

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 10.1-1408.4 and 10.1-1408.5 of the Code of Virginia, relating to siting of landfills.

[H 639]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1408.4 and 10.1-1408.5 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-1408.4. Landfill siting review.

A. Before granting a permit which approves site suitability for a new municipal solid waste landfill, the Director shall determine, in writing, that the site on which the landfill is to be constructed is suitable for the construction and operation of such a landfill. In making his determination, the Director shall consider and address, in addition to such others as he deems appropriate, the following factors:

1. Based on a written, site-specific report prepared by the Virginia Department of Transportation, the adequacy of transportation facilities that will be available to serve the landfill, including the impact of the landfill on local traffic volume, road congestion, and highway safety;

2. The potential impact of the proposed landfill on parks and recreational areas, public water supplies, marine resources, wetlands, historic sites, fish and wildlife, water quality, and tourism; and

3. The geologic suitability of the proposed site, including proximity to areas of seismic activity and karst topography.

The applicant shall provide such information on these factors as the Director may request.

B. In addition to such other types of locations as may be determined by the Board, no new municipal solid waste landfill shall be constructed:

1. In a 100-year flood plain;

2. In any tidal wetland or nontidal wetland contiguous to any surface water body;

3. Within five miles upgradient of any existing surface or groundwater public water supply intake or reservoir; however, in the Counties of Mecklenburg, *Appomattox*, and Halifax, a new municipal solid waste landfill may be constructed within a shorter distance from an existing surface or groundwater public water supply intake or reservoir if the Director determines that such distance would not be detrimental to human health and the environment;

4. In any area vulnerable to flooding resulting from dam failures;

5. Over a sinkhole or less than 100 feet above a solution cavern associated with karst topography;

6. In any park or recreational area, wildlife management area or area designated by any federal or state agency as the critical habitat of any endangered species; or

7. Over an active fault.

C. *No additional exemptions from the requirements of this section shall be granted without an environmental impact report being submitted to the Board. The environmental impact report shall address at a minimum the environmental impacts related to the exemption being requested from this section, and shall discuss alternatives to the requested exemption. The Board shall hold a public hearing on the environmental impact report prior to making any recommendations to the General Assembly concerning exemptions from the requirements of this section. The review of the environmental impact report does not relieve the applicant from any regulatory requirements and is to be completed prior to the applicant applying for a permit, permit amendment, or for siting approval.*

§ 10.1-1408.5. Special provisions regarding wetlands.

A. The Director shall not issue any solid waste permit for a new municipal solid waste landfill or the expansion of a municipal solid waste landfill that would be sited in a wetland, provided that this subsection shall not apply to the (i) expansion of an existing municipal solid waste landfill located in a city with a population between 41,000 and 52,500 when the owner or operator of the landfill is an authority created pursuant to § 15.2-5102 which has applied for a permit under § 404 of the federal Clean Water Act prior to January 1, 1989, and the owner or operator has received a permit under § 404 of the federal Clean Water Act and § 62.1-44.15:5 of this Code, or (ii) construction of a new municipal solid waste landfill in any county with a population between 29,200 and 30,000, according to the 1990 United States Census, *and in any county with a population between 13,600 and 13,800, according to the 2000 United States Census*, and provided that the municipal solid waste landfills covered under clauses (i) and (ii) have complied with all other applicable federal and state environmental laws and regulations. It is expressly understood that while the provisions of this section provide an exemption to the general

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siting prohibition contained herein; it is not the intent in so doing to express an opinion on whether or not the project should receive the necessary environmental and regulatory permits to proceed.

B. Ground water monitoring shall be conducted at least quarterly by the owner or operator of any existing solid waste management landfill, accepting municipal solid waste, that was constructed on a wetland, has a potential hydrologic connection to such a wetland in the event of an escape of liquids from the facility, or is within a mile of such a wetland, unless the Director determines that less frequent monitoring is necessary. This provision shall not limit the authority of the Board or the Director to require that monitoring be conducted more frequently than quarterly. If the landfill is one that accepts only ash, ground water monitoring shall be conducted semiannually, unless more frequent monitoring is required by the Board or the Director. All results shall be reported to the Department of Environmental Quality.

C. This section shall not apply to landfills which impact less than 1.25 acres of nontidal wetlands.

D. For purposes of this section, "wetland" means any tidal wetland or nontidal wetland contiguous to any tidal wetland or surface water body.

E. No additional exemptions from the requirements of this section shall be granted without an environmental impact report being submitted to the Board. The environmental impact report shall address at a minimum the environmental impacts related to the exemption being requested from this section, and shall discuss alternatives to the requested exemption. The Board shall hold a public hearing on the environmental impact report prior to making any recommendations to the General Assembly concerning exemptions from the requirements of this section. The review of the environmental impact report does not relieve the applicant from any regulatory requirements and is to be completed prior to the applicant applying for a permit, permit amendment, or for siting approval.