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HOUSE BILL NO. 2469

Offered January 14, 2009

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A BILL to amend and reenact §§ 10.1-1401, 10.1-1402, 10.1-1408.1, 10.1-1408.4, 10.1-1408.5, 10.1-1409, 10.1-1426, and 10.1-1427 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 10.1-1408.6, relating to waste management.

Patron—Morgan

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1401, 10.1-1402, 10.1-1408.1, 10.1-1408.4, 10.1-1408.5, 10.1-1409, 10.1-1426, and 10.1-1427 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 10.1-1408.6 as follows:

§ 10.1-1401. Virginia Waste Management Board continued.

A. The Virginia Waste Management Board shall consist of seven Virginia residents appointed by the Governor for terms of four years. The members of the Board shall be citizens of the Commonwealth and shall be selected from the Commonwealth at large on the basis of merit without regard to political affiliation. Members shall, by their education, training, or experience, be knowledgeable of waste management and shall be fairly representative of agriculture, conservation, industry, and public health. *No person appointed to the Board shall be employed by persons subject to permits of the Board or enforcement orders of the Director or receive a significant portion of his income, whether directly or indirectly, from persons subject to permits of the Board or enforcement orders of the Director.* Vacancies occurring other than by expiration of a term shall be filled by the Governor for the unexpired portion of the term.

B. The Board shall adopt rules and procedures for the conduct of its business.

C. The Board shall elect a chairman from among its members.

D. A quorum shall consist of four members. The decision of a majority of those present and voting shall constitute a decision of the Board; however, a vote of the majority of the Board membership is required to constitute a final decision on certification of site approval. Meetings may be held at any time or place determined by the Board or upon call of the chairman or upon written request of any two members. All members shall be notified of the time and place of any meeting at least five days in advance of the meeting.

§ 10.1-1402. Powers and duties of the Board.

The Board shall carry out the purposes and provisions of this chapter and compatible provisions of federal acts and is authorized to:

1. Supervise and control waste management activities in the Commonwealth.

2. Consult, advise and coordinate with the Governor, the Secretary, the General Assembly, and other state and federal agencies for the purpose of implementing this chapter and the federal acts.

3. Provide technical assistance and advice concerning all aspects of waste management.

4. Develop and keep current state waste management plans and provide technical assistance, advice and other aid for the development and implementation of local and regional waste management plans.

5. Promote the development of resource conservation and resource recovery systems and provide technical assistance and advice on resource conservation, resource recovery and resource recovery systems.

6. Collect data necessary to conduct the state waste programs, including data on the identification of and amounts of waste generated, transported, stored, treated or disposed, and resource recovery.

7. Require any person who generates, collects, transports, stores or provides treatment or disposal of a hazardous waste to maintain records, manifests and reporting systems required pursuant to federal statute or regulation.

8. Designate, in accordance with criteria and listings identified under federal statute or regulation, classes, types or lists of waste that it deems to be hazardous.

9. Consult and coordinate with the heads of appropriate state and federal agencies, independent regulatory agencies and other governmental instrumentalities for the purpose of achieving maximum effectiveness and enforcement of this chapter while imposing the least burden of duplicative requirements on those persons subject to the provisions of this chapter.

10. Apply for federal funds and transmit such funds to appropriate persons.

11. Promulgate and enforce regulations, and provide for reasonable variances and exemptions

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59 necessary to carry out its powers and duties and the intent of this chapter and the federal acts, except
60 that a description of provisions of any proposed regulation which are more restrictive than applicable
61 federal requirements, together with the reason why the more restrictive provisions are needed, shall be
62 provided to the standing committee of each house of the General Assembly to which matters relating to
63 the content of the regulation are most properly referable.

64 12. Subject to the approval of the Governor, acquire by purchase, exercise of the right of eminent
65 domain as provided in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1, grant, gift, devise or otherwise, the
66 fee simple title to any lands, selected in the discretion of the Board as constituting necessary and
67 appropriate sites to be used for the management of hazardous waste as defined in this chapter, including
68 lands adjacent to the site as the Board may deem necessary or suitable for restricted areas. In all
69 instances the Board shall dedicate lands so acquired in perpetuity to such purposes. In its selection of a
70 site pursuant to this subdivision, the Board shall consider the appropriateness of any state-owned
71 property for a disposal site in accordance with the criteria for selection of a hazardous waste
72 management site.

73 13. Assume responsibility for the perpetual custody and maintenance of any hazardous waste
74 management facilities.

75 14. Collect, from any person operating or using a hazardous waste management facility, fees
76 sufficient to finance such perpetual custody and maintenance due to that facility as may be necessary.
77 All fees received by the Board pursuant to this subdivision shall be used exclusively to satisfy the
78 responsibilities assumed by the Board for the perpetual custody and maintenance of hazardous waste
79 management facilities.

80 15a. Collect, from any person operating or proposing to operate a hazardous waste treatment, storage
81 or disposal facility or any person transporting hazardous waste, permit fees sufficient to defray only
82 costs related to the issuance of permits as required in this chapter in accordance with Board regulations,
83 but such fees shall not exceed costs necessary to implement this subdivision. All fees received by the
84 Board pursuant to this subdivision shall be used exclusively for the hazardous waste management
85 program set forth herein.

86 15b. Collect fees from large quantity generators of hazardous wastes.

87 16. Collect, from any person operating or proposing to operate a sanitary landfill or other facility for
88 the disposal, treatment or storage of nonhazardous solid waste: (i) permit application fees sufficient to
89 defray only costs related to the issuance, reissuance, amendment or modification of permits as required
90 in this chapter in accordance with Board regulations, but such fees shall not exceed costs necessary to
91 issue, reissue, amend or modify such permits and (ii) annual fees established pursuant to
92 § 10.1-1402.1:1. All such fees received by the Board shall be used exclusively for the solid waste
93 management program set forth herein. The Board shall establish a schedule of fees by regulation as
94 provided in §§ 10.1-1402.1, 10.1-1402.2 and 10.1-1402.3.

95 17. Issue, deny, amend and revoke certification of site suitability for hazardous waste facilities in
96 accordance with this chapter.

97 18. Make separate orders and regulations it deems necessary to meet any emergency to protect public
98 health, natural resources and the environment from the release or imminent threat of release of waste.

99 19. Take actions to contain or clean up sites or to issue orders to require cleanup of sites where solid
100 or hazardous waste, or other substances within the jurisdiction of the Board, have been improperly
101 managed and to institute legal proceedings to recover the costs of the containment or clean-up activities
102 from the responsible parties.

103 20. Collect, hold, manage and disburse funds received for violations of solid and hazardous waste
104 laws and regulations or court orders pertaining thereto pursuant to subdivision 19 of this section for the
105 purpose of responding to solid or hazardous waste incidents and clean-up of sites that have been
106 improperly managed, including sites eligible for a joint federal and state remedial project under the
107 federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law
108 96-510, as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law
109 99-499, and for investigations to identify parties responsible for such mismanagement.

110 21. Abate hazards and nuisances dangerous to public health, safety or the environment, both
111 emergency and otherwise, created by the improper disposal, treatment, storage, transportation or
112 management of substances within the jurisdiction of the Board.

113 22. Notwithstanding any other provision of law to the contrary, regulate the management of mixed
114 radioactive waste.

115 23. (Expires July 1, 2012) Adopt regulations concerning the criteria and standards for removal of
116 mercury switches by vehicle demolishers.

117 24. *Issue or amend any permits pursuant to regulations adopted by the Board and § 10.1-1408.6 for*
118 *activities governed by the Virginia Waste Management Act (§ 10.1-1400 et seq.).*

119 § 10.1-1408.1. Permit required; open dumps prohibited.

120 A. No person shall operate any sanitary landfill or other facility for the disposal, treatment or storage

of nonhazardous solid waste without a permit from the ~~Director~~Board.

B. No application for (i) a new solid waste management facility permit or (ii) application for a permit amendment or variance allowing a category 2 landfill, as defined in this section, to expand or increase in capacity shall be complete unless it contains the following:

1. Certification from the governing body of the county, city or town in which the facility is to be located that the location and operation of the facility are consistent with all applicable ordinances. The governing body shall inform the applicant and the Department of the facility's compliance or noncompliance not more than 120 days from receipt of a request from the applicant. No such certification shall be required for the application for the renewal of a permit or transfer of a permit as authorized by regulations of the Board;

2. A disclosure statement, except that the Director, upon request and in his sole discretion, and when in his judgment other information is sufficient and available, may waive the requirement for a disclosure statement for a captive industrial landfill when such a statement would not serve the purposes of this chapter;

3. If the applicant proposes to locate the facility on property not governed by any county, city or town zoning ordinance, certification from the governing body that it has held a public hearing, in accordance with the applicable provisions of § 15.2-2204, to receive public comment on the proposed facility. Such certification shall be provided to the applicant and the Department within 120 days from receipt of a request from the applicant;

4. If the applicant proposes to operate a new sanitary landfill or transfer station, a statement, including a description of the steps taken by the applicant to seek the comments of the residents of the area where the sanitary landfill or transfer station is proposed to be located, regarding the siting and operation of the proposed sanitary landfill or transfer station. The public comment steps shall be taken prior to filing with the Department the notice of intent to apply for a permit for the sanitary landfill or transfer station as required by the Department's solid waste management regulations. The public comment steps shall include publication of a public notice once a week for two consecutive weeks in a newspaper of general circulation serving the locality where the sanitary landfill or transfer station is proposed to be located and holding at least one public meeting within the locality to identify issues of concern, to facilitate communication and to establish a dialogue between the applicant and persons who may be affected by the issuance of a permit for the sanitary landfill or transfer station. The public notice shall include a statement of the applicant's intent to apply for a permit to operate the proposed sanitary landfill or transfer station, the proposed sanitary landfill or transfer station site location, the date, time and location of the public meeting the applicant will hold and the name, address and telephone number of a person employed by the applicant, who can be contacted by interested persons to answer questions or receive comments on the siting and operation of the proposed sanitary landfill or transfer station. The first publication of the public notice shall be at least fourteen days prior to the public meeting date.

The provisions of this subdivision shall not apply to applicants for a permit to operate a new captive industrial landfill or a new construction-demolition-debris landfill;

5. If the applicant is a local government or public authority that proposes to operate a new municipal sanitary landfill or transfer station, a statement, including a description of the steps taken by the applicant to seek the comments of the residents of the area where the sanitary landfill or transfer station is proposed to be located, regarding the siting and operation of the proposed sanitary landfill or transfer station. The public comment steps shall be taken prior to filing with the Department the notice of intent to apply for a permit for the sanitary landfill or transfer station as required by the Department's solid waste management regulations. The public comment steps shall include the formation of a citizens' advisory group to assist the locality or public authority with the selection of a proposed site for the sanitary landfill or transfer station, publication of a public notice once a week for two consecutive weeks in a newspaper of general circulation serving the locality where the sanitary landfill or transfer station is proposed to be located, and holding at least one public meeting within the locality to identify issues of concern, to facilitate communication and to establish a dialogue between the applicant and persons who may be affected by the issuance of a permit for the sanitary landfill or transfer station. The public notice shall include a statement of the applicant's intent to apply for a permit to operate the proposed sanitary landfill or transfer station, the proposed sanitary landfill or transfer station site location, the date, time and location of the public meeting the applicant will hold and the name, address and telephone number of a person employed by the applicant, who can be contacted by interested persons to answer questions or receive comments on the siting and operation of the proposed sanitary landfill or transfer station. The first publication of the public notice shall be at least fourteen days prior to the public meeting date. For local governments that have zoning ordinances, such public comment steps as required under §§ 15.2-2204 and 15.2-2285 shall satisfy the public comment requirements for public hearings and public notice as required under this section. Any applicant which is a local government or public authority that proposes to operate a new transfer station on land where a municipal sanitary landfill is

182 already located shall be exempt from the public comment requirements for public hearing and public
183 notice otherwise required under this section;

184 6. If the application is for a new municipal solid waste landfill or for an expansion of an existing
185 municipal solid waste landfill, a statement, signed by the applicant, guaranteeing that sufficient disposal
186 capacity will be available in the facility to enable localities within the Commonwealth to comply with
187 solid waste management plans developed pursuant to § 10.1-1411, and certifying that such localities will
188 be allowed to contract for and to reserve disposal capacity in the facility. This provision shall not apply
189 to permit applications from one or more political subdivisions for new landfills or expanded landfills
190 that will only accept municipal solid waste generated within those political subdivisions' jurisdiction or
191 municipal solid waste generated within other political subdivisions pursuant to an interjurisdictional
192 agreement;

193 7. If the application is for a new municipal solid waste landfill or for an expansion of an existing
194 municipal solid waste landfill, certification from the governing body of the locality in which the facility
195 would be located that a host agreement has been reached between the applicant and the governing body
196 unless the governing body or a public service authority of which the governing body is a member would
197 be the owner and operator of the landfill. The agreement shall, at a minimum, have provisions covering
198 (i) the amount of financial compensation the applicant will provide the host locality, (ii) daily travel
199 routes and traffic volumes, (iii) the daily disposal limit, and (iv) the anticipated service area of the
200 facility. The host agreement shall contain a provision that the applicant will pay the full cost of at least
201 one full-time employee of the locality whose responsibility it will be to monitor and inspect waste
202 transportation and disposal practices in the locality. The host agreement shall also provide that the
203 applicant shall, when requested by the host locality, split air and water samples so that the host locality
204 may independently test the sample, with all associated costs paid for by the applicant. All such sampling
205 results shall be provided to the Department. For purposes of this subdivision, "host agreement" means
206 any lease, contract, agreement or land use permit entered into or issued by the locality in which the
207 landfill is situated which includes terms or conditions governing the operation of the landfill;

208 8. If the application is for a locality-owned and locality-operated new municipal solid waste landfill
209 or for an expansion of an existing such municipal solid waste landfill, information on the anticipated (i)
210 daily travel routes and traffic volumes, (ii) daily disposal limit, and (iii) service area of the facility; and

211 9. If the application is for a new solid waste management facility permit or for modification of a
212 permit to allow an existing solid waste management facility to expand or increase its capacity, the
213 application shall include certification from the governing body for the locality in which the facility is or
214 will be located that: (i) the proposed new facility or the expansion or increase in capacity of the existing
215 facility is consistent with the applicable local or regional solid waste management plan developed and
216 approved pursuant to § 10.1-1411; or (ii) the local government or solid waste management planning unit
217 has initiated the process to revise the solid waste management plan to include the new or expanded
218 facility. Inclusion of such certification shall be sufficient to allow processing of the permit application,
219 up to but not including publication of the draft permit or permit amendment for public comment, but
220 shall not bind the Director *or the Board, pursuant to § 10.1-1408.6*, in making the determination
221 required by subdivision D 1.

222 C. Notwithstanding any other provision of law:

223 1. Every holder of a permit issued under this article who has not earlier filed a disclosure statement
224 shall, prior to July 1, 1991, file a disclosure statement with the Director.

225 2. Every applicant for a permit under this article shall file a disclosure statement with the Director,
226 together with the permit application or prior to September 1, 1990, whichever comes later. No permit
227 application shall be deemed incomplete for lack of a disclosure statement prior to September 1, 1990.

228 3. Every applicant shall update its disclosure statement quarterly to indicate any change of condition
229 that renders any portion of the disclosure statement materially incomplete or inaccurate.

230 4. The Director, upon request and in his sole discretion, and when in his judgment other information
231 is sufficient and available, may waive the requirements of this subsection for a captive industrial waste
232 landfill when such requirements would not serve the purposes of this chapter.

233 D. 1. Except as provided in subdivision D 2, no permit for a new solid waste management facility
234 nor any amendment to a permit allowing facility expansion or an increase in capacity shall be issued
235 until the Director *or the Board, pursuant to § 10.1-1408.6*, has determined, after an investigation and
236 analysis of the potential human health, environmental, transportation infrastructure, and transportation
237 safety impacts and needs and an evaluation of comments by the host local government, other local
238 governments and interested persons, that (i) the proposed facility, expansion, or increase protects present
239 and future human health and safety and the environment; (ii) there is a need for the additional capacity;
240 (iii) sufficient infrastructure will exist to safely handle the waste flow; (iv) the increase is consistent with
241 locality-imposed or state-imposed daily disposal limits; (v) the public interest will be served by the
242 proposed facility's operation or the expansion or increase in capacity of a facility; and (vi) the proposed
243 solid waste management facility, facility expansion, or additional capacity is consistent with regional and

local solid waste management plans developed pursuant to § 10.1-1411. The Department shall hold a public hearing within the said county, city or town prior to the issuance of any such permit for the management of nonhazardous solid waste. Subdivision D 2, in lieu of this subdivision, shall apply to nonhazardous industrial solid waste management facilities owned or operated by the generator of the waste managed at the facility, and that accept only waste generated by the facility owner or operator. The Board shall have the authority to promulgate regulations to implement this subdivision.

2. No new permit for a nonhazardous industrial solid waste management facility that is owned or operated by the generator of the waste managed at the facility, and that accepts only waste generated by the facility owner or operator, shall be issued until the Director *or the Board, pursuant to § 10.1-1408.6*, has determined, after investigation and evaluation of comments by the local government, that the proposed facility poses no substantial present or potential danger to human health or the environment. The Department shall hold a public hearing within the county, city or town where the facility is to be located prior to the issuance of any such permit for the management of nonhazardous industrial solid waste.

E. The permit shall contain such conditions or requirements as are necessary to comply with the requirements of this Code and the regulations of the Board and to protect present and future human health and the environment.

The Director *or the Board, pursuant to § 10.1-1408.6*, may include in any permit such recordkeeping, testing and reporting requirements as are necessary to ensure that the local governing body of the county, city or town where the waste management facility is located is kept timely informed regarding the general nature and quantity of waste being disposed of at the facility. Such recordkeeping, testing and reporting requirements shall require disclosure of proprietary information only as is necessary to carry out the purposes of this chapter. At least once every ten years, the Director shall review and issue written findings on the environmental compliance history of each permittee, material changes, if any, in key personnel, and technical limitations, standards, or regulations on which the original permit was based. The time period for review of each category of permits shall be established by Board regulation. If, upon such review, the Director finds that repeated material or substantial violations of the permittee or material changes in the permittee's key personnel would make continued operation of the facility not in the best interests of human health or the environment, the Director shall amend or revoke the permit, in accordance herewith. Whenever such review is undertaken, the Director may amend the permit to include additional limitations, standards, or conditions when the technical limitations, standards, or regulations on which the original permit was based have been changed by statute or amended by regulation or when any of the conditions in subsection B of § 10.1-1409 exist. The Director may deny, revoke, or suspend any permit for any of the grounds listed under subsection A of § 10.1-1409.

F. There shall exist no right to operate a landfill or other facility for the disposal, treatment or storage of nonhazardous solid waste or hazardous waste within the Commonwealth. Permits for solid waste management facilities shall not be transferable except as authorized in regulations promulgated by the Board. The issuance of a permit shall not convey or establish any property rights or any exclusive privilege, nor shall it authorize any injury to private property or any invasion of personal rights or any infringement of federal, state, or local law or regulation.

G. No person shall dispose of solid waste in open dumps.

H. No person shall own, operate or allow to be operated on his property an open dump.

I. No person shall allow waste to be disposed of on his property without a permit. Any person who removes trees, brush, or other vegetation from land used for agricultural or forestal purposes shall not be required to obtain a permit if such material is deposited or placed on the same or other property of the same landowner from which such materials were cleared. The Board shall by regulation provide for other reasonable exemptions from permitting requirements for the disposal of trees, brush and other vegetation when such materials are removed for agricultural or forestal purposes.

When promulgating any regulation pursuant to this section, the Board shall consider the character of the land affected, the density of population, and the volume of waste to be disposed, as well as other relevant factors.

J. No permit shall be required pursuant to this section for recycling or for temporary storage incidental to recycling. As used in this subsection, "recycling" means any process whereby material which would otherwise be solid waste is used or reused, or prepared for use or reuse, as an ingredient in an industrial process to make a product, or as an effective substitute for a commercial product.

K. The Board shall provide for reasonable exemptions from the permitting requirements, both procedural and substantive, in order to encourage the development of yard waste composting facilities. To accomplish this, the Board is authorized to exempt such facilities from regulations governing the treatment of waste and to establish an expedited approval process. Agricultural operations receiving only yard waste for composting shall be exempt from permitting requirements provided that (i) the composting area is located not less than 300 feet from a property boundary, is located not less than

1,000 feet from an occupied dwelling not located on the same property as the composting area, and is not located within an area designated as a flood plain as defined in § 10.1-600; (ii) the agricultural operation has at least one acre of ground suitable to receive yard waste for each 150 cubic yards of finished compost generated; (iii) the total time for the composting process and storage of material that is being composted or has been composted shall not exceed eighteen months prior to its field application or sale as a horticultural or agricultural product; and (iv) the owner or operator of the agricultural operation notifies the Director in writing of his intent to operate a yard waste composting facility and the amount of land available for the receipt of yard waste. In addition to the requirements set forth in clauses (i) through (iv) of the preceding sentence, the owner and operator of any agricultural operation that receives more than 6,000 cubic yards of yard waste generated from property not within the control of the owner or the operator in any twelve-month period shall be exempt from permitting requirements provided (i) the owner and operator submit to the Director an annual report describing the volume and types of yard waste received by such operation for composting and (ii) the operator shall certify that the yard waste composting facility complies with local ordinances. The Director shall establish a procedure for the filing of the notices, annual reports and certificates required by this subsection and shall prescribe the forms for the annual reports and certificates. Nothing contained in this article shall prohibit the sale of composted yard waste for horticultural or agricultural use, provided that any composted yard waste sold as a commercial fertilizer with claims of specific nutrient values, promoting plant growth, or of conditioning soil shall be sold in accordance with the Virginia Fertilizer Act (§ 3.1-106.1 et seq.). As used in this subsection, "agricultural operation" shall have the same meaning ascribed to it in subsection B of § 3.1-22.29.

The operation of a composting facility as provided in this subsection shall not relieve the owner or operator of such a facility from liability for any violation of this chapter.

L. The Board shall provide for reasonable exemptions from the permitting requirements, both procedural and substantive, in order to encourage the development of facilities for the decomposition of vegetative waste. To accomplish this, the Board shall approve an expedited approval process. As used in this subsection, the decomposition of vegetative waste means a natural aerobic or anaerobic process, active or passive, which results in the decay and chemical breakdown of the vegetative waste. Nothing in this subsection shall be construed to prohibit a city or county from exercising its existing authority to regulate such facilities by requiring, among other things, permits and proof of financial security.

M. In receiving and processing applications for permits required by this section, the Director shall assign top priority to applications which (i) agree to accept nonhazardous recycling residues and (ii) pledge to charge tipping fees for disposal of nonhazardous recycling residues which do not exceed those charged for nonhazardous municipal solid waste. Applications meeting these requirements shall be acted upon no later than six months after they are deemed complete.

N. Every solid waste management facility shall be operated in compliance with the regulations promulgated by the Board pursuant to this chapter. To the extent consistent with federal law, those facilities which were permitted prior to March 15, 1993, and upon which solid waste has been disposed of prior to October 9, 1993, may continue to receive solid waste until they have reached their vertical design capacity, provided that the facility is in compliance with the requirements for liners and leachate control in effect at the time of permit issuance, and further provided that on or before October 9, 1993, the owner or operator of the solid waste management facility submits to the Director:

1. An acknowledgement that the owner or operator is familiar with state and federal law and regulations pertaining to solid waste management facilities operating after October 9, 1993, including postclosure care, corrective action and financial responsibility requirements;

2. A statement signed by a registered professional engineer that he has reviewed the regulations established by the Department for solid waste management facilities, including the open dump criteria contained therein; that he has inspected the facility and examined the monitoring data compiled for the facility in accordance with applicable regulations; and that, on the basis of his inspection and review, he has concluded that: (i) the facility is not an open dump, (ii) the facility does not pose a substantial present or potential hazard to human health and the environment, and (iii) the leachate or residues from the facility do not pose a threat of contamination or pollution of the air, surface water or ground water in a manner constituting an open dump or resulting in a substantial present or potential hazard to human health or the environment; and

3. A statement signed by the owner or operator (i) that the facility complies with applicable financial assurance regulations and (ii) estimating when the facility will reach its vertical design capacity.

The facility may not be enlarged prematurely to avoid compliance with state or federal regulations when such enlargement is not consistent with past operating practices, the permit or modified operating practices to ensure good management.

Facilities which are authorized by this subsection to accept waste for disposal beyond the waste boundaries existing on October 9, 1993, shall be as follows:

Category 1: Nonhazardous industrial waste facilities that are located on property owned or controlled

by the generator of the waste disposed of in the facility;

Category 2: Nonhazardous industrial waste facilities other than those that are located on property owned or controlled by the generator of the waste disposed of in the facility, provided that the facility accepts only industrial waste streams which the facility has lawfully accepted prior to July 1, 1995, or other nonhazardous industrial waste as approved by the Department on a case-by-case basis; and

Category 3: Facilities that accept only construction-demolition-debris waste as defined in the Board's regulations.

The Director may prohibit or restrict the disposal of waste in facilities described in this subsection which contains hazardous constituents as defined in applicable regulations which, in the opinion of the Director, would pose a substantial risk to health or the environment. Facilities described in category 3 may expand laterally beyond the waste disposal boundaries existing on October 9, 1993, provided that there is first installed, in such expanded areas, liners and leachate control systems meeting the applicable performance requirements of the Board's regulations, or a demonstration is made to the satisfaction of the Director that such facilities satisfy the applicable variance criteria in the Board's regulations.

Owners or operators of facilities which are authorized under this subsection to accept waste for disposal beyond the waste boundaries existing on October 9, 1993, shall ensure that such expanded disposal areas maintain setback distances applicable to such facilities under the Board's current regulations and local ordinances. Prior to the expansion of any facility described in category 2 or 3, the owner or operator shall provide the Director with written notice of the proposed expansion at least sixty days prior to commencement of construction. The notice shall include recent groundwater monitoring data sufficient to determine that the facility does not pose a threat of contamination of groundwater in a manner constituting an open dump or creating a substantial present or potential hazard to human health or the environment. The Director shall evaluate the data included with the notification and may advise the owner or operator of any additional requirements that may be necessary to ensure compliance with applicable laws and prevent a substantial present or potential hazard to health or the environment.

Facilities, or portions thereof, which have reached their vertical design capacity shall be closed in compliance with regulations promulgated by the Board.

Nothing in this subsection shall alter any requirement for groundwater monitoring, financial responsibility, operator certification, closure, postclosure care, operation, maintenance or corrective action imposed under state or federal law or regulation, or impair the powers of the Director pursuant to § 10.1-1409.

O. Portions of a permitted solid waste management facility used solely for the storage of household hazardous waste may store household hazardous waste for a period not to exceed one year, provided that such wastes are properly contained and are segregated to prevent mixing of incompatible wastes.

P. Any permit for a new municipal solid waste landfill, and any permit amendment authorizing expansion of an existing municipal solid waste landfill, shall incorporate conditions to require that capacity in the landfill will be available to localities within the Commonwealth that choose to contract for and reserve such capacity for disposal of such localities' solid waste in accordance with solid waste management plans developed by such localities pursuant to § 10.1-1411. This provision shall not apply to permit applications from one or more political subdivisions for new landfills or expanded landfills that will only accept municipal solid waste generated within the political subdivision or subdivisions' jurisdiction or municipal solid waste generated within other political subdivisions pursuant to an interjurisdictional agreement.

Q. No application for coverage under a permit-by-rule or for modification of coverage under a permit-by-rule shall be complete unless it contains certification from the governing body of the locality in which the facility is to be located that the facility is consistent with the solid waste management plan developed and approved in accordance with § 10.1-1411.

§ 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 *or the Board, pursuant to § 10.1-1408.6*, 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~~*the* determination, the Director *or the Board* shall consider and address, in addition to such others as ~~he deems~~*they deem* 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 *or the Board* 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, except in accordance with § 10.1-1408.5;

3. Within three miles upgradient of any existing surface or groundwater public water supply intake or reservoir. However, a new municipal solid waste landfill may be constructed within a closer distance but no closer than one mile from any existing surface or groundwater public water supply intake or reservoir if: (i) the proposed landfill would meet all of the other requirements of this chapter and subtitle D of the federal Resource Conservation and Recovery Act, including alternative liner systems approved in accordance with that Act; (ii) the permit requires that groundwater protection standards be established and approved by the Director prior to the receipt of waste; (iii) the permit requires installation of at least two synthetic liners under the waste disposal areas and requires leachate collection systems to be installed above and below the uppermost liner; (iv) the permit requires all groundwater monitoring wells located within the facility's boundary and between the landfill and any water supply intake to be sampled quarterly and the results reported to the Department within 15 days of the owner or operator receiving the laboratory analysis; and (v) the proposed landfill meets any other conditions deemed necessary by the Director, in consultation with the Commissioner of Health, to protect against groundwater and surface water contamination. In the Counties of Mecklenburg and Halifax, a new municipal solid waste landfill may be exempt from the provisions of this subdivision and 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. There shall be no additional exemptions granted from this section unless (i) the proponent has submitted to the Department an assessment of the potential impact to public water supplies, the need for the exemption, and the alternatives considered and (ii) the Department has made the information available for public review for at least 60 days prior to the first day of the next Regular Session of the General Assembly.

§ 10.1-1408.5. Special provisions regarding wetlands.

A. ~~The~~Neither the Director nor the Board, pursuant to § 10.1-1408.6, 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 subsection B or the (i) expansion of an existing municipal solid waste landfill located in the City of Danville or the City of Suffolk when the owner or operator of the landfill is an authority created pursuant to § 15.2-5102 that 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 the Virginia Water Resources and Wetlands Protection Program, Article 2.2 (§ 62.1-44.15:20 et seq.) of Chapter 3.1 of Title 62.1, or (ii) construction of a new municipal solid waste landfill in Mecklenburg County 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 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. For the purposes of this section, the term "expansion of a municipal solid waste landfill" shall include the siting and construction of new cells or the expansion of existing cells at the same location.

B. The Director or the Board, pursuant to § 10.1-1408.6, may issue a solid waste permit for the expansion of a municipal solid waste landfill located in a wetland only if the following conditions are met: (i) the proposed landfill site is at least 100 feet from any surface water body and at least one mile from any tidal wetland; (ii) the Director determines, based upon the existing condition of the wetland system, including, but not limited to, sedimentation, toxicity, acidification, nitrification, vegetation, and proximity to existing permitted waste disposal areas, roads or other structures, that the construction or restoration of a wetland system in another location in accordance with a Virginia Water Protection Permit approved by the State Water Control Board would provide higher quality wetlands; and (iii) the permit requires a minimum two-to-one wetlands mitigation ratio. This subsection shall not apply to the exemptions provided in clauses (i) and (ii) of subsection A.

C. 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.

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

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

F. There shall be no additional exemptions granted from this section unless (i) the proponent has submitted to the Department an assessment of the potential impact to wetlands, the need for the exemption, and the alternatives considered and (ii) the Department has made the information available for public review for at least 60 days prior to the first day of the next Regular Session of the General Assembly.

§ 10.1-1408.6. Permits; procedures for public hearings and permits before the Board.

A. During the public comment period on a permit action, interested persons may request a public hearing to contest such action or the terms and conditions thereof. Where public hearings are mandatory under state or federal law or regulation, interested persons may request, during the public comment period on the permit action, that the Board consider the permit action pursuant to the requirements of this section.

B. Requests for a public hearing or Board consideration shall contain the following information:

1. The name, mailing address, and telephone number of the requester;

2. The names and addresses of all persons for whom the requester is acting as a representative (for the purposes of this requirement, an unincorporated association is a person);

3. The reason why a public hearing or Board consideration is requested;

4. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative in the application or tentative determination, including an explanation of how and to what extent such interest would be directly and adversely affected by the issuance, denial, modification, or revocation of the permit in question; and

5. Where possible, specific references to the terms and conditions of the permit in question, together with suggested revisions and alterations of those terms and conditions that the requester considers are needed to conform the permit to the intent and provisions of the Virginia Waste Management Act (§ 10.1-1400 et seq.).

C. Upon completion of the public comment period on a permit action, the Director shall review all timely requests for public hearing or Board consideration filed during the public comment period on the permit action and within 30 calendar days following the expiration of the time period for the submission of requests shall grant a public hearing or Board consideration after the public hearing required by state or federal law or regulation, unless the permittee or applicant agrees to a later date, if the Director finds the following:

1. That there is a significant public interest in the issuance, denial, modification, or revocation of the permit in question as evidenced by receipt of a minimum of 25 individual requests for a public hearing or Board consideration;

2. That the requesters raise substantial, disputed issues relevant to the issuance, denial, modification, or revocation of the permit in question; and

3. That the action requested by the interested party is not on its face inconsistent with, or in violation of, the Virginia Waste Management Act (§ 10.1-1400 et seq.), federal law, or any regulation promulgated thereunder.

D. Either the Director or a majority of the Board members, acting independently, may request a meeting of the Board to be convened within 20 days of the Director's decision pursuant to subsection C in order to review such decision and determine by a majority vote of the Board whether or not to grant a public hearing or Board consideration, or to delegate the permit to the Director for his decision. For purposes of this subsection, if a Board meeting is held via electronic communication, the Board shall have at least one forum open to the public and individual Board members may participate from any location regardless of whether it is open to the public.

E. The Director shall immediately notify by mail at his last known address (i) each requester and (ii) the applicant or permittee of the decision to grant or deny a public hearing or Board consideration.

F. In addition to subsections C, D, and E, the Director may, in his discretion, convene a public hearing on a permit action or submit a permit action to the Board for its consideration.

G. If a determination is made to hold a public hearing, the Director shall schedule the hearing at a

time between 45 and 75 days after mailing of the notice required by subsection E.

H. The Director shall cause to be published once, or require the applicant to publish once, notice of a public hearing, in a newspaper of general circulation in the city or county where the facility or operation that is the subject of the permit or permit application is located, at least 30 days before the hearing date.

I. The Director may, on his own motion or at the request of the applicant or permittee, for good cause shown, reschedule the date of the public hearing. In the event the Director reschedules the date for the public hearing after notice has been published, he shall provide, or require the applicant to provide, reasonable notice of the new date of the public hearing. Such notice shall be published once in the same newspaper where the original notice was published.

J. Public hearings held pursuant to these procedures may be conducted by the Board at a regular or special meeting of the Board and shall be presided over by a member of the Board. Public hearings may be held before less than a quorum of the Board.

K. The presiding Board member shall have the authority to maintain order, preserve the impartiality of the decision process, and conclude the hearing process expeditiously. The presiding Board member, in order to carry out his responsibilities under this subsection, is authorized to exercise the following powers, including but not limited to:

1. Prescribing the methods and procedures to be used in the presentation of factual data, arguments, and proof, orally and in writing, including the imposition of reasonable limitations on the time permitted for oral testimony;

2. Consolidating the presentation of factual data, arguments, and proof to avoid repetitive presentation of them;

3. Ruling on procedural matters; and

4. Acting as custodian of the record of the public hearing causing all notices and written submittals to be entered in it.

L. The public comment period will remain open for 15 days after the close of the public hearing.

M. When the public hearing is conducted by less than a quorum of the Board, the Department shall promptly after the close of the public hearing comment period, make a report to the Board.

N. After the close of the public hearing comment period, the Board shall, at a regular or special meeting, take final action on the permit. Such decision shall be issued within 90 days of the close of the public comment period or from a later date, as agreed to by the permittee or applicant and the Board or the Director. The Board shall not take any action on a permit where a public hearing was convened solely to satisfy the requirements of state or federal law or regulation unless the permit was provided to the Board for its consideration pursuant to the provisions of this section.

O. When the public hearing was conducted by less than a quorum of the Board, persons who commented during the public comment period shall be afforded an opportunity at the Board meeting when final action is scheduled to respond to any summaries of the public comments prepared by the Department for the Board's consideration subject to such reasonable limitations on the time permitted for oral testimony or presentation of repetitive material as are determined by the Board.

P. In making its decision, the Board shall consider (i) the verbal and written comments received during the public comment period made part of the record, (ii) any explanation of comments previously received during the public comment period made at the Board meeting, (iii) the comments and recommendation of the Department, and (iv) the agency files. When the decision of the Board is to adopt the recommendation of the Department, the Board shall provide in writing a clear and concise statement of the legal basis and justification for the decision reached. When the decision of the Board varies from the recommendation of the Department, the Board shall, in consultation with legal counsel, provide a clear and concise statement explaining the reason for the variation and how the Board's decision is in compliance with applicable laws and regulations. The written statement shall be provided contemporaneously with the decision of the Board. Copies of the decision, certified by the Director, shall be mailed by certified mail to the permittee or applicant.

§ 10.1-1409. Revocation or amendment of permits.

A. Any permit issued by the Director or the Board pursuant to this article may be revoked, amended or suspended on any of the following grounds or on such other grounds as may be provided by the regulations of the Board:

1. The permit holder has violated any regulation or order of the Board, any condition of a permit, any provision of this chapter, or any order of a court, where such violation results in a release of harmful substances into the environment or poses a threat of release of harmful substances into the environment or presents a hazard to human health, or the violation is representative of a pattern of serious or repeated violations which, in the opinion of the Director or the Board pursuant to § 10.1-1408.6, demonstrate the permittee's disregard for or inability to comply with applicable laws, regulations or requirements;

2. The sanitary landfill or other facility used for disposal, storage or treatment of solid waste is

maintained or operated in such a manner as to pose a substantial present or potential hazard to human health or the environment;

3. The sanitary landfill, or other facility used for the disposal, storage or treatment of solid waste, because of its location, construction or lack of protective construction or measures to prevent pollution, poses a substantial present or potential hazard to human health or the environment;

4. Leachate or residues from the sanitary landfill or other facility used for the disposal, storage or treatment of solid waste pose a substantial threat of contamination or pollution of the air, surface waters or ground water;

5. The person to whom the permit was issued abandons or ceases to operate the facility, or sells, leases or transfers the facility without properly transferring the permit in accordance with the regulations of the Board;

6. As a result of changes in key personnel, the Director finds that the requirements necessary for issuance of a permit are no longer satisfied;

7. The applicant has knowingly or willfully misrepresented or failed to disclose a material fact in applying for a permit or in his disclosure statement, or in any other report or certification required under this law or under the regulations of the Board, or has knowingly or willfully failed to notify the Director of any material change to the information in its disclosure statement; or

8. Any key personnel has been convicted of any of the following crimes punishable as felonies under the laws of the Commonwealth or the equivalent thereof under the laws of any other jurisdiction: murder; kidnapping; gambling; robbery; bribery; extortion; criminal usury; arson; burglary; theft and related crimes; forgery and fraudulent practices; fraud in the offering, sale, or purchase of securities; alteration of motor vehicle identification numbers; unlawful manufacture, purchase, use or transfer of firearms; unlawful possession or use of destructive devices or explosives; violation of the Drug Control Act, Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1; racketeering; violation of antitrust laws; or has been adjudged by an administrative agency or a court of competent jurisdiction to have violated the environmental protection laws of the United States, the Commonwealth or any other state and the Director determines that such conviction or adjudication is sufficiently probative of the applicant's inability or unwillingness to operate the facility in a lawful manner, as to warrant denial, revocation, amendment or suspension of the permit.

In making such determination, the Director shall consider:

- (a) The nature and details of the acts attributed to key personnel;
- (b) The degree of culpability of the applicant, if any;
- (c) The applicant's policy or history of discipline of key personnel for such activities;
- (d) Whether the applicant has substantially complied with all rules, regulations, permits, orders and statutes applicable to the applicant's activities in Virginia;
- (e) Whether the applicant has implemented formal management controls to minimize and prevent the occurrence of such violations; and
- (f) Mitigation based upon demonstration of good behavior by the applicant including, without limitation, prompt payment of damages, cooperation with investigations, termination of employment or other relationship with key personnel or other persons responsible for the violations or other demonstrations of good behavior by the applicant that the Director finds relevant to its decision.

B. The Director or the Board, pursuant to § 10.1-1408.6, may amend or attach conditions to a permit when:

1. There is a significant change in the manner and scope of operation which may require new or additional permit conditions or safeguards to protect the public health and environment;

2. There is found to be a possibility of pollution causing significant adverse effects on the air, land, surface water or ground water;

3. Investigation has shown the need for additional equipment, construction, procedures and testing to ensure the protection of the public health and the environment from significant adverse effects; or

4. The amendment is necessary to meet changes in applicable regulatory requirements.

C. If the Director finds that solid wastes are no longer being stored, treated or disposed at a facility in accordance with Board regulations, he may revoke the permit issued for such facility. As a condition to granting or continuing in effect a permit, he may also require the permittee to provide perpetual care and surveillance of the facility.

D. If the Director summarily suspends a permit pursuant to subdivision 18 of § 10.1-1402, the Director shall hold a conference pursuant to § 2.2-4019 within forty-eight hours to consider whether to continue the suspension pending a hearing to amend or revoke the permit, or to issue any other appropriate order. Notice of the hearing shall be delivered at the conference or sent at the time the permit is suspended. Any person whose permit is suspended by the Director shall cease activity for which the permit was issued until the permit is reinstated by the Director or by a court.

§ 10.1-1426. Permits required; waiver of requirements; reports; conditional permits.

674 A. No person shall transport, store, provide treatment for, or dispose of a hazardous waste without a
675 permit from the Director *or the Board, pursuant to § 10.1-1408.6.*

676 B. Any person generating, transporting, storing, providing treatment for, or disposing of a hazardous
677 waste shall report to the Director, by such date as the Board specifies by regulation, the following: (i)
678 his name and address, (ii) the name and nature of the hazardous waste, and (iii) the fact that he is
679 generating, transporting, storing, providing treatment for or disposing of a hazardous waste. A person
680 who is an exempt small quantity generator of hazardous wastes, as defined by the administrator of the
681 Environmental Protection Agency, shall be exempt from the requirements of this subsection.

682 C. Any permit shall contain the conditions or requirements required by the Board's regulations and
683 the federal acts.

684 D. Upon the issuance of an emergency permit for the storage of hazardous waste, the Director shall
685 notify the chief administrative officer of the local government for the jurisdiction in which the permit
686 has been issued.

687 E. The Director *or the Board, pursuant to § 10.1-1408.6,* may deny an application under this article
688 on any grounds for which a permit may be amended, suspended or revoked listed under subsection A of
689 § 10.1-1427.

690 F. Any locality or state agency may collect hazardous waste from exempt small quantity generators
691 for shipment to a permitted treatment or disposal facility if done in accordance with (i) a permit to store,
692 treat, or dispose of hazardous waste issued pursuant to this chapter or (ii) a permit to transport
693 hazardous waste, and the wastes collected are stored for no more than 10 days prior to shipment to a
694 permitted treatment or disposal facility. If household hazardous waste is collected and managed with
695 hazardous wastes collected from exempt small quantity generators, all waste shall be managed in
696 accordance with the provisions of this subsection.

697 § 10.1-1427. Revocation, suspension or amendment of permits.

698 A. Any permit issued by the Director *or the Board* pursuant to this article may be revoked, amended
699 or suspended on any of the following grounds or on such other grounds as may be provided by the
700 regulations of the Board:

701 1. The permit holder has violated any regulation or order of the Board, any condition of a permit,
702 any provision of this chapter, or any order of a court, where such violation (i) results in a release of
703 harmful substances into the environment, (ii) poses a threat of release of harmful substances into the
704 environment, (iii) presents a hazard to human health, or (iv) is representative of a pattern of serious or
705 repeated violations which, in the opinion of the Director, demonstrates the permittee's disregard for or
706 inability to comply with applicable laws, regulations or requirements;

707 2. The person to whom the permit was issued abandons, sells, leases or ceases to operate the facility
708 permitted;

709 3. The facilities used in the transportation, storage, treatment or disposal of hazardous waste are
710 operated, located, constructed or maintained in such a manner as to pose a substantial present or
711 potential hazard to human health or the environment, including pollution of air, land, surface water or
712 ground water;

713 4. Such protective construction or equipment as is found to be reasonable, technologically feasible
714 and necessary to prevent substantial present or potential hazard to human health and welfare or the
715 environment has not been installed at a facility used for the storage, treatment or disposal of a hazardous
716 waste; or

717 5. Any key personnel have been convicted of any of the following crimes punishable as felonies
718 under the laws of the Commonwealth or the equivalent thereof under the laws of any other jurisdiction:
719 murder; kidnapping; gambling; robbery; bribery; extortion; criminal usury; arson; burglary; theft and
720 related crimes; forgery and fraudulent practices; fraud in the offering, sale, or purchase of securities;
721 alteration of motor vehicle identification numbers; unlawful manufacture, purchase, use or transfer of
722 firearms; unlawful possession or use of destructive devices or explosives; violation of the Drug Control
723 Act (§ 54.1-3400 et seq.); racketeering; violation of antitrust laws; or has been adjudged by an
724 administrative agency or a court of competent jurisdiction to have violated the environmental protection
725 laws of the United States, the Commonwealth, or any other state and the Director determines that such
726 conviction or adjudication is sufficiently probative of the applicant's inability or unwillingness to operate
727 the facility in a lawful manner, as to warrant denial, revocation, amendment or suspension of the permit.

728 In making such determination, the Director shall consider:

729 a. The nature and details of the acts attributed to key personnel;

730 b. The degree of culpability of the applicant, if any;

731 c. The applicant's policy or history of discipline of key personnel for such activities;

732 d. Whether the applicant has substantially complied with all rules, regulations, permits, orders and
733 statutes applicable to the applicant's activities in Virginia;

734 e. Whether the applicant has implemented formal management control to minimize and prevent the
735 occurrence of such violations; and

f. Mitigation based upon demonstration of good behavior by the applicant including, without limitation, prompt payment of damages, cooperation with investigations, termination of employment or other relationship with key personnel or other persons responsible for the violations or other demonstrations of good behavior by the applicant that the Director finds relevant to his decision.

B. The Director *or the Board*, pursuant to § 10.1-1408.6, may amend or attach conditions to a permit when:

1. There is a significant change in the manner and scope of operation which may require new or additional permit conditions or safeguards to protect the public health and environment;

2. There is found to be a possibility of pollution causing significant adverse effects on the air, land, surface water or ground water;

3. Investigation has shown the need for additional equipment, construction, procedures and testing to ensure the protection of the public health and the environment from significant adverse effects; or

4. The amendment is necessary to meet changes in applicable regulatory requirements.

C. If the Director finds that hazardous wastes are no longer being stored, treated or disposed of at a facility in accordance with Board regulations, the Director may revoke the permit issued for such facility or, as a condition to granting or continuing in effect a permit, may require the person to whom the permit was issued to provide perpetual care and surveillance of the facility.