



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

Agency Name:	Virginia Waste Management Board
VAC Chapter Number:	9 VAC 20-60-12 <i>et seq.</i>
Regulation Title:	Hazardous Waste Management Regulations, Amendment 15 B
Action Title:	Amendment 15 A
Date:	December 12, 2001

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Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed.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or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed.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.

The purpose of the amendment is to delete and repeal 9 VAC 20-60-261 B 8 which states, "All radioactive wastes classified as low-level radioactive material by the United States Nuclear Regulatory Commission shall be a hazardous waste. NOTE: A waste may be a hazardous waste as defined by 40 CFR Part 261 and a low-level radioactive waste. These "mixed wastes" are required to comply with the requirements of these regulations and all regulations of the United States Nuclear Regulatory Commission that apply."

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.

The Virginia Waste Management Board approved Amendment 15 B as a final regulation on December 12, 2001.

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.

Section 10.1-1402(11) of the Virginia Waste Management Act contained in Chapter 14, Title 10.1, Code of Virginia (1950) as amended, (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+10.1-1402>) authorizes the Virginia Waste Management Board to issue regulations as may be necessary to carry out its powers and duties required by the Act and consistent with the federal statutes and regulations. The proposed change will repeal a Virginia requirement that exceeds the federal minimum requirements. The Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

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 Virginia Waste Management Board maintains the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.*, to continue the effective monitoring of the generation, transportation, treatment, storage, and disposal of hazardous waste in the Commonwealth. By regulating these activities, the Commonwealth protects public health, natural resources, and the environment. The text of section 9 VAC 20-60-261 B 8 of those regulations is unclear. It is also unnecessary because it is the Board's intention to have the same regulation requirements for the management of low-level radioactive wastes and mixed wastes as the federal regulations contained in Title 40 of the Code of Federal Regulations, which are incorporated elsewhere by reference. The purpose of the planned amendment is to delete and repeal 9 VAC 20-60-261 B 8.

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.

The text of section 9 VAC 20-60-261 B 8 of the regulations is unclear. It is also unnecessary because it is the Board's intent to have the same regulation of low-level radioactive wastes and mixed wastes as the federal regulations contain in Title 40 of the Code of Federal Regulations, which are incorporated elsewhere by reference. The amendment deletes and repeals 9 VAC 20-60-261 B 8. No other section of the broader regulation set 9 VAC 20-60-12 et seq. is modified by this action.

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.

There are no disadvantages to the public or the Commonwealth. The action at issue is the repeal of an unnecessary and confusing provision. The action will improve clarity of the regulations and is an advantage to the public and the agency.

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.

No changes have been made.

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.

Only one letter of comment was received during the comment period. The commenter fully supported the proposed repeal of 9 VAC 20-60-261 B 8. The commenter pointed out that the section can be construed in a manner contrary to its intent and may be in conflict with federal regulations.

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.

The amendment repeals 9 VAC 20-60-261 B 8 entirely and does not affect any other provision of the regulations.

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.

There should be no discernable impact on the family.