



Virginia
Regulatory
Town Hall

Periodic Review and Retention of Existing Regulations Agency Background Document

Agency Name:	Virginia Waste Management Board
VAC Chapter Number:	9 VAC 20-40
Regulation Title:	Administrative Procedures for Hazardous Waste Facility Site Certification
Action Title:	Record of Decision: Retain Regulations Without Amendment
Date:	September 4, 2001

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

These regulations establish processes for evaluation of proposed hazardous waste facility site suitability, negotiation of siting issues and resolution of conflicts. These regulations are to ensure that suitable new sites for hazardous waste facilities can be certified in a timely and efficient manner and to protect public health, safety and welfare and the environment by limiting certification to sites that have been adequately evaluated and deemed suitable for use.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

§§ 10.1-1433 through 1447 mandate a procedures and standards to ensure that sites of new hazardous waste management facilities have been adequately evaluated and deemed suitable to protect the public health, safety, and welfare and the environment. These regulations are the minimum requirements to comply with that mandate. There is no federal analogue to the statutes or the regulations.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

One letter with comments was received. The commenter encouraged the Board to continue the regulations without amendment.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

These regulations have been in continued force since April 30, 1986. No application for a hazardous waste management site requiring certificate has been submitted. During the comment period, Virginia industries and businesses did not report significant difficulties in locating treatment or disposal capacity for their hazardous waste. The regulations have been effective in protecting citizens and the environment from unsound siting proposals. A healthful environment is beneficial to families and family stability. The regulations appear clearly written and easily understandable, and no indication to the contrary has been presented.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation

of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

The two alternative actions are to repeal or to amend the regulations. The regulations are mandated by statutes and are still needed to establish fair procedures for hazardous waste management facility siting. There has been no exercise of the regulations to determine if amendments are needed. No need for significant amendment is known, and the commenter supported continuation without amendment.

Recommendation

Please state that the agency is recommending that the regulation should stay in effect without change.

The Director of the Department of Environmental Quality, on behalf of the Waste Management Board, at this time, recommends that the regulations be continued without amendment.

Family Impact Statement

Please provide an analysis of the regulation's impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.

A healthful environment is beneficial to families and family stability; however, the mechanisms for supporting the family are ancillary and cannot be precisely defined.