



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action
Agency Background Document

Agency Name:	Virginia Waste Management Board
VAC Chapter Number:	9 VAC 20-60-12 <i>et seq.</i>
Regulation Title:	Virginia Hazardous Waste Management Regulations
Action Title:	Amendment 16
Date:	April 22, 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 § 9-6.14:7.1 (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 Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.*, establish requirements for the effective monitoring of the generation, transportation, treatment, storage, and disposal of hazardous waste in the Commonwealth. The purpose of this action is to study, in collaboration with the regulated community and the public, appropriate changes to modernize the fee system and the financial assurance requirements. Any general improvements to the regulations, such as further incorporation of federal regulatory text and replacement of analogous Virginia regulations, and any changes to conform to statutory amendments will also be considered during the process. In addition, this action will replace emergency regulations authorized by the 2002 General Assembly.

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.

Section 10.1-1402(11) of the Virginia Waste Management Act contained in Chapter 14, 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.

See: <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+10.1-1402>

Need*

Please detail 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 Virginia Hazardous Waste Management Regulations protect the public health, safety and welfare from harmful results of the mismanagement of hazardous waste by establishing requirements for the effective monitoring of the generation, transportation, treatment, storage, and disposal of hazardous waste in the Commonwealth. The current regulations require a study of the fee system each year and revisions to correct for economic inflation of costs. However, the fees are unchanged since established in 1984. The structure of the fee system should be made clearer and easier to use to determine the appropriate fees. In addition, requirements for financial assurance may not properly address corrective action or provide sufficient regulatory structure for consistent application. While considering these issues, it is also appropriate to consider the clarity of the regulations as a whole, statutory changes, and appropriate improvements wherever possible.

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 concept of this amendment is to study improvements to the regulations in collaboration with the regulated community and the public, focusing on a few important areas. Using the expertise of a technical advisory committee several alternate approaches will be reviewed and the solutions that are chosen will be the subject to a public comment period and hearing(s). Key issues will be highlighted for which the public's opinion is specifically requested.

This action will consider if the fee system in the current regulations continues to be appropriate in its structure and amounts. Fees were last adjusted in 1984. Another area to be studied is the provision for providing financial assurance for closure and post-closure care costs, including provision of such assurance for corrective action units. Statutory changes adopted before the promulgation of proposed regulations will be studied, and, if needed, appropriate regulatory changes will be considered to coordinate with the amended statutes. Any other general improvements or clarifications of the regulatory text will be considered.

Alternatives*

Please describe the process by which the agency has considered, or will consider, less burdensome and less intrusive alternatives for achieving the need. Also 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, and the reasoning by which the agency has rejected any of the alternatives considered.

A technical advisory committee will advise the Department of Environmental Quality on what amended regulatory text to recommend to the Board as proposed regulations. This panel will advise the department on less intrusive and less burdensome alternatives, where such exists, and during the public participation process, the public will be asked to suggest less intrusive and burdensome alternatives. No action alternatives have been considered or rejected.

Public Participation*

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also indicate whether a public meeting is to be held to receive comments on this notice. Indicate that 1) the agency is not holding a meeting because the agency has authorized proceeding without holding a meeting or 2) the agency is holding a meeting. If a public meeting is to be held, indicate where information on the public meeting (i.e., date, time and place) may be found.

The Board is seeking comments on the intended regulatory action, including (i) ideas to assist in the development of a proposal, (ii) the costs and benefits of the alternatives stated in this notice or other alternatives and (iii) impacts of the regulation on farm or forest lands. Anyone wishing to submit written comments for the public comment file may do so at the public meeting, by mail, or by email to Robert G. Wickline, Department of Environmental Quality, 629 East Main Street, Post Office Box 10009, Richmond, Virginia 23240-0009, (804) 698-4213, rgwickline@deq.state.va.us. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the close of the comment period.

A public meeting will be held and notice of the meeting can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Participatory Approach*

Please indicate the extent to which an ad hoc advisory group will be used in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The Board is using the participatory approach to develop a proposal.

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.

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.