossil fuel combustion products (specific examples provided)		Revised
RU	4	160	All conditional exemptions applying to coal combustion by-products should apply to fossil fuel combustion products (specific examples provided)		Revised
FEA	2	170.C	Clarify that there are other situations where the requirements of open dump do not apply. The language should be strengthened stating "the requirements do not apply to sites which pass each or the criteria listed in 180 and have been granted enrollment in of found to be eligible for VRP(9VAC20-160-10)"	No Change. Section 170 B involves sites or practices and section 170 C involves active enrollment in a program. The placement of the provisions in the regulation is correct. If a site is eligible for the Voluntary Remediation Program, that does not require them to participate, the suggested language could prevent the department from pursuing open dump status for sites that are eligible for the Voluntary Remediation Program, but do not wish to participate.	*
FEA	3	180.B.4.c(2)	State "...an increase over naturally occurring background concentration for any GW constituent which already may exist at concentrations which exceed the maximum concentration level"	No Change. The suggested change does not clarify the section. The existing wording seems clear and tracks federal language in 40 CFR 257.3-4.	
FEA	4	205.A	Clarify who will conduct the initial site evaluation (ISE). If it must be submitted by the owner provide a timeframe.	Revised. The department conducts the	ISE

FEA	5	205.B.2	DEQ should require environmental site data in 205.A in order to support a determination made under this section.	No Change. 9 VAC 20-80-205.A.4 requires a preliminary evaluation of environmental site data if any are available. The purpose of the ISE is to determine if further study is needed. If information is not available to make a determination and additional study is warranted additional site specific data can be obtained under the provisions of subsequent sections.	
FEA	6	205.B.3	Clarify the phrase "a site inspection will be performed by the department" it does not seem to fit with other items in the section	Clarification provided.	
JE	9	205.B.3	Add to the end of the first sentence of B.3 "without having to meet the evaluation requirements of 210.A"		Revised
FEA	7	210	The remedial requirements in 210 are much more detailed than those for permitted facilities in 310. The requirements of 210 should apply to permitted facilities minus the language regarding consent orders and enforcement actions.	Revised. The section has been modified to include some of the applicable elements of 9 VAC 20-80-210	*
JE	10	250.A.1.c	Delete this section since the date has passed.	No Change. Timeframes will remain in the regulation for compliance and enforcement purposes.	
JE	11	250.A.2	Delete reference to the October 1993 date since it has already passed.	No Change. Timeframes will remain in the regulation for compliance and enforcement purposes.	
JE	12	250.A.3.b	Delete that paragraph since the timeframe has passed	No Change. Timeframes will remain in the regulation for compliance and enforcement purposes.	

GF	10	250.A.4	Waste regulations should allow more flexibility for landfill expansions and should consider exemptions allowed in 1408.5.C of the Code of Virginia	Revised. The section was modified to allow expansion into up to 1.25 acres as allowed under the law.
GF	11	250.B.15	Rather than requiring a slope limit, the regulation should require a minimum factor of safety (FOS) of 1.3 for slope design with some flexibility for a lower FOS.	No Change. Good engineering design based on the recommendations of factors of safety in EPA and other publications is expected. Placing these factors in the regulations is to prescriptive. Side slopes are usually limited due to maintenance problems for slopes exceeding 33% as well as the friction factors of synthetic materials that are used in a landfill cap.
JE	13	250.B.8	Remove the change to be consistent with section 280	No Change. Section 250 establishes a design standard to meet, section 280 provides the elements that are required to be addressed to meet that standard.
WM	5	250.C	There is no discussion of what an inspection entails	No Change. Facilities may establish waste screening procedures based on the design and operation of the facility, the department determines if the provisions are adequate by reviewing the inspection plans and performing compliance inspections.
WM	6	250.C	The inspection provision is duplicative and imposes unnecessary burden on the owner/operator	No Change. The owner or operator is responsible for the wastes that are received at the facility.
WM	7	250.C	The section differentiates between instate and out of state waste in violation of the commerce clause	No Change. The section discusses jurisdictions that regulate certain materials differently than Virginia. This does not violate the commerce clause.

WM	8	250.C	Facilities already inspect loads and there is no indication there is a problem with these wastes getting into landfills.	No Change. These procedures are intended to further prevent unauthorized wastes from being received by landfills.
WM	9	250.C	Other provisions are available to screen out these wastes such as contractual provisions and transfer site inspections.	Revised. Additional procedures have been added in section 113 for facilities to notify customers of Virginia's disposal requirements.
GF	12	250.C.1	Increased inspections should be for all waste.	No Change. The section includes provisions for other unauthorized wastes.
SPSA	4	250.C.1	add and personnel receiving waste generated outside of Virginia for incineration.	Revised.
JE	14	250.C.1.b	eliminate the term "or restrict" as suggested for 113.D	No change. Virginia requires the submission of a special waste request prior to the disposal of a some special wastes. Therefore, Virginia has placed restrictions on the disposal of these wastes. Other states that allow the disposal of that same waste without notification or special handling may send that restricted waste to a Virginia landfill without the knowledge of the facility. The language is appropriate for these cases.
SPSA	6	250.C.16.o	Provide a concrete number of animals. Define "large number" of carcasses	Revised. *
GF	13	250.C.2.e	Some areas of the landfill may need to stay open for more than 1 year. Provide a minimum threshold such as 5 acres.	No Change. The regulations already allow for the director to approve alternate timeframes (more than one year) in this section.
GF	14	250.C.2.g	The regulation should provide for reasonable exceptions to this rule. An engineered design to internal landfill slopes may be more appropriate.	Clarification provided. The added section does not relate to designed landfill slopes, but the slopes of the waste internal to the landfill. This issue has been clarified.

MWV	1	250.C.6.b	Add the following in a new item: " the owner or operator may request the deletion of certain monitoring based on a demonstration that the constituents would not be expected to be present in the leachate from the monitored unit"	Revised. In addition, clarification provided on the definition of "leachate".
SPSA	5	250.C.9	Section 9 VAC 20-80-520-C.2.k cannot be located.	No Change. When a proposed regulation is published, the Virginia Register does not publish unchanged sections of the regulations and this sometimes presents confusion. The section exists and is correct, the section simply was not published in the Virginia Register since the Amendment 3 proposal offered no changes to the section.
GF	15	250.E.1.	Provide more description or definition of infiltration and erosion layers. Provide for design for vehicle access to the landfill cap.	Clarification provided for the use of the term "infiltration layer". We feel the other suggested changes are not appropriate or the commentors intent is not completely clear. Design should be based on good engineering practice and need not be specifically spelled out in the regulation.
JE	15	250.E.3.d	State "at least 180 days"	Revised
JE	16	250.E.5.d(4)	The owner or operator should provide the certification	No Change. The certification by a professional engineer provides independence from the owner and is consistent with 40 CFR Part 258.60

JE	17	250.F.2.a	On or before Oct 9 1993 should be added for consistency	Change, but not in the manner recommended. To be consistent with federal deadlines, facilities that received waste on or after Oct 9, 1993 are subject to 30 years of post closure monitoring. Also modified Section 300B for consistency.
GF	16	250E.4	The section requires closure of the "unit" when it has achieved final grades. Provide for performance criteria for landfill closure rather than basing criteria on conditions that apply to a "unit". The provisions are potentially in conflict with 250 E.1. The term "unit" adds confusion to this section and should be clarified.	No Change. The section does not mention the unit reaching final grades as referenced in the comment. The section requires closure activities to begin within 30 days of the last receipt of waste and contains provisions to extend the timeframe if additional capacity remains. The term "unit" is defined in the regulations, the comment implies that it is not. There is no apparent conflict with 250.E.1. Revised
JE	18	260.A.8.e	For consistency make the same changes to this section as were made in 250.A.10.e	Revised
JE	19	260.B.14.a(3)	Make this section more consistent with 260.B.14.b(5)	Revised
JE	20	260.B.14.b(5)	Modify language for clarity, suggested language provided.	Revised
JE	21	260.B.14.e(3)	Modify language for clarity and consistency, suggested language provided.	Revised
JE	22	260.B.14.e(5)	Modify language for clarity and consistency, suggested language provided.	Revised
JE	23	260.B.17.c(2)	Add landfill gas monitoring or gas venting system if required pursuant to 260.B.9	Revised
JE	24	260.B.17.d	Add to be consistent with 250.B.18.d "an additional engineers certification is required under the provisions of 550.A.1	Revised

JE	25	260.C.11.b	Delete reference to the fire break. With the modified language, operators will loose their ability to remove weekly cover prior to placing the next lift of waste.	No Change. The firebreak should remain in place and not be removed. The purpose of a firebreak is to have periodic areas of noncombustible materials within the waste mass in order to prevent the spread of fire. The regulation is written such that if there are frequent applications of non combustibile waste materials or if a different frequency of fire break is desirable for operational reasons alternative timeframes for firebreaks can be considered as long as they are written into the facility permit.	*
JE	26	260.E.4.a	For consistency make same changes as were made in 250.E.5.a	Revised	
JE	27	260.E.4.b	For consistency make same changes as were made in 250.E.5.b	Revised	
JE	28	260.E.4.c	For consistency make same changes as were made in 250.E.5.d(4)	Revised	
JE	29	260.E.5	For consistency make same changes as were made in 250.E.6	Revised	
JE	30	260.E.6	For consistency make same changes as were made in 250.E.7	Revised	
JE	31	260.F.1	For consistency make same changes as were made in 250.F.1	Revised	
JE	32	270.A.7.e	For consistency make same changes as were made in 250A.10.e	Revised	
JE	33	270.B.14.a. (3)	The wording of the provision should be more consistent with 260.B.14.a(3)	Revised	
JE	34	270.B.14.b(5)	Modify language for consistency suggested language provided	Revised	
JE	35	270.B.14.e(3)	Modify language for consistency and clarity suggested language provided	Revised	

JE	36	270.B.14.e(5)	Modify language for consistency and clarity suggested language provided		Revised
JE	37	270.B.19.c(2)	Add landfill gas monitoring or gas venting system if required pursuant to 260.B.18		Revised
JE	38	270.B.19.d	Add to be consistent with 250.B.18.d "an additional engineers certification is required under the provisions of 550.A.1		Revised
JE	39	270.E.4.a	For consistency make same changes as were made in 250.E.5.a		Revised
JE	40	270.E.4.b	For consistency make same changes as were made in 250.E.5.b		Revised
JE	41	270.E.4.c	For consistency make same changes as were made in 250.E.5.d(4)		Revised
JE	42	270.E.5	For consistency make same changes as were made in 250.E.6		Revised
JE	43	270.E.6	For consistency make same changes as were made in 250.E.7		Revised
JE	44	270.F.1	For consistency make same changes as were made in 250.F.1		Revised
JE	45	280.E.1.c	The gas remediation plan should be placed in the operating record and implemented rather than approved by the dept.	No Change. The plan may be implemented at once. However the department also has the responsibility to determine that the plan is complete and adequate and that it is made part of the permit so that it is enforceable.	Revised *
FEA	8	300.A.2.c	add citation to 620.E (permit modification) as noted		Revised
FEA	9	300.A.3.e	An additional requirement should be added stating that a site specific O and M plan shall be designed and implemented onsite and a copy placed in the facilities operating record.	Revised, but not in the manner suggested. Requirements for a operation and maintenance plan are more properly located in 9 VAC 20-80-520 C. Modifications clarify that groundwater activities are required to be	*

inspected and maintained in accordance with a plan.

FEA	10	300.A.3.f(3)	Language appears to be missing from this section.	Clarification provided.
DOM	5	300.A.4.c	Groundwater rate and direction should be determined annually as the regulation requires now and should not be increased to each sampling event.	No Change. Evaluating flow rate and direction at each event will ensure that the facility meets the requirements of 300 A 3
FEA	11	300.A.4.f	A second sentence should be added stating that "the statistical method chosen may require the collection of more than the single sample per compliance event as required under the detection, assessment, phase I, phase II, or phase III monitoring programs described in this section. Collection of additional samples does not conflict with any of the sampling requirements contained within this section because such requirements are clearly stated as minimum requirements."	No Change. The department recognizes that more than one sample per event may be required to support the statistical method chosen. No change to this section is required to support this concept.
JE	46	300.B.1.e	The proposed language would require facilities to continue monitoring quarterly after waste acceptance ceased. The section should be modified to be consistent with the code.	No Change. Section 10.1-1408.5 of the Code of Virginia requires those facilities that accept MSW and meet the location requirements in the Code to begin quarterly monitoring. The Code does not address discontinuing this monitoring at any point. The terms "accepting MSW" used in the Code mean having accepted MSW at any time subsequent to the effective date of the provision (July 1,

1999).

FEA	12	300.B.2.a(1))	Substitute "background sampling event" for "initial sampling event" it is the intent of this sampling event to establish background. The event should be named after its purpose.	No Change. Federal criteria use the term "first semiannual". Current regulations reflect the fact that the event is a "first determination". We feel that the requirements of the section are clear and renaming the section may present more confusion (is this a new requirement ?) than a name change would clarify.
FEA	13	300.B.2.a(1))	This section should read "within 180 days of the initial sampling event conducted under the detection monitoring, the facility shall obtain a minimum of four independent groundwater samples from each monitoring well and determine background for each Table 5.5 constituent.	No Change. We have had no problems with the interpretation of this section of the regulation. The existing wording does not appear to be confusing.
SPSA	7	300.B.2.a(1))	Allow sanitary landfill owners a period of one year to establish background.	No Change. Timeframes provided are consistent with federal requirements (40 CFR 258.54 semi-annual). Any delay in establishing background delays response to contamination. Variances to established timeframes are available with appropriate justification for site specific or unique situations.
JE	47	300.B.2.a(3))	The second sentence should be modified to include monitoring during the post-closure care	Revised

				period	
FEA	14	300.B.2.c	Substitute "an alternate source demonstration shall..."		Revised. A clarification has been provided which meets the intent of the suggestion for identifying "alternate source demonstration"
FEA	15	300.B.2.d	EPA guidance has clarified that 90 days is allowed to submit a demonstration although the language of the reg is consistent with corresponding federal regulations.		Revised
JE	51	300.B.3	Add language similar to that used for CDD and Industrial as follows "If any detected 5.1 constituent is subsequently not detected for a period of 2 years, the o/o may petition the director to delete that constituent from the list of detected 5.1 constituents		No Change. Such a provision is inconsistent with federal criteria.
JE	48	300.B.3.d	Clarify the language in this section so the specific timeframes noted are clear (suggested language has been provided.)		Revised but not in the manner suggested. Timeframes have been clarified and are all based on when the results of the initial or subsequent events are obtained. Where timeframes are provided in 40 CFR Part 258, the timeframes in this section are consistent with federal requirements. Where timeframes are not specified in Part 258 timeframes have been clarified and in some cases additional time has been provided.

SPSA	8	300.B.3.d(3)	Allow sanitary landfill owners a period of one year to establish background.	No Change. Timeframes provided are consistent with federal requirements. Any delay in establishing background delays response to contamination. For assessment monitoring contamination has already been detected. Variances to established timeframes are available with appropriate justification for site specific or unique situations.	
SPSA	9	300.B.3.d(4)	"approval" is not sufficiently defined state the following" no later that 30 days after receipt of written approval of the GWMP from DEQ"	Revised. The section was not revised in the specific manner suggested, but the section has been clarified.	*
SPSA	10	300.B.3.d(4)	"approval" is not sufficiently defined state the following" no later that 30 days after receipt of written approval of the GWMP from DEQ"	Revised. The section was not revised in the specific manner suggested, but the section has been clarified.	*
FEA	16	300.B.3.d(4)	Add regulatory citation to this section "as allowed under 9 VAC 20-60-620E	Revised	
FEA	17	300.B.3.d(4)	Section is ambiguous revise as follows "For subdivision (a) and (b) of this subsection, the requirement for the owner or operator to amend the Permit will be waived if a written determination is received from the director stating the existing Groundwater Monitoring Plan is deemed appropriate for current site conditions."	Revised but not in the specific manner suggested. However the section was modified to eliminate ambiguity as suggested.	
SPSA	11	300.B.3.d(4)	A minimum of 4 independent sampling points are needed to adequately determine statistical significance.	No Change. An appropriate number of samples are required to support the statistical method chosen within the timeframe allowed by the regulations.	
JE	49	300.B.3.g	Delete the 90 day timeframe from the last sentence.	No Change. An expeditious determination of the extent of the plume is essential to protect human health and the environment.	

JE	50	300.B.3.h	To be consistent with B.3.d(4), shall determine the GPS for detected constituents only		Revised
JE	52	300.C.2.	Should be revised to be consistent with B.1.c Stopped accepting waste on or before	Revised. However dates were made consistent with federal requirements which differed from the suggested wording.	
FEA	18	300.C.3.d(1)	the term permittee rather than owner operator is used here, replace as appropriate	No Change. The term permittee is used elsewhere in the regulations and is used appropriately here.	
FEA	19	300.C.3.d(1 b)	Typo "downgradient"		Revised
FEA	20	300.C.3.d(2)	EPA guidance has clarified that 90 days is allowed to submit a demonstration although the language of the reg is consistent with corresponding federal regulations.		Revised
FEA	21	300.C.4.b(1)	Replace existing language with "but must be completed within the 21 month timeframe"		Revised
JE	53	300.C.4.b(3 a)	delete "with the directors approval" since notification to the director is already required in this section	No Change. This section requires director's approval for what is a significant change in the groundwater monitoring program.	
JE	54	300.C.4.b(4)	we recommend making the modified sampling program an option, another option being proceeding directly to Ph II. (suggested language provided)	No Change. The modified sampling program is intended to eliminate going from Phase I to Phase II monitoring programs multiple times and to put facilities of this type all into the same type of program. The program is also intended to reduce costs.	
FEA	22	300.C.4.c(3 c)	EPA guidance has clarified that 90 days is allowed to submit a demonstration although the language of the reg is consistent with corresponding federal regulations.		Revised

JE	55	300.C.4.d(1))	delete the second sentence entirely eliminating additional requirements for CDD and Industrial landfills. This would be consistent with the SLF requirements	Clarification provided. Providing all historical concentration data may be burdensome. Therefore the section has been modified to require the submission of relevant data. The section was not eliminated as suggested. Requiring the submission will ensure all available data is used to make a determination.	
JE	56	300.C.4.d(1) c)	delete "under the provisions of a variance" A variance is not required to establish site specific background concentrations and is not consistent with SLF requirements	Revised	
FEA	24	300.C.4.d(2))	Section is ambiguous revise as follows "Requirement for the owner or operator to amend the Permit will be waived if a written determination is received from the director stating the existing Groundwater Monitoring Plan is deemed appropriate for current site conditions"	Revised but not in the specific manner suggested. However the section was modified to eliminate ambiguity as suggested.	
JE	57	300.C.4.d(2))	Change the last sentence to indicate that the director will change the plan to avoid any unnecessary plan modifications	No Change. Including the word "may" in this section will allow the director to consider all circumstances at the site when considering an update to the Groundwater Monitoring Plan.	
SPSA	12	300.C.4.d(2))	"approval" is not sufficiently defined state the following" no later that 60 days after receipt of written approval of the GPS"	Revised Howard Who approves this. The director? DEQ? How does DEQ have the authority to approve something. In my opinion, only the director has this authority.	*
SPSA	13	300.C.4.d(3))	"approval" is not sufficiently defined	Revised Howard Who approves this. The director? DEQ? How does DEQ have the authority to approve something. In my opinion, only the director has this	*

authority.

FEA	23	300.C.4.d(4)	Add regulatory citation to this section "as allowed under 9 VAC 20-60-620E	Revised
DOM	6	300.C.4.e	Monitoring should be limited to the subset of constituents detected during the 300.4.c(2) sampling event. "detected" should be inserted everywhere Table 5.1 appears in this section.	No Change. The appropriate language is used for each occurrence of the term Table 5.1.
JE	58	300.C.4.e(1)	Change to be consistent with B.4.a. Indicate "detected" constituents and "phase II sampling events" rather than 'Table 5.1 sampling'	No Change. If the facility intends to go back to Phase I monitoring, the facility is subject to additional scrutiny prior to making a change to the monitoring program. Requiring the analysis for all Table 5.1 constituents for two consecutive events will provide assurance that no additional Table 5.1 constituents are presenting problems at the facility. The only other time that a full Appendix 5.1 list is run is after the first determination report as required in 9 VAC 300 C 4 c (2).
JE	59	300.C.4.e(3)	delete "within 90 days" other deadlines and timeframes create an unnecessary burden	No Change. An expeditious determination of the extent of the plume is essential to protect human health and the environment.
JE	60	300.C.4.f(1)	Reword to indicate that the ASD is a voluntary demonstration	No Change. The ASD is a voluntary demonstration as provided in 9 VAC 300 C 4 e (3a) which already allows for a choice of actions.

JE	61	300.C.4.g	Specific recommendations provided in order to eliminate conflicts with section 310, provide practical deadlines and to assure complete studies (specific language provided)	Revised but not in the specific manner suggested. Timeframes have been clarified earlier in sections 300 A, B, and C and this section has been eliminated to eliminate conflicts between section 300 and 310.	
FEA	25	300.C.4.g(3)	Timeframes noted in regulation do not allow time for DEQ to comment on the ACM. Allow 360 days from exceedance to submit the corrective action plan which would allow DEQ 30 days to comment on the ACM	Revised	
FEA	26	300.C.5	300.C.5 could be deleted since there is no comparable section for sanitary facilities and the corrective action monitoring program is discussed in 310.	Revised	*
JE	62	300.C.5	Specific recommendations provided in order to eliminate conflicts with section 310, address the use of presumptive remedies and eliminate duplicate or conflicting requirements (specific language provided)	Revised but not in the specific manner suggested. We have eliminated conflicts with section 310.	
FEA	27	300.C.6.b(1)	Revise as follows "The owner of operator shall conduct semi-annual sampling for phase I parameters, and biennial (once every two years) sampling for the full table 5.1 list, if the results of the initial table 5.1 sampling event revealed no table 5.5 constituents statistically above background, and no other table 5.1 constituents found at detectable concentrations" "the biennial event shall occur during the first six months of each even numbered calendar year"	Revised but not in the specific manner suggested. The intent of the modification has been addressed.	
FEA	28	300.C.6.b(1)	the last sentence is redundant with 300.C.6.b(2)	Revised	

FEA	29	300.C.6.b(2))	Revise as follows "if one or more table 5.1 constituents are found at detectable concentrations during initial modified sampling program event, or any of the biennial events, the owner or operator shall commence with actions under subdivision 4 c	Revised but not specifically as requested. "Detectable concentrations" as used in this section is a more ambiguous that the word "detected".
JE	63	300.C6	Make the modified sampling program optional and make changes as noted (specific language required)	No Change. Variances are available if hardships exist for some facilities entering the modified program. In general, the modified program was intended to eliminate repeated jumping from one phase of monitoring to another which should help most facilities to identify a specific program for a facility to enter and enhance protection of human health and the environment.
JE	64	300.D.2.e	Use the term estimated quantitation limit instead of practical quantitation limit	Revised
JE	66	300.E.2.a	Section 300.E.2.c duplicates this section. Delete one section	Revised
JE	65	300.E.2.b(2))	Form ARSC-01 Could not be reviewed	Acknowledged
FEA	30	300.E.2.c	Appears to be same content as 300E.2.a. One item should be deleted	Revised
SPSA	14	300C.5.d(2)	revise regulatory test to allow for an alternate demonstration to prove Table 5.1 constituents are not present. Older facilities without lines can't test leachate.	No Change. Modification to the monitoring program can already be considered under the provisions of a Variance. We feel that this is a more appropriate method for modifying constituents.
SPSA	15	310	Exceeded should be a statistically significant exceedance	Revised

JE	68	310.A.1	For clarity indicate that the 180 day period begins on the date that laboratory package indicating the GW exceedance was received.	Clarification provided. Timeframes have been clarified, but not in the manner suggested.
FEA	31	310.A.2	The placement of this section seems out of place in the regulation and is inconsistent with the CFR	No Change. The CFR mentions groundwater requirements in an identical location. This section provides a similar reference to the CFR and defines the purpose of the corrective action groundwater monitoring program.
FEA	32	310.A.4.a(2)	clarify the requirements of the evaluation required in this section	Revised.
FEA	33	310.B.1	Requirements for presumptive remedies to be protective and meet the GPS should be retained. presumptive remedy should remain part of a corrective action plan to be enforceable.	Clarification provided. Presumptive remedies must meet GPS etc. but not as part of a corrective action plan.
FEA	34	310.C.1	The section should indicate that the implementation of the remedy and the corrective action GW monitoring plan requires a permit amendment.	No Change. Because permit amendments are possible for any given reason, noting that a permit amendment is required for a given activity implies that one is not necessary when other modifications are being considered. Therefore, if any modifications to any plans or activities are being considered by the facility owner or operator, section 620 Amendment of Permits must be consulted.

FEA	35	310.C.2	This section should indicate that the implementation of any changes to the corrective action plan remedy of GW plan requires a permit amendment.	No Change. Because permit amendments are possible for any given reason, noting that a permit amendment is required for a given activity implies that one is not necessary when other modifications are being considered. Therefore, if any modifications to any plans or activities are being considered by the facility owner or operator, section 620 Amendment of Permits must be consulted.	
FEA	36	310.C.5.a	Current sentence makes no sense. Refer to CFR for appropriate language.		Revised
SPSA	16	310.C.5.e	"satisfied" is not defined. It should mean certified by owner/operator/ consultant and subsequent written approval from DEQ		Revised
GF	17	330.A	Composting process should not be restricted to those with operational performance in the US.	No Change. Composting processes that do not have prior operational performance in the US can still be permitted using an experimental permit. Due to the failure of several technologies related to large scale composting operations we hesitate to change this provision.	
GE	2	330.C.2.a	Allow lime stabilized soil/clay as a composting pad		Revised
GE	3	330.D.2.a(1)	temperature decline should be allowed to demonstrate stability for all categories and types of composting facilities		Revised
GE	4	330.D.2.a(2)	Add temperature rise above ambient temperature must not exceed 20 deg. C for stable compost. Very stable compost will not exceed 10 deg C above ambient		Revised

GE	5	330.D.2.b(5))	How easy will it be to have facility operating standards approved by the director.	Question, no change requested. Facility operating standards are allowed by the regulation. Application of the standard will probably be allowed with some documentation that includes an initial period of testing. If it is demonstrated that operating standards are effective in eliminating pathogens, then the operating standards may be considered sufficient by themselves. It may also be possible to justify time/temperature based system on literature based research.
SK	1	340.A.3	Delete the second sentence and provide language allowing facilities permitted to manage both solid and hazardous waste to do so. Example language provided.	Revised. Slight changes to the suggested language were made, but the intent of the change requested was retained.
JE	69	370.D.3	delete "or restricts" consistent with recommendations for previous sections	No change. Virginia requires the submission of a special waste request prior to the disposal of a some special wastes. Therefore, Virginia has placed restrictions on the disposal of these wastes. Other states that allow the disposal of that same waste without notification or special handling may send that restricted waste to a Virginia landfill without the knowledge of the facility. The language is appropriate for these cases.
SPSA	17	460.B	section 470 cannot be found in the regulations	No Change. The Virginia Register does not publish unchanged sections and this sometimes presents confusion. The section exists and is correct, the section simply was not published.

SH	9	500.B.10	localities should not have to obtain comments from neighbors who may have self serving interests.	No Change. Comments from other localities are required in 10.1-1408.1.D.1 of the Code of Virginia.
MC	1	500.B.6	Opposes any regulation requiring the county to accept waste from beyond the jurisdiction. Opposes having to reserve disposal space in the landfill for another community.	Revised
SH	5	500.B.6	Disposal capacity guarantee does not provide the exception for localities provided in the legislation	Revised
WM2	3	500.B.6	limit localities in the commonwealth to those facilities that have identified the facility in their solid waste management plan	No Change. The suggested modification alters the specific language of the Code.
GF	18	500.B.7	Can full time municipal employee be used for waste inspections? Paragraph d is unequal enforcement of requirements.	Question, No Change Requested. Both the regulation and the law state that the employees responsibilities will include monitoring and inspection of disposal practices among others. Paragraph d is based on the law and will not be changed.
WM2	4	500.B.7.a	State that the host agreement should address the issues rather than include them	No Change. The Code requires the issues to be specifically included in the host agreement.
WM2	5	500.B.7.a(3)	Include daily disposal limit in the host agreement only if one has been negotiated	No Change. The Code requires the daily disposal limit to be addressed in the host agreement.
JE	70	500.B.7.d	500.B.7.d Indicate that the host agreement is not required for local governing body or service authority (suggested language provided)	Revised, but not in the specific manner suggested.
SH	6	500.B.8	Facilities providing the same level of service should not have to evaluate transportation issues	No Change. The statute requires evaluation of these transportation issues for any new or expanded sanitary landfill. The statute does not consider the level of

service.

GF	19	500.B.9	Requirement for need determination could be subject to legal challenge. DEQ should request the information without referring to need.	No Change. The information is being requested in order to implement a requirement of the Code of Virginia.
JE	71	500.B.9	The local governing body should have the right to make a determination whether the capacity is needed and submit the determination to the director for his/her determination (suggested language provided) If section is retained, clarify the requirements if the planning regions or 75 mile radius extend outside of the commonwealth	No Change. Facilities are allowed to submit information supporting the need of the facility under two different options. One option does not include any information on distances or planning regions.
WM	10	500.B.9	Another specific factor that should be included in the waste tonnage meeting the needs of the facility to remain economically viable	No Change. A facility can submit additional information for the director to consider.
WM	11	500.B.9	Numerical limitations are arbitrary and are intended to restrict large landfills in violation of the commerce clause the limitations should be removed.	The figures are not arbitrary. The 10 year figure is the amount of time required to develop a landfill from inception to completion of construction. The 20 year figure is the amount of time required for planning in the solid waste planning regulation, 9 VAC 20-130. The 75 mile figure is a maximum haul distance for a typical locality and is a figure that has been used by other South Carolina in establishing landfill service areas. In addition, the numeric method is only one of two ways to demonstrate the need of the facility.

WM2	6	500.B.9	Clarify that both submission option in 9a and 9b are available to sanitary landfills. Suggested language provided.	Revised. However, the language requiring a demonstration has not been removed.
SH	3	500.B.9.a	The section does not indicate how the submitted materials will be evaluated	No Change. The solid waste permit application requires a large amount of materials to be submitted for evaluation. The regulations in section 500 E provide the criteria for permit issuance. If the director were to determine that a permit could not be issued because of need or any other issue, sufficient information would have to be produced by the department to support the claim.
WM2	7	500.B.9.a	Add an additional option which specifies the submission of costs to consumers of existing waste disposal services or facilities	No Change. Under the provisions of this section, additional information demonstrating the need for the facility can already be provided.
SH	1	500.B.9.a(2))	Regulation include provisions for determining need not listed in legislation	No Change. The waste management act requires the Waste Management Board to promulgate regulations that allow it to carry out its duties (10.1-1401 D.11) since the director must determine that there is a "need for additional capacity" (10.1-1408.1.D.1) it is reasonable for the regulation to indicate the materials that the director will consider when making this determination.
SH	2	500.B.9.a(2))	Capacity and service life information may be considered proprietary and may not be available	No Change. Capacity and service life information for each permitted facility is required to be submitted to the department under the provisions of 9 VAC 20-130-165.A. Concern about proprietary information is protected by

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state law

GF	20	500.B.9.b	Where can capacity data be obtained. Can lack of data to fulfill this requirement jeopardize approval of an application?	Question, No Change Requested. Capacity data is required to be submitted each year under the requirements of the solid waste information and assessment program implemented in accordance with 9 VAC 20-130 Solid Waste Planning Regulation
MC	2	500.B.9.b	Opposes the section since the language could restrict the county in a number of ways.	No Change. Facilities are allowed to submit information supporting the need of the facility under two different options. One option does not include any information on distances or planning regions.
SH	4	500.B.9.b	Cut off figures for expansions that are provided in this section are entirely arbitrary	The figures are not arbitrary. The 10 year figure is the amount of time required to develop a landfill from inception to completion of construction. The 20 year figure is the amount of time required for planning in the solid waste planning regulation, 9 VAC 20-130. The 75 mile figure is a maximum haul distance for a typical locality and is a figure that has been used by other South Carolina in establishing landfill service areas.
SPSA	1	500.B.9.b	Recommends that DEQ establish additional criteria that permit applicants can use to demonstrate need. Local governments and regional authorities should only have to	No Change. The section has been included in order to implement a requirement of the Code of Virginia. We consider the determination of need to be

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consider the need in their service area.

based on more that local need.

SPSA	18	500.B.9.b	The needs determination has the potential to limit the ability of local governments to select and/or construct a solid waste disposal facility that best meets the needs of the community.	No Change. The section has been included in order to implement a requirement of the Code of Virginia. We consider the determination of need to be based on more that local need.
WM2	8	500.E.2	Require the department to notify the chief administrative officer in the county of the opportunity for public participation rather than requiring the facility to provide this information to neighboring jurisdictions.	Revised.
GF	21	500.E.6	Requirement for need determination could be subject to legal challenge. DEQ should request the information without referring to need.	No Change. The section has been included in order to implement a requirement of the Code of Virginia. We consider the determination of need to be based on more that local need.
JE	72	510	Rename Table 7-1 to 7.1 and 7-2 to 7.2. Change referencing accordingly.	Revised
SH	7	510.G	Facilities providing the same level of service should not have to evaluate transportation issues	No Change. The statute requires evaluation of these transportation issues for all new sanitary landfills. The statute does not consider the level of service.
JE	73	510.H.1	Modify language to be consistent with 10.1-1408.4.A.2 of the Code	No Change. Not only is this addressing 10.1-1408.4 A 2 of the Code of Virginia, but 1408.4 B 6 as well. The regulation requires information addressing each section of the Code.

JE	74	510.H.2	Move landfill configuration and design items to Part B requirements since part A addresses site suitability	No Change. The code states that a landfill shall not be constructed unless these issues can be addressed. This screening criteria is included in the Part A to determine if the facility can be constructed to meet or mitigate the requirements of the Code. Detailed design elements will still be required in the Part B.
JE	75	510.H.3	Change 5 mile mapping requirement to 500 feet. 5 miles is an impractical and unnecessary distance and would place a financial burden on an applicant	No Change. The code requires evaluation of the impact of the landfill on parks, recreational areas, wildlife management areas, critical habitat areas of endangered species, public water supplies, marine resources, wetlands, historic sites, fish and wildlife, water quality, and tourism. An evaluation of water supplies within 5 miles of a landfill is required by the Code. It seems reasonable that a landfill could have an impact on one or more of these items beyond the 500 feet suggested in the comment. No other comments were received opposing the requirement.
JE	76	510.J	and 510.K should be deleted since they are already addressed in 500.E.6	No Change. Section 500.E.6 simply states that the director will make a determination. The determination the director makes is supported by the materials submitted in accordance with this section of the regulations. The director needs these materials to make a determination.

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SPSA	19	510.J	regulations should provide guidance on how applicants can satisfy the requirement if the plan has not been developed, submitted or approved	No Change. All localities are currently required to have an up-to date plan. The plan is required to be revised by the 2004 deadline for the next 20 year timeframe and to comply with timeframes addressed in the planning regulation.
JE	77	570.B.1	For landfills that have closed indicate "or other location as approved by the director"	Revised
JE	4	60.D	The language of this section has inadvertently required permit amendments to address permit amendments to address less stringent regulatory requirements. (specific language suggested)	No Change. This would allow the facility to comply with a permit that was less stringent than the regulations. This section was intended to allow continued operation under permit provisions with more stringent standards with reference to areas of the regulation that have changed.
GF	22	620	Requirement for need determination could be subject to legal challenge. DEQ should request the information without referring to need.	No Change. The section has been included in order to implement a requirement of the Code of Virginia. We consider the determination of need to be based on more that local need.
GF	23	660	This section should address leachate recirculation as an exception.	No Change. Leachate recirculation is allowed over a composite liner 9 VAC 20-80-290 D 3. No clarification is necessary.
GE	1	General	Use the methods of the US composting council	Acknowledged
SH	8	General	Some of the regulatory changes will be costly to small municipal landfills despite many of the changes apparently aimed at facilities accepting out of state trash	No Change. The section has been included in order to implement a requirement of the Code of Virginia. We consider the determination of need to be based on more that local need.

WM	12	General	specifying instate disposal capacity in planning may be a violation of commerce clause	No Change. Capacity for the state includes all waste reported in the waste information and assessment program which is not restricts to instate capacity. When reporting information to the department o support the need for the facility options in 9 VAC 20-80-500 B 9 a and B 9 b (1) are provided for facilities that receive waste from other jurisdictions. Facilities are not restricted from using these options.
JE	79	T7.1.B.4.a	eliminate directors approval for changes to emergency response since prior approval is not required to implement	No Change. A significant reason to modify an emergency plan is due to failure in an emergency. Director's approval will ensure that the plans adequately address protection of human health and the environment.
JE	80	T7.1.C.4	Delete reference to ACL since ACL is covered under variance procedures in 760	No Change. A variance does not make the provision part of the permit. It simply grants approval for an item to be different from the regulation. A minor amendment then is needed to incorporate the provision into the facility permit.
JE	81	T7.1.C.5	Changes to an approved GW monitoring plan rather than detection assessment etc.	No Change. Typically this section will be used to support changes to the groundwater program, not the groundwater plan. Changes to the program would come about through a variance. Amendments to the groundwater plan would be based on the other items in section C or a petition under the provisions of 9 VAC 20-80-620 F 4 a.

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JE	82	T7.1.C.6	Amendments under corrective action program should be a)Corrective Action Plan b) Changes to a CA Plan c)Implementation of Presumptive Remedy including a corrective action Monitoring Plan. Only the original CA Plan Should be a Major Amendment	No Change. The public should have the opportunity to comment on any proposed changes to the corrective action program that are significant. The applicant can petition for a minor amendment for less significant modifications to a specific component of the corrective action program.
JE	83	T7.1.C.7	Change the Classification to minor. In most cases the fee for the major amendment is more than the cost to prepare the plan	No Change. Major amendments are major so that the public has the opportunity to comment on the proposal. Fees are based on the time review of the application takes.
JE	84	T7.1.D	Add the following category "4. Equivalent material substitutions in the final cover system"	No Change. Functionally equivalent components of any kind are allowed under the provisions of 7.1 A 3
JE	85	T7.1.D.3	The classification should be revised to "minor" since in most cases a major amendment is not warranted	No Change. Major amendments are major so that the public has the opportunity to comment on the proposal. New storage or treatment units could have some impact on the general public.
JE	86	T7.1.F.7	Revise classification to Minor to allow for timely repair work. Add the following for more significant work and classify as Major "Modification of a surface impoundment unit, which modifies the unit liner, leak detection or leachate collection system"	Revised
JE	87	T7.1.G	Eliminate the directors prior approval provision for the minor amendment to expedite approvals	No Change. A directors approval adds an additional level of scrutiny that is necessary for this important facility design element.

JE	67	Table 5.1	A constituent is missing from Table 1 that is found in 40 CFR Part 258. Add Diallate, CAS2303-16-4, carbamotioic acid, bis (1-methylethyl0-,S-(2,3-dichloro-2-propenyl)ester	Revised
JE	78	Table 7.1	This should be table 7.2 reformat table to be similar in format to the schedule for permit fees	Revised. The table is now in a more readable format.
GF	1		Statistical analysis of groundwater should be performed once/year rather than after each groundwater sampling event	No Change. The regulations allow for the immediate detection of a release which is protective of human health and the environment. In addition, these provisions are
GF	2		Leachate should be analyzed once per year. Groundwater should be cross checked with chemicals found in leachate.	No Change. The regulations allow for the immediate detection of a release which is protective of human health and the environment.