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Periodic Review and Small Business Impact Findings Where Result is "Retain the Regulation As Is" Agency Background Document

Agency name	Virginia Waste Management Board
Virginia Administrative Code (VAC) citation	9VAC20-50
Regulation title	Hazardous Waste Facility Siting Criteria
Date	April 27, 2016

This information is required pursuant to Executive Order 17 (2014) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including: 1) the most relevant law and/or regulation; and 2) promulgating entity, i.e., agency, board, or person.

Section 10.1-1436 A of the Code of Virginia authorizes the Virginia Waste Management Board to "promulgate criteria for approval of hazardous waste facility sites." This regulation was promulgated by the Virginia Waste Management Board to establish siting criteria for hazardous waste facility sites.

There are no federal statutory or regulatory requirements upon which this regulation is based.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

As part of this periodic review, the Board considered repealing the regulation, amending the regulation and retaining the regulation. The current regulation is effective in meeting the mandatory statutory requirements. The regulation as currently written provides the least onerous means of complying with the requirements set forth in statute; therefore the alternative of amending the regulation was rejected. The alternative of repealing the current regulation was also rejected since the regulation is needed to meet the mandatory statutory requirements. During this periodic review, technical corrections were identified that need to be made to the regulation. These corrections will be made under a separate regulatory action.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Notice of Periodic Review was published in the Virginia Register of Regulations on April 4, 2016. The comment period closed on April 25, 2016. An informal advisory group was not formed to assist with this periodic review. No comments were received concerning this regulation.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

This regulation establishes the specific siting criteria that is used by the board to evaluate and approve or disapprove applications for hazardous waste facility site certifications.

This regulation is one of four separate regulations that work together to protect public health and welfare concerning the siting of hazardous waste facility sites. The four related regulations and their purposes are listed below:

- Schedule of Fees for Hazardous Waste Facility Site Certification - 9VAC20-20 establishes the fee to be submitted when an application for a hazardous waste facility site is submitted.
- The Technical Assistance Fund Administrative Procedures- 9VAC20-30 establishes a process for a governing body of a community considering hosting a hazardous waste facility to obtain funds to assist them with obtaining technical assistance to better understand and assist the environmental, economic, and social impact of a hazardous waste facility at a particular site.
- Administrative Procedures for Hazardous Waste Facility Site Certification 9VAC20-40 establish administrative procedures for the submission and evaluation of applications for certification of hazardous waste facility sites.
- Hazardous Waste Facility Siting Criteria- 9VAC20-50 contains the criteria used by the board to evaluate and approve or disapprove applications for a hazardous waste facility site certification.

Since these four regulations work together to protect public health, safety and welfare concerning hazardous waste facility site certifications, they underwent periodic review concurrently. The Hazardous Waste Facility Siting Criteria regulation is necessary for the protection of public health, safety, and welfare. The regulation is clearly written and easily understandable. During this periodic review, technical corrections were identified that need to be made to the regulation. These corrections will be made under a separate regulatory action.

Result

Please state that the agency is recommending that the regulation should stay in effect without change and provide the reason why.

This regulation satisfies the provisions of the law and legally binding state requirements and is effective in meeting its goals; therefore, the Director of the Department of Environmental Quality, on behalf of the Virginia Waste Management Board, recommends that this regulation be retained. During this periodic review the department identified technical corrections that are necessary to this regulation. These technical corrections will be addressed through a separate regulatory action.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: 1) the continued need for the regulation; 2) the nature of complaints or comments received concerning the regulation from the public; 3) the complexity of the regulation; 4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and 5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the basis for the agency's determination to retain the regulation as is, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

This regulation continues to be needed. The board is authorized to adopt a criteria to evaluate and approve or disapprove applications for hazardous waste facility site certifications. These criteria are needed to protect human health and the environment from potential impacts from the siting of these facilities.

No public comments were received during the periodic review of these regulations.

This regulation is one regulation in a series that are related to hazardous waste facility site certifications. Maintaining multiple regulations that each address different aspects of hazardous waste facility site certifications removes complexity from the regulatory process and allows users to focus on applicable requirements.

This regulation does not overlap, duplicate or conflict with any state or federal law. This regulation does interact with three other state regulations. The four separate regulations work together to protect public health and welfare concerning the siting of hazardous waste facility sites

This regulation last underwent a periodic review in 2012. This regulation was amended in August 2012 to update a mailing address within the regulation.

The Department of Environmental Quality, on behalf of the Virginia Waste Management Board recommends retaining this regulation; however technical corrections are needed to this regulation and will be made using a separate regulatory action. The Department, through examination of the regulation, has determined that the regulatory requirements currently minimize the economic impact of these regulations on small businesses. During this periodic review, technical corrections were identified that need to be made to the regulation. These corrections will be made under a separate regulatory action.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

It is not anticipated that this regulation will have a direct impact on families or family stability.