



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	155
VAC Chapter Number:	20
Regulation Title:	Board for Waste Management Facility Operators Regulations
Action Title:	Pre-NOIRA
Date:	December 16, 2002

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 2.2-4007(B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

The subject matter of the planned regulation amendments is to review all classes of Waste Management Facility Operator licenses; to specifically review the current regulations' effectiveness in regulating municipal solid waste composting facilities; to specifically review the current regulations' effectiveness in regulating municipal waste combustor facilities; to examine ways to enable the regulations to respond more effectively to emerging waste management technologies; and to conduct a general review of the current regulations' effectiveness.

The intent of the planned regulation amendments is to assure an infrastructure of trained and qualified individuals to operate waste management facilities in a manner that protects the public health, safety and welfare and intrudes as little as possible into the conduct of commerce in the Commonwealth.

Developments in waste management technology since the effective date of the current regulations (May 1, 2000) suggest that the licensing requirements for some facilities may now be excessive or inappropriate or both. Technology continues to develop new approaches to waste management that necessitates regulation amendments. The goal of the planned amendments is to

assure the licensing requirements are sufficient but not excessive to meet the public protection goals of the Commonwealth.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

Chapter 22.1 of Title 54.1 of the Code of Virginia (specifically 54.1-2211) mandates that the Board for Waste Management Facility Operators (Board) promulgate regulations and standards for the training and licensing of waste management facility operators. Toward that end, the Board is empowered to establish classes of training and licensing based on the type of waste management facility for which a license is sought, and to vary its training and licensing requirements based upon the type of facility and the type of waste managed at the facility.

The recent developments in technology for some types of facilities and the types of waste managed at those facilities make necessary an examination of the current regulations to determine if the need exists to vary the training and licensing requirements based on the type of facility and the type of waste managed.

The imperative for of the verb (shall) is used in the Virginia statute which makes the rulemaking provisions mandatory rather than discretionary.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

The planned amendments are intended to vary the training and licensing requirements based on the type of facility operated and the type of waste being managed at the facility so as to assure that the public and the environment are protected without excessive or burdensome requirements.

Recently, several municipal waste composting facilities were placed into operation under experimental permits issued by the Department of Environmental Quality (DEQ). Experimental facilities fall under Class I facilities in the current regulations. After the experimental phase closed, the municipal waste composting facilities clearly fell under the definition of a Class II facility, which includes the various types of landfills in operation throughout the

Commonwealth. It was then necessary for the facility owners to employ properly licensed Class II operators.

Those individuals sent to the Class II facility training stated that the bulk of the material presented concerned landfills and that very little material was presented concerning municipal waste composting. As a result, the Board is concerned that an amendment to its classification system as well as its training and licensing requirements may be necessary to assure that those licensed to operate municipal waste composting facilities have sufficient and appropriate training, and are not required to undergo training pertinent to landfills that is of no value to a composting operation.

The Board is similarly concerned that technological changes pertinent to municipal waste combustors (Class IV) have emerged or will shortly emerge and must be examined in the same light as municipal waste composting facilities mentioned in the preceding paragraph.

This lead the Board to conclude that, since three of the four existing classes of waste management facilities are affected by technology developments, all classes should be examined to determine if any amendment is necessary. As such amendments often affect other areas of the existing regulations, the Board decided to make this a very broad review of the Board's regulations and their effectiveness.

As new technology tends to emerge more quickly than regulations can be revised to respond appropriately, the Board seeks to examine ways to enable the Board's regulations to more effectively respond to the new technology.

The public and the environment are always best protected by training and licensing requirements that focus on the types of facilities operated and the types of waste managed. Waste management costs are more likely to be reduced as a result of more efficient methods, which will benefit every citizen through decreased costs and waste management fees.

Potential issues that may need to be addressed as the regulation is developed include the cost and time necessary to develop an entry examination for any new class of facility created and the determination as to what classes of facility may be operated under the amended regulations by those that became licensed under the existing regulations.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

The Board may decide to implement new classes of waste management facility, may amend the current classes to include the new technologies, or may make no amendment to its regulations at all.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent 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.

No impact on families has been identified.