



Virginia
Regulatory
Town Hall

Emergency Regulation Agency Background Document

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| Agency Name: | Virginia Waste Management Board |
| VAC Chapter Number: | 9 VAC 20-60-12 et seq. |
| Regulation Title: | Hazardous Waste Management Regulations |
| Action Title: | Amendment 16 |
| Date: | April 22, 2002 |

Section 9-6.14:4.1(C)(5) of the Administrative Process Act allows for the adoption of emergency regulations. Please refer to the APA, Executive Order Twenty-Four (98), and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the emergency regulation submission package.

Emergency Preamble

Please provide a statement that the emergency regulation is necessary and provide detail of the nature of the emergency. Section 9-6.14:4.1(C)(5) of the Administrative Process Act states that an "emergency situation" means: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date. The statement should also identify that the regulation is not otherwise exempt under the provisions of § 9-6.14:4.1(C)(4).

Please include a brief summary of the emergency action. There is no need to state each provision or amendment.

The 2002 Acts of Assembly chapter 14 requires the Waste Management Board to promulgate regulations establishing a fee schedule consistent with the amendments to §10.1-1402.1 within 280 days of the enactment of the statute. The 2002 Acts Chapter 14 require the Board to promulgate regulations establishing a fee schedule sufficient to cover no more than twenty percent of the direct cost of the hazardous and solid waste management programs based on the allocations made to these programs in the 2002 Appropriation Act. The individual permit fees may not increase more than 300 percent.

Basis

Please identify the state and/or federal source of legal authority to promulgate the emergency regulation. The discussion of this emergency statutory authority should: 1) describe its scope; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. Full citations of legal authority and web site addresses, if available for locating the text of the cited authority, should be provided.

Please provide a statement that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the emergency 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 and Chapter 11.1 (§ 10.1-1182 et seq.), Title 10.1, Code of Virginia (1950) as amended, 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 hazardous waste management program, usually known as RCRA (for the enabling statute, the Resource Conservation and Recovery Act), is mandated on the federal level under the management of United States Environmental Protection Agency (USEPA). The USEPA authorizes qualifying states to operate state hazardous waste management programs, if they are at least as stringent as the federal program, in lieu of the federal program (see RCRA § 3006). Virginia's program, through Amendment 14, has been authorized by the USEPA.

Section 10.1-1402 (15) of the Virginia Waste Management Act authorizes the Virginia Waste Management Board to collect permit application fees for the hazardous waste program. Section 10.1-1402.1 of the Virginia Waste Management Act Authorizes the Virginia Waste Management Board to promulgate regulations which establish a permit fee assessment and collection system.

The Office of the Attorney General has certified that the Waste Management Board has the statutory authority to promulgate this emergency regulation and that it comports with applicable state and/or federal law

Substance

Please detail any changes, other than strictly editorial changes, that would be implemented. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Please provide a cross-walk which includes citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes. 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 Virginians. The statement should also delineate any potential issues that may need to be addressed as a permanent final regulation is developed.

Under this emergency regulation, each permit fee listed in Table 12.1 of the Hazardous Waste Management Regulations, will be multiplied by three in order to establish the new permit fee. The regulatory action will assure that adequate funds are available to allow the continuation of permitting activities ensuring the protection of human health and the environment. The final regulation will address the appropriate role of the regulation in funding the hazardous waste program.

Alternatives

Please describe the specific alternatives that were considered and the rationale used by the agency to select the least burdensome or intrusive method to meet the essential purpose of the action.

Because a number of alternatives were considered during the development of the act, the emergency regulation will address only increased permit fees.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the emergency action on the institution of the family and family stability including to what extent the 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 is no direct impact on the institution of the family and family stability. However, it is anticipated that owners or operators of affected facilities may attempt to recoup the increased cost by increasing connection and user fees, or the costs of goods and/or services. Should this occur, disposable family income may be decreased for those families affected by the increase.