

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

MONDAY, JANUARY 7, 2013
DEPARTMENT OF ENVIRONMENTAL QUALITY
2ND FLOOR CONFERENCE ROOM
629 E. MAIN STREET
RICHMOND, VIRGINIA

CONVENE – 10:30 a.m.

			TAB
I.	Board Business Minutes (June 15, 2012)		A
II.	Regulations - Final Exempt Virginia Hazardous Waste Management Regulations, 9VAC20-60 Immediate Final Rule 2012 – CFR Update	Harris	B
III.	Regulations – Fast Track Process		
	Solid Waste Management Regulations, 9VAC20-81 Amendment for Open Burning Exemptions	Harris	C
	Financial Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment Facilities, 9VAC20-70 Amendment to Local Government Financial Test-Additional Mechanism	Harris	D
	Regulated Medical Waste Management Regulations, 9VAC20-120 Amendment to Repeal RMW Transporter Registration	Harris	E
	Solid Waste Management Permit Action Fees and Annual Fees, 9VAC20-90 Amendment to Corrective Action Permit Fee	Harris	F
	Virginia Hazardous Waste Management Regulations, 9 VAC20-60 Amendment to Remove HW Transporter Annual Report	Harris	G
IV.	Significant Noncompliance Report	Deppe	H
V.	Public Forum		
VI.	Other Business Recycling Report Division Director's Report Future Meetings	Beckwith Steers	
VII.	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. Harris at (804) 698-4209 or Debra.Harris@deq.virginia.gov.

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. Harris, Policy and Planning Specialist, Office of Regulatory Affairs, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 698-4209; fax (804) 698-4346; e-mail: Debra.Harris@deq.virginia.gov

Final Exempt

Virginia Hazardous Waste Management Regulations, 9VAC20-60, Immediate Final Rule 2012 – CFR Update.

This regulatory amendment is presented to the Board for consideration as a final regulation to amend the Virginia Hazardous Waste Management Regulations, 9VAC20-60. Each year, the U. S. Environmental Protection Agency (USEPA) makes changes to the federal regulations regarding the management of hazardous waste in Title 40 of the Code of Federal Regulations. Since 9VAC20-60 incorporate the federal regulations, with certain exceptions, it is necessary to change 9VAC20-60-18 to bring Virginia's regulations up-to-date with the federal changes. This regulatory amendment will bring these citations up to date and incorporate the latest Title 40 of the CFR to the one as published on July 1, 2012. Section 2.2-4006 A 4 (c) of the Code of Virginia allows the Board to adopt the rule as a final regulation as the changes are necessary to conform to changes in the federal

regulations. This regulatory amendment will be final 30 days after publication in the *Virginia Register*. At the meeting on January 7, 2013, the department will request that the Board adopt as a final regulation Immediate Final Rule 2012 to the Virginia Hazardous Waste Management Regulations, 9VAC20-60, authorize its publication, and affirm that the Board will receive, consider and respond to requests by any interested person at any time with respect to reconsideration or revision.

Fast Track Process

Solid Waste Management Regulations, 9VAC20-81, Amendment for Open Burning Exemptions.

This regulatory amendment is presented to the Board for consideration as a final regulation under the fast-track regulatory process. This regulatory action will amend 9VAC20-81 by listing all the current open burning conditional exemptions in the chapter in lieu of referencing 9VAC5-130-40 in the Open Burning Regulations under the State Air Pollution Control Board. This regulatory amendment is necessary due to the proposed changes to the State Air Pollution Control Board's Open Burning Regulations under 9VAC5-130. The rationale for this regulatory amendment is to retain the conditional exemptions for open burning for statewide applicability. The amendment will list out the open burning exemptions under 9VAC20-81-95.D.15 in lieu of referencing the permissible open burning activities of 9VAC5-130-40. As the Air Board has proposed to amend 9VAC5-130-40 and limit the applicability of 9VAC5-130-40 to volatile organic compounds emissions control areas (an area designated as such under 9VAC5-20-206), 9VAC20-81-95.D.15 is being amended to clarify that, for the purposes of solid waste management, the open burning of certain solid wastes continues to be conditionally exempt from 9VAC20-81 for all of these activities statewide. Section 2.2-4012.1 of the Code of Virginia provides the Board's authority for the use of the fast-track process. The fast-track process is for regulations that are expected to be noncontroversial. After review by the Governor, a notice of a proposed fast-track regulation will be published in the *Virginia Register* and there will be at least a 30 day comment period. The regulation will become effective 15 days after the close of the comment period provided that (i) no objection to use of the fast-track process is received from 10 or more members of the public, or any member of the applicable standing committee of either house of the General Assembly or the Joint Commission on Administrative Rules, and (ii) the Department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal. At the meeting on January 7, 2013, the Department will request that:

- The Board authorize the Department to promulgate the proposed amendment to 9VAC20-81 for public comment using the fast-track process established in §2.2-4012.1 of the Administrative Process Act for regulations expected to be non-controversial.
- The Board's authorization also constitute its adoption of the regulation at the end of the public comment period provided that (i) no objection to use of the fast-track process is received from 10 or more members of the public, or any member of the applicable standing committee of either house of the General Assembly or the Joint Commission on Administrative Rules, and (ii) the Department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal.
- The Board authorize the Department to set an effective date 15 days after close of the public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Administrative Process Act and (ii) the Department does not find it necessary to make any changes to the proposal.

Fast Track Process

Financial Assurance Regulations for Solid Waste Disposal, Transfer, and Treatment Facilities, 9VAC20-70, Amendment to Local Government Financial Test-Additional Mechanism.

This regulatory amendment is presented to the Board for consideration as final regulation under the fast-track regulatory process. This regulatory action will amend 9VAC20-70 by removing the requirement for an additional financial assurance mechanism for some local governments that use a financial test. The rationale for this regulatory action is to provide clarity and simplify the financial test requirements for local governments. Under the current requirements, local governments must provide an additional financial assurance mechanism in order to use the financial test to assure the closure, post-closure care, and corrective action costs for their solid waste management facilities if those costs are over 20% but less than 43% of their total annual revenue. This amendment will allow the use of the financial test for demonstrating financial assurance under 9VAC20-70 for costs up to 43% of the total annual revenue, as is required under the federal regulations. Currently, only a few localities were required to submit an additional mechanism under this requirement and it was considered overly burdensome as it tied up funds that could be otherwise allocated for local government use. Section 2.2-4012.1 of the Code of Virginia provides the Board's authority for the use of the fast-track process. The fast-track process is for regulations that are expected to be noncontroversial. After review by the Governor, a notice of a proposed fast-track regulation will be published in the *Virginia Register* and there will be at least a 30 day comment period. The regulation will become effective 15 days after the close of the comment period provided that (i) no objection to use of the fast-track process is received from 10 or more members of the public, or any member of the applicable standing committee of either house of the General Assembly or the Joint Commission on Administrative Rules, and (ii) the Department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal.

At the meeting on January 7, 2013, the Department will request that:

- The Board authorize the Department to promulgate the proposed amendment to 9VAC20-70 for public comment using the fast-track process established in §2.2-4012.1 of the Administrative Process Act for regulations expected to be non-controversial.
- The Board's authorization also constitute its adoption of the regulation at the end of the public comment period provided that (i) no objection to use of the fast-track process is received from 10 or more members of the public, or any member of the applicable standing committee of either house of the General Assembly or the Joint Commission on Administrative Rules, and (ii) the Department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal.
- The Board authorize the Department to set an effective date 15 days after close of the public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Administrative Process Act and (ii) the Department does not find it necessary to make any changes to the proposal.

Fast Track Process*Regulated Medical Waste Management Regulations, 9VAC20-120, Amendment to Repeal RMW Transporter Registration.*

This regulatory amendment is presented to the Board for consideration as final regulation under the fast-track regulatory process. This regulatory action will amend 9VAC20-120 by removing the requirement for transporters to register with the Department. The rationale for this regulatory action is to simplify the requirements for transporters as registration is duplicative of federal transportation requirements and the information received from the registration can be obtained, if necessary, through other channels such as the federal transportation agency. Section 2.2-4012.1 of the Code of Virginia provides the Board's authority for the use of the fast-track process. The fast-track process is for regulations that are expected to be noncontroversial. After review by the Governor, a notice of a proposed fast-track regulation will be published in the *Virginia Register* and there will be at least a 30 day comment period. The regulation will become effective 15 days after the close of the comment period provided that (i) no objection to use of the fast-track process is received from 10 or more members of the public, or any member of the applicable standing committee of either house of the General Assembly or the Joint Commission on Administrative Rules, and (ii) the Department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal. At the meeting on January 7, 2013, the Department will request that:

- The Board authorize the Department to promulgate the proposed amendment to 9VAC20-120 for public comment using the fast-track process established in §2.2-4012.1 of the Administrative Process Act for regulations expected to be non-controversial.
- The Board's authorization also constitute its adoption of the regulation at the end of the public comment period provided that (i) no objection to use of the fast-track process is received from 10 or more members of the public, or any member of the applicable standing committee of either house of the General Assembly or the Joint Commission on Administrative Rules, and (ii) the Department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal.
- The Board authorize the Department to set an effective date 15 days after close of the public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Administrative Process Act and (ii) the Department does not find it necessary to make any changes to the proposal.

Fast Track Process*Solid Waste Management Permit Action Fees and Annual Fees, 9VAC20-90, Amendment to Corrective Action Permit Fee.*

This regulatory amendment is presented to the Board for consideration as a final regulation under the fast-track regulatory process. This regulatory action will amend 9VAC20-90 by reducing the permit action fee for corrective action from \$22,860 to \$3,000. The rationale for this regulatory action is to lessen the cost burden associated with the permit action fee for corrective action. Currently, the fee for corrective action at solid waste landfills is \$22,860. This fee has been evaluated and deemed to be burdensome with the streamlining that is being proposed for the corrective action program. The new fee for this permit action will be \$3,000 which is more in line with fees for other permit amendment actions. Section 2.2-4012.1 of the Code of Virginia provides the Board's authority for the use of the fast-track process. The fast-track process is for regulations that are expected to be noncontroversial. After review by the Governor, a notice of a proposed fast-track regulation will be published in the *Virginia Register* and there will be at least a 30 day comment period. The regulation will become effective 15 days after the close of the comment period provided that (i) no objection to use of the fast-track process is received from 10 or more members of the public, or any member of the applicable standing committee of either house of the General Assembly or the Joint Commission on Administrative Rules, and (ii) the Department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal. At the meeting on January 7, 2013, the Department will request that:

- The Board authorize the Department to promulgate the proposed amendment to 9VAC20-90 for public comment using the fast-track process established in §2.2-4012.1 of the Administrative Process Act for regulations expected to be non-controversial.
- The Board's authorization also constitute its adoption of the regulation at the end of the public comment period provided that (i) no objection to use of the fast-track process is received from 10 or more members of the public, or any member of the applicable standing committee of either house of the General Assembly or the Joint Commission on Administrative Rules, and (ii) the Department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal.
- The Board authorize the Department to set an effective date 15 days after close of the public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Administrative Process Act and (ii) the Department does not find it necessary to make any changes to the proposal.

Fast Track Process*Virginia Hazardous Waste Management Regulations, 9 VAC20-60, Amendment to Remove HW Transporter Annual Report.*

This regulatory amendment is presented to the Board for consideration as a final regulation under the fast-track regulatory process. This regulatory action will amend 9VAC20-60 by removing the annual report requirement for hazardous waste transporters under 9VAC20-60-430.F. The rationale for this regulatory action is to remove an unnecessary requirement that does not provide any valuable information for Department use in determining programmatic compliance. The usefulness of this report has been evaluated and deemed to be burdensome for the universe of permitted hazardous waste transporters and of little value to the program. Section 2.2-4012.1 of the Code of Virginia provides the Board's authority for the use of the fast-track process. The fast-track process is for regulations that are expected to be noncontroversial. After review by the Governor, a notice of a proposed fast-track regulation will be published in the *Virginia Register* and there will be at least a 30 day comment period. The regulation will become effective 15 days after the close of the comment period provided that (i) no objection to use of the fast-track process is received from 10 or more members of the public, or any member of the applicable standing committee of either house of the General Assembly or the Joint Commission on Administrative Rules, and (ii) the Department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal. At the meeting on January 7, 2013, the Department will request that:

- The Board authorize the Department to promulgate the proposed amendment to 9VAC20-60 for public comment using the fast-track process established in §2.2-4012.1 of the Administrative Process Act for regulations expected to be non-controversial.
- The Board's authorization also constitute its adoption of the regulation at the end of the public comment period provided that (i) no objection to use of the fast-track process is received from 10 or more members of the public, or any member of the applicable standing committee of either house of the General Assembly or the Joint Commission on Administrative Rules, and (ii) the Department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal.
- The Board authorize the Department to set an effective date 15 days after close of the public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Administrative Process Act and (ii) the Department does not find it necessary to make any changes to the proposal.

Significant Noncompliance 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.	Pre-treatment violations. TSDF violations. Record keeping violations.	Pending U.S. Environmental Protection Agency ("EPA") enforcement action.
City of Roanoke (BRRO)	Chemicals and Solvents, Inc.	Failure to adhere to HW generator and transporter requirements. Possible releases.	Pending EPA enforcement action. Pending DEQ administrative action.
City of Hampton (TRO)	Craft Machine Works, Inc.	Failure to make HW determination. Failure to obtain a permit. Labeling and storage violations	Consent Order in Negotiations.
Warren Co. (VRO)	Dupont Performance Coatings, LLC for the Front Royal Plant	Exceeding HW accumulation time, inadequate aisle space, open HW containers	Pending EPA enforcement action.
Montgomery Co. (BRRO)	Federal-Mogul Corporation	Failure to make HW determination. HW container violations.	Consent Order in public notice from December 20, 2012 to January 21, 2013. \$11,600 civil charge. Schedule of compliance included.
City of Roanoke (BRRO)	Hagen Property	Failure to make HW determination. CESQG violations.	Consent Order under development.
Henry Co. (BRRO)	Northpoint Trading, Inc.	Exceeding HW accumulation time limits.	Consent Order under development.
Caroline Co. (NRO)	R207 LLC.	Lack of EPA number. Manifest violations. HW container violations.	Consent Order under development. Pending EPA removal action.
Fairfax Co. (NRO)	Syntech Technology, Inc.	Failure to make HW determination. Failure to properly dispose of HW. Failure to notify as LQG.	Consent Order under development.
City of Winchester (VRO)	Virginia Tech Alson H. Smith Jr. Agricultural Research and Extension Center	Lack of generator notification, nonpayment of annual fee, acute HW accumulation violations	Executive Compliance Agreement under development.
Amherst Co. (BRRO)	Wright's Auto Sales & Body Shop	Failure to make HW determination, used oil violations.	Consent order in negotiations, waiting for ability to pay analysis from IRS.

Resolved HW Cases – Table B

Location (DEQ Region)	Case Name	Brief Description of Alleged Violations	Status
City of Radford (BRRO)	J & J Sales	Failure to make HW determination. HW Container violations.	1186 Order effective December 7, 2012. \$10,000 civil charge. Injunctive relief included.

Total FFY 13 YTD Hazardous Waste Consent Orders = 1

Total FFY 13 YTD Civil Charges = \$10,000

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
Prince William Co. (NRO)	Potomac Landfill, Inc. for Potomac Landfill	Exceedance of permitted maximum height of waste. Failure to effectively	Consent Order effective November 7, 2012. \$50,000 civil charge. Schedule of compliance

Location (DEQ Region)	Case Name	Brief Description of Alleged Violations	Status
		<i>control odors. Leachate violations. Exposed waste.</i>	<i>included.</i>
Stafford Co. (NRO)	<i>City of Fredericksburg for Cool Springs Road Closed Landfill</i>	<i>Exceeding methane gas levels. Failure to notify DEQ of exceedances. Failure to comply with Landfill Gas Remediation Plan.</i>	<i>Consent Order effective October 9, 2012. \$13,965 civil charge.</i>

Total FFY 13 YTD Solid Waste Consent Orders = 2

Total FFY 13 YTD Civil Charges = \$63,965