

MEMORANDUM

To: Hazardous Waste Permit Writers

From: Lisa A. Ellis

Copy: Leslie A. Romanchik

Date: July 29, 1996

Subject: Siting Requirements

The issue of the applicability of siting requirements to a hazardous waste management facility that is proposing to increase its capacity has recently forced us to examine these long dormant regulations. I wanted to share with all of you the outcome of our discussions.

The full text of the Hazardous Waste Management Siting Act can be found in Title 10 of the Code of Virginia. The siting regulations in question can be found in the March 31, 1986 issue of the Virginia Register. To summarize, this regulation, issued under the authority of the Virginia Hazardous Waste Facilities Siting Act, establishes fees and the procedures for fee assessment for applicants proposing to site hazardous waste facilities in Virginia, and describes when the act of siting is required for a facility. Specifically, Part I, Article II, under the definition of "construct" or "construction" states "After July 1, 1984, no person shall construct or commence construction of a hazardous waste facility without first obtaining a certification of site approval by the [siting] board in the manner prescribed herein...with respect to existing facilities, [construction means] the alteration or expansion of existing structures or facilities to initially accommodate hazardous waste, any expansion of more than 50% of the area or capacity of an existing hazardous waste facility, or any change in design or process of a hazardous waste facility that will, in the opinion of the council, result in a substantially different type of facility."

To interpret, this requirement means that, for a facility that was in existence as of July 1, 1984, the facility may never increase the total capacity of its hazardous waste units or the area of the facility by more than 50% of the volume or size that it was as of July 1, 1984, without triggering the need to go through siting with the Hazardous Waste Facility Siting Council. This means that when a facility permit is being issued or reissued, all permit writers should pay careful attention to the volume of waste that the facility is proposing to manage, and should compare that volume to the permitted or interim status volume as of July 1, 1984. This comparison should happen as early in the permitting process as possible, probably during the first completeness review. This will ensure that if the need to go through siting is triggered, there will be adequate time to do so during the permitting process.

If you have any questions, let me know.