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## HOUSE BILL NO. 1352

Offered January 8, 2020

Prefiled January 8, 2020

A BILL to amend and reenact §§ 10.1-1402 and 10.1-1408.1 of the Code of Virginia, relating to responsible solid waste disposal.

Patron—Gooditis

Referred to Committee on Agriculture, Chesapeake and Natural Resources

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 10.1-1402 and 10.1-1408.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 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 necessary to carry out its powers and duties and the intent of this chapter and the federal acts, except that a description of provisions of any proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed, shall be provided to the standing committee of each house of the General Assembly to which matters relating to the content of the regulation are most properly referable.
12. Subject to the approval of the Governor, acquire by purchase, exercise of the right of eminent domain as provided in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1, grant, gift, devise or otherwise, the fee simple title to any lands, selected in the discretion of the Board as constituting necessary and appropriate sites to be used for the management of hazardous waste as defined in this chapter, including lands adjacent to the site as the Board may deem necessary or suitable for restricted areas. In all instances the Board shall dedicate lands so acquired in perpetuity to such purposes. In its selection of a site pursuant to this subdivision, the Board shall consider the appropriateness of any state-owned property for a disposal site in accordance with the criteria for selection of a hazardous waste management site.
13. Assume responsibility for the perpetual custody and maintenance of any hazardous waste management facilities.
14. Collect, from any person operating or using a hazardous waste management facility, fees sufficient to finance such perpetual custody and maintenance due to that facility as may be necessary. All fees received by the Board pursuant to this subdivision shall be used exclusively to satisfy the responsibilities assumed by the Board for the perpetual custody and maintenance of hazardous waste management facilities.

INTRODUCED

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59 15a. Collect, from any person operating or proposing to operate a hazardous waste treatment, storage  
60 or disposal facility or any person transporting hazardous waste, permit fees sufficient to defray only  
61 costs related to the issuance of permits as required in this chapter in accordance with Board regulations,  
62 but such fees shall not exceed costs necessary to implement this subdivision. All fees received by the  
63 Board pursuant to this subdivision shall be used exclusively for the hazardous waste management  
64 program set forth herein.

65 15b. Collect fees from large quantity generators of hazardous wastes.

66 16. Collect, from any person operating or proposing to operate a sanitary landfill or other facility for  
67 the disposal, treatment or storage of nonhazardous solid waste: (i) permit application fees sufficient to  
68 defray only costs related to the issuance, reissuance, amendment or modification of permits as required  
69 in this chapter in accordance with Board regulations, but such fees shall not exceed costs necessary to  
70 issue, reissue, amend or modify such permits and (ii) annual fees established pursuant to  
71 § 10.1-1402.1:1. All such fees received by the Board shall be used exclusively for the solid waste  
72 management program set forth herein. The Board shall establish a schedule of fees by regulation as  
73 provided in §§ 10.1-1402.1, 10.1-1402.2 and 10.1-1402.3.

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

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

78 19. Take actions to contain or clean up ~~sites any site~~ or to issue orders to require cleanup of ~~sites~~  
79 ~~any site~~ where (i) solid or hazardous waste, or ~~other substances another substance~~ within the jurisdiction  
80 of the Board, ~~have has~~ been improperly managed or (ii) ~~an open dump has been created~~, and to  
81 institute legal proceedings to recover the costs of the containment or clean-up activities from ~~the any~~  
82 responsible ~~parties~~ party. *Such responsible party shall include any party, including the owner or*  
83 *operator or any other person, who caused the site to become an open dump or who caused or arranged*  
84 *for the improper management of such solid or hazardous waste or other substance within the*  
85 *jurisdiction of the Board.*

86 20. Collect, hold, manage and disburse funds received for violations of solid and hazardous waste  
87 laws and regulations or court orders pertaining thereto pursuant to subdivision 19 of this section for the  
88 purpose of responding to solid or hazardous waste incidents and clean-up of sites that have been  
89 improperly managed, including sites eligible for a joint federal and state remedial project under the  
90 federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law  
91 96-510, as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law  
92 99-499, and for investigations to identify parties responsible for such mismanagement.

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

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

98 23. [Expired.]

99 **§ 10.1-1408.1. Permit required; open dumps prohibited.**

100 A. No person shall operate any sanitary landfill or other facility for the disposal, treatment or storage  
101 of nonhazardous solid waste without a permit from the Director.

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

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

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

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

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

6. If the application is for a new municipal solid waste landfill or for an expansion of an existing municipal solid waste landfill, a statement, signed by the applicant, guaranteeing that sufficient disposal capacity will be available in the facility to enable localities within the Commonwealth to comply with solid waste management plans developed pursuant to § 10.1-1411, and certifying that such localities will be allowed to contract for and to reserve disposal capacity in the facility. 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 those political subdivisions' jurisdiction or municipal solid waste generated within other political subdivisions pursuant to an interjurisdictional agreement;

7. If the application is for a new municipal solid waste landfill or for an expansion of an existing municipal solid waste landfill, certification from the governing body of the locality in which the facility would be located that a host agreement has been reached between the applicant and the governing body unless the governing body or a public service authority of which the governing body is a member would be the owner and operator of the landfill. The agreement shall, at a minimum, have provisions covering (i) the amount of financial compensation the applicant will provide the host locality, (ii) daily travel routes and traffic volumes, (iii) the daily disposal limit, and (iv) the anticipated service area of the facility. The host agreement shall contain a provision that the applicant will pay the full cost of at least one full-time employee of the locality whose responsibility it will be to monitor and inspect waste

transportation and disposal practices in the locality. The host agreement shall also provide that the applicant shall, when requested by the host locality, split air and water samples so that the host locality may independently test the sample, with all associated costs paid for by the applicant. All such sampling results shall be provided to the Department. For purposes of this subdivision, "host agreement" means any lease, contract, agreement or land use permit entered into or issued by the locality in which the landfill is situated which includes terms or conditions governing the operation of the landfill;

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

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

C. Notwithstanding any other provision of law:

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

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

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

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

D. 1. Except as provided in subdivision D 2, no permit for a new solid waste management facility nor any amendment to a permit allowing facility expansion or an increase in capacity shall be issued until the Director has determined, after an investigation and analysis of the potential human health, environmental, transportation infrastructure, and transportation safety impacts and needs and an evaluation of comments by the host local government, other local governments and interested persons, that (i) the proposed facility, expansion, or increase protects present and future human health and safety and the environment; (ii) there is a need for the additional capacity; (iii) sufficient infrastructure will exist to safely handle the waste flow; (iv) the increase is consistent with locality-imposed or state-imposed daily disposal limits; (v) the public interest will be served by the proposed facility's operation or the expansion or increase in capacity of a facility; and (vi) the proposed 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 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. To the extent allowed by federal law, any person holding a permit that is intending to upgrade the permitted solid waste management facility by installing technology, control equipment, or other apparatus that the permittee demonstrates to the satisfaction of the Director will result in improved energy efficiency, protect waters of the state, including both surface and ground water, and protect air quality shall not be required to obtain a modified or amended permit.

The Director 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 *an open dumps dump or dispose of or manage solid waste in an unpermitted facility, including by disposing, causing to be disposed, or arranging for the disposal of solid waste upon a property for which the Director has not issued a permit and that is not otherwise exempt from permitting requirements.*

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. *The presence upon a person's property of solid waste for which no permit has been issued and that is not otherwise exempt from permitting requirements shall be prima facie evidence that such person allowed solid waste to be disposed of on his property without a permit.*

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 Chapter 36 (§ 3.2-3600 et seq.) of Title 3.2. As used in this subsection, "agricultural operation" shall have the same meaning ascribed to it in § 3.2-300.

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.

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

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

380 Nothing in this subsection shall alter any requirement for groundwater monitoring, financial  
381 responsibility, operator certification, closure, postclosure care, operation, maintenance or corrective action  
382 imposed under state or federal law or regulation, or impair the powers of the Director pursuant to  
383 § 10.1-1409.

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

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

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