

**TENTATIVE AGENDA AND MINIBOOK
WASTE MANAGEMENT BOARD MEETING**

**Friday, May 27, 2011
HOUSE ROOM D
GENERAL ASSEMBLY BUILDING
9TH & BROAD STREETS
RICHMOND, VIRGINIA**

Convene – 10:00 a.m.

		TAB
I. Board Business		
Minutes (December 3, 2010)		A
II. Regulations - Final Exempt		
Solid Waste Management Permit Action Fees and Annual Fees Regulation 9VAC20-90, 2011 Immediate Final Rule Revisions	Porterfield	B
Amendment 8 – Waste Management Regulations – Exempt Final Action [Style/Form/Technical Changes to 9VAC20-81 (Primary Action), 9VAC20-60, 9 VAC20-70, 9VAC20-85, 9VAC20-120, 9VAC20-130, 9VAC20-140, 9VAC20-150, 9VAC20-160, and 9VAC20-170]	Miller	C
III. Significant Noncompliance Report	Williams	D
IV. Public Forum		
V. Other Business		
Division Director's Report Future Meetings	Golden	
VI. ADJOURN		

NOTE: The Board reserves the right to revise this agenda without notice unless prohibited by law. Revisions to the agenda include, but are not limited to, scheduling changes, additions or deletions. Questions on the latest status of the agenda should be directed to Debra A. Miller at (804) 698-4206.

PUBLIC COMMENTS AT WASTE MANAGEMENT BOARD MEETINGS: The Board encourages public participation in the performance of its duties and responsibilities. To this end, the Board has adopted public participation procedures for regulatory action and for case decisions. These procedures establish the times for the public to provide appropriate comment to the Board for its consideration.

For **REGULATORY ACTIONS (adoption, amendment or repeal of regulations)**, public participation is governed by the Administrative Process Act and the Board's Public Participation Guidelines. Public comment is accepted during the Notice of Intended Regulatory Action phase (minimum 30-day comment period) and during the Notice of Public Comment Period on Proposed Regulatory Action (minimum 60-day comment period). Notice of these comment periods is announced in the Virginia Register, by posting to the Department of Environmental Quality and Virginia Regulatory Town Hall web sites and by mail to those on the Regulatory Development Mailing List. The comments received during the announced public comment periods are summarized for the Board and considered by the Board when making a decision on the regulatory action.

For **CASE DECISIONS (issuance and amendment of permits)**, the Board adopts public participation procedures in the individual regulations which establish the permit programs. As a general rule, public comment is accepted on a draft permit for a period of 30 days. If a public hearing is held, there is an additional comment period, usually 45 days, during which the public hearing is held.

In light of these established procedures, the Board accepts public comment on regulatory actions and case decisions, as well as general comments, at Board meetings in accordance with the following:

REGULATORY ACTIONS: Comments on regulatory actions are allowed only when the staff initially presents a regulatory action to the Board for final adoption. At that time, those persons who commented during the public comment period on the proposal are allowed up to 3 minutes to respond to the summary of the comments presented to the Board. Adoption of an emergency regulation is a final adoption for the purposes of this policy. Persons are allowed up to 3 minutes to address the Board on the emergency regulation under consideration.

POOLING MINUTES: Those persons who commented during the public hearing or public comment period and attend the Board meeting may pool their minutes to allow for a single presentation to the Board that does not exceed the time limitation of 3 minutes times the number of persons pooling minutes, or 15 minutes, whichever is less.

NEW INFORMATION will not be accepted at the meeting. The Board expects comments and information on a regulatory action or pending case decision to be submitted during the established public comment periods. However, the Board recognizes that in rare instances new information may become available after the close of the public comment period. To provide for consideration of and ensure the appropriate review of this new information, persons who commented during the prior public comment period shall submit the new information to the Department of Environmental Quality (Department) staff contact listed below at least 10 days prior to the Board meeting. The Board's decision will be based on the Department-developed official file and discussions at the Board meeting. In the case of a regulatory action, should the Board or Department decide that the new information was not reasonably available during the prior public comment period, is significant to the Board's decision and should be included in the official file, the Department may announce an additional public comment period in order for all interested persons to have an opportunity to participate.

PUBLIC FORUM: The Board schedules a public forum at each regular meeting to provide an opportunity for citizens to address the Board on matters other than those on the agenda, pending regulatory actions or pending case decisions. Those persons wishing to address the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentations to 3 minutes or less.

The Board reserves the right to alter the time limitations set forth in this policy without notice and to ensure comments presented at the meeting conform to this policy.

Department of Environmental Quality Staff Contact: Debra A. Miller, Policy Planning Specialist, Office of Regulatory Affairs, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 698-4206; fax (804) 698-4346; e-mail: debra.miller@deq.virginia.gov

Tab B - Regulations - Final Exempt

Solid Waste Management Permit Action Fees and Annual Fees Regulation - 9VAC20-90, 2011 Immediate Final Rule Revisions

At the May 27th meeting of the Virginia Waste Management Board, the department will request the board to adopt Solid Waste Permit Action Fees and Annual Fee Regulations as final regulations. The regulatory amendments are exempt from the state administrative procedures for adoption of regulations because they are necessary to conform to Virginia statutory law. Draft regulations and a Town Hall Document outlining areas where the regulations have changed are attached to this memorandum. This final exempt regulatory action is being taken to implement Chapter 420 of the 2011 Acts of Assembly which specifies the annual fees solid waste management facilities are assessed. As a result, sanitary landfills, noncaptive industrial landfills, and construction and demolition debris landfills will be assessed an annual fee of \$0.115 per ton of waste deposited in their facility. Incinerators and energy recovery facilities will be assessed an annual fee of \$0.055 per ton of waste incinerated. Annual fees for other types of solid waste management facilities such as composting, regulated medical waste, and transfer stations also have annual fees specified in statute. The annual fees will be adjusted annually based on the Consumer Price Index. This regulatory action does not make any changes to the permit action fees that are assessed as part of the process of obtaining a permit. The fees collected cover a portion of the direct costs for processing, compliance and enforcement of permits issued for the disposal, treatment or storage of nonhazardous solid waste. In addition to the changes needed to implement Chapter 420 of the 2011 Acts of Assembly, the regulation amendments also contain changes which are exempt from the state administrative procedures as allowed by § 2.2-4006 A 3 of the Administrative Process Act. These changes are necessary to change citations to as a result of recodification of the Solid Waste Management Regulations under 9VAC20-81.

Tab C - Regulations - Final Exempt

Amendment 8 – Waste Management Regulations – Exempt Final Action

Amendment 8 is presented to the Board for your consideration as final regulation (see attachment). This is a regulatory amendment for only form, style, and technical changes to the Solid Waste Management Regulations (9VAC20-81). The regulatory amendment also changes citations in other waste management regulations which are necessary as Amendment 7 recodified the Solid Waste Management Regulations from 9VAC20-80 to 9VAC20-81. The regulations amended for citation changes are:

- 9VAC20-60, Virginia Hazardous Waste Management Regulations
- 9VAC20-70, Financial Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment Facilities
- 9VAC20-85, Coal Combustion By-products Regulations
- 9VAC20-120, Regulated Medical Waste Management Regulations
- 9VAC20-130, Solid Waste Planning and Recycling Regulations
- 9VAC20-140, Regulations for the Certification of Recycling Machinery and Equipment for Tax Exemption Purposes
- 9VAC20-150, Waste Tire End User Reimbursement Regulations
- 9VAC20-160, Voluntary Remediation Regulations
- 9VAC20-170, Transportation of Solid and Medical Wastes on State Waters

§ 2.2-4006 A 3 of the Code of Virginia allows the board to adopt the rule as a final regulation without previous consideration, announcement, or public participation. The regulations would be final 30 days after publication in the Virginia Register. A draft Virginia Regulatory Town Hall document and the amendment changes are also attached. The department will be requesting that the Board adopt Amendment 8 as a final regulation, authorize its publication, and affirm that the Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Tab D – SNC Report

Active HW SNC Cases – Table A

Location (DEQ Region)	Case Name	Brief Description of Alleged Violations	Status
Gloucester Co. (PRO)	Advanced Finishing Systems, Inc.	Violations are undetermined.	Pending U.S. Environmental Protection Agency (“EPA”) enforcement action.
City of Lynchburg (BRRO)	Banker Steel Co., LLC	Involves two facilities. Failure to make Hazardous Waste (“HW”) determination. Small Quantity Generator (“SQG”) violations. Land Disposal Restrictions (“LDR”) violations.	Consent Order under development.
Franklin Co. (BRRO)	Blue Ridge Solvents & Coatings, Inc.	Manifest, record keeping and training violations. Unpermitted storage of HW. Failure to obtain EPA ID number.	Consent Order in public notice until May 13, 2011. \$8,820civil charge.
City of Roanoke (BRRO)	Chemicals and Solvents, Inc.	Failure to adhere to HW generator and transporter requirements. Possible releases.	Pending EPA enforcement action.
City of Martinsville (BRRO)	Commonwealth Laminating and Coating, Inc.	Failure to make HW determination. HW Satellite Accumulation violations. Universal Waste (“UW”) violations.	Pending EPA enforcement action.
Rockbridge Co. (VRO)	Des Champs Labs	Failure to notify Department of change in generator status to Large Quantity Generator (“LQG”). Exceeding HW accumulation time limits.	Consent Order under development.
Sussex Co. (PRO)	Indmar Coatings	Unpermitted storage of HW.	Matter referred for adversarial

Location (DEQ Region)	Case Name	Brief Description of Alleged Violations	Status
	(2)	Container violations. Failure to do HW training. Other violations.	action.
City of Radford (BRRO)	J & J Sales	Failure to make HW determination. HW Container violations.	Matter referred for adversarial action.
Accomack Co. (TRO)	KMX	LDR violations.	Pending EPA enforcement action.
City of Portsmouth (TRO)	Maryview Medical Center	Manifest violations. LDR violation.	Pending EPA enforcement action.
City of Lynchburg (BRRO)	Norcraft Companies L.P.	Failure to make HW determination.	Consent Order under development.
Henry Co. (BRRO)	Northpoint Trading, Inc.	Exceeding HW accumulation time limits.	Consent Order under development.
City of Richmond (PRO)	Richmond Powder Coating, Inc.	Failure to make HW determination. Exceeding HW accumulation time limits. Labeling and notification violations.	Consent Order under development.
City of Norfolk (TRO)	Sentara Norfolk General Hospital	Failure to make HW determination. UW violation.	Pending EPA enforcement action.
City of Harrisonburg (VRO)	Sherwin-Williams (Seaguard)	Violations are undetermined.	Pending EPA enforcement action.
City of Roanoke (BRRO)	Steel Dynamics	Failure to notify of HW accumulation area. Failure to update contingency plan. Used oil violations.	Consent Order under development.
City of Harrisonburg (VRO)	Transprint USA, Inc.	Air emission violations under HW requirements. Improper labeling, managing, and contingency plan violations.	Pending EPA enforcement action.
Henry Co. (BRRO)	West Imports Metal Recyclers	Used oil violations. UW violations.	Consent Order under development.

Resolved HW Cases – Table B

Location (DEQ Region)	Case Name	Brief Description of Alleged Violations	Status
Chesterfield Co. (PRO)	Atlantic Industrial Services, Inc.	Transporting HW with an expired HW transporter permit.	Consent Order effective October 6, 2010. \$3,500 civil charge.
City of Richmond (PRO)	Dominion Packaging, Inc.	Storage and labeling violations. Manifest, record keeping and training violations.	Consent Order effective December 14, 2010. \$9,450 civil charge. Schedule of Compliance included.
Fauquier Co. (NRO)	Fiberglass Engineering Co.	Failure to make proper HW determination. SQG violations.	Consent Order effective February 7, 2011. \$3,000 civil charge.
City of Lynchburg (BRRO)	Griffin Pipe Products	Failure to make a HW determination. Labeling and storage violations. LDR violation.	Consent Order effective November 2, 2010. \$8,000 civil charge. Schedule of Compliance included.
Fauquier Co.	Kelmar, Inc.	Failure to make HW	Consent Order effective October

Location (DEQ Region)	Case Name	Brief Description of Alleged Violations	Status
(NRO)		determination. Labeling and storage violations. Unpermitted HW management.	28, 2010. \$4,716 civil charge. Schedule of Compliance included.
Henrico Co. (PRO)	Millwork Specialist, LLC	Failure to make HW determination. Labeling and storage violations. Container violations.	Consent Order effective April 1, 2011. \$20,000 civil charge. Schedule of Compliance included.
City of Norfolk (TRO)	Norfolk Redevelopment and Housing Authority (former Liberty Cleaners)	Unpermitted storage of HW.	Consent Order effective April 3, 2011. \$9,656 civil charge.
City of Roanoke (BRRO)	Pragmatic Environmental Solutions Co.	Failure to make HW determination. HW container violations. Failure to perform HW training.	Consent order effective October 18, 2010. \$7,100 civil charge. Schedule of Compliance included.

Total FFY 11 YTD Hazardous Waste Consent Orders=8

Total FFY 11 YTD Civil Charges=\$65,422

Resolved Solid Waste Cases – Table C

Note: SNC status does not apply to Solid Waste cases

Location (DEQ Region)	Case Name	Brief Description of Alleged Violations	Status
City of Norfolk (TRO)	B & H Sales Corp.	Unpermitted materials recovery facility operation.	Consent Order effective April 25, 2011. Inability to pay civil charge. Schedule of Compliance included.
Brunswick Co. (PRO)	Brunswick Waste Management, LLC	Unauthorized discharge to state waters from sediment basin.	Consent Order effective October 29, 2010. \$6,000 civil charge.
Middlesex Co. (PRO)	Middlesex Co.	Groundwater Corrective Action.	Consent Order effective March 22, 2011. Consent Order to address groundwater corrective action at the facility.
Orange Co. (NRO)	Orange Co.	Leachate seeps; severe erosion rills.	Consent Order effective May 2, 2011. \$7,665 civil charge.
Northumberland Co. (PRO)	Raymond & Dinah Fife	Unpermitted solid waste management facility.	Inability to pay civil charge. Schedule of Compliance included.
Spotsylvania Co. (NRO)	Spotsylvania County	Discharge of leachate to nearby surface water.	Consent Order effective October 29, 2010. \$6,300 civil charge.
Sussex Co. (PRO)	Sussex County	Failure to complete groundwater corrective action requirements. Failure to maintain final cap.	Consent Order Amendment effective October 20, 2010. Schedule of compliance to address corrective action at the facility.
Mecklenburg Co. (BRRO)	Town of Chase City	Failure to complete groundwater corrective action requirements. Failure to maintain financial assurance.	Consent Order effective January 31, 2011. \$5,100 civil charge. Schedule of compliance to address corrective action at the facility.

Total FFY 11 YTD Solid Waste Consent Orders=8

Total FFY 11 YTD Civil Charges=\$25,065