



Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) citation	9VAC20-40
Regulation title	Administrative Procedures for Hazardous Waste Facility Site Certification
Action title	Final Exempt Action for HB2089
Final agency action date	May 3, 2013
Document preparation date	April 3, 2013

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 14 (2010) and 58 (99).

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Virginia's *Administrative Procedures for Hazardous Waste Facility Site Certification* under 9VAC20-40 details the procedures for the siting of a new hazardous waste management facility. As part of the process, notifications by mail are made. In accordance with Chapter 348 of the 2013 Acts of Assembly, wherever the term "mail" is used in regulatory provisions that the Department administers it shall mean electronic or postal delivery and the term "certified mail" means electronically certified or postal certified mail, except that this provision shall apply only to the mailing of plan approvals, permits, or certificates issued under the provisions of this chapter and those of the Air Pollution Control Law, the Virginia Waste Management Act and the State Water Control Law, and only where the recipient has notified the Department of his consent to receive plan approvals, permits, or certificates by electronic mail.

This final exempt regulatory amendment to 9VAC20-40 will revise the text to allow for the notifications to be delivered through postal or electronic means as required by the statutory change to §10.1-1183.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

The Virginia Waste Management Board adopted this amendment to 9VAC20-40 on May 3, 2013, and affirmed that the Board will receive, consider and respond to requests by any interested person at any time with respect to reconsideration or revision.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
9VAC20-40-60		Contents of the notice of intent.	9VAC20-40-60.C.3 was revised to allow for notifications to be made by electronic or postal delivery.
9VAC20-40-80.		Briefing meeting.	9VAC20-40-80.C.4 was revised to allow for notifications to be made by electronic or postal delivery.
9VAC20-40-130		Public hearing on the draft certification of site approval.	9VAC20-40-130.B.2.c was revised to allow for notifications to be made by electronic or postal delivery. 9VAC20-40-130.D.2.e was revised to allow for the notification of the decision to be made by electronic or postal delivery.
9VAC20-40-140		Final decision on certification of site approval.	In accordance with Chapter 348 of the 2013 Acts of Assembly, certified mail means electronically certified or postal certified mail, except that this provision shall apply only to the mailing of plan approvals, permits, or certificates issued under the provisions of this chapter and those of the Air Pollution Control Law (§ 10.1-1300 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), and the State Water Control Law (§ 62.1-44.2 et seq.), and only where the recipient has notified the Department of his consent to receive plan approvals, permits, or certificates by electronic mail. To allow for this provision, Subsection C was revised to add "in accordance with §10.1-1183 of the Code of Virginia."

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

~~The regulations apply to all persons, including small business owners, who would propose to~~ site a hazardous waste management facility in Virginia. This amendment will allow for notifications required under this chapter to be accomplished through electronic or postal delivery as allowed pursuant to the requirements under Chapter 348 of the 2013 Acts of Assembly. Therefore, no flexibility analysis was performed as the amendment is necessary due to a statutory change.

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

There is no impact on the institution of the family or family stability.
