

MINUTES
VIRGINIA WASTE MANAGEMENT BOARD MEETING
FRIDAY, DECEMBER 13, 2013

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

Board Members Present:

Larisa Dobriansky
Eric DeGroff
Tyrone W. Murray
Amarjit S. Riat

EJ Scott
Thomas Van Auken
Paul R. Schmidt (arrived at 10:40 a.m.)

Department of Environmental Quality:

David Paylor, Director
Cindy M. Berndt

Debra A. Harris

Attorney General's Office:

Jon Jewitt, Assistant Attorney General

These minutes summarize activities that took place at this Board meeting. The meeting was convened 10:34 a.m. and was adjourned at 12:14 p.m.

Minute No. 1 – Welcome of New Members.

Mr. Amarjit Riat and Mr. Eric DeGroff were introduced and welcomed to the Board.

Minute No. 2 – Election of Chair.

Ms. Larisa Dobriansky nominated Ms. EJ Scott for the vacant Chair position. No other nominations were made and the Board elected Ms. EJ Scott as the Chair for the Virginia Waste Management Board.

Minute No. 3 – Minutes.

The Board unanimously approved the minutes from the Board's meeting on May 3, 2013 with a correction of the date in Minute No. 3.

Minute No. 4 – Regulations Governing the Transportation of Hazardous Materials, 9VAC20-110, Annual Update 2013 - Final Exempt Action.

Debra Harris of DEQ's Office of Regulatory Affairs presented Immediate Final Rule 2013 to 9VAC20-110 to the Board. Ms. Harris explained that each year, the U.S. Department of Transportation makes changes to the federal regulations regarding the transportation of hazardous materials in Title 49 of the Code of Federal Regulations (CFR). As 9VAC20-110 incorporates the CFR, it is necessary to change Section 110 to bring Virginia's regulations up-to-date with the latest Title 49 of the CFR which was published on October 1, 2013. The Board was informed that under §2.2-4006.A.4.c of the Administrative Process Act, the Board may adopt this amendment under a final exempt action as the amendment is necessary to conform to changes in the federal regulations.

Based on the Board book briefing items and staff presentation, the Board, on a motion of Mr. DeGroff and seconded by Dr. Van Auken, unanimously voted to adopt this amendment to 9VAC20-110 as a final regulation, authorized its publication, and affirmed that the Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Minute No. 5 – Virginia Hazardous Waste Management Regulations, 9VAC20-60, Annual Update 2013 – Final Exempt Action.

Debra Harris of DEQ's Office of Regulatory Affairs presented an amendment to the Board's regulations entitled the Virginia Hazardous Waste Management Regulations, 9VAC20-60. Ms. Harris explained that each year, the U. S. Environmental Protection Agency makes changes to the federal regulations regarding the management of hazardous waste in Title 40 of the Code of Federal Regulations (CFR). As 9VAC20-60 incorporates the CFR, with certain exceptions, it is necessary to change Section 18 of 9VAC20-60 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, 2013. Additionally, Ms. Harris informed the Board that the conditional exclusions for solvent contaminated wipes as published in the Federal Register on July 31, 2013 (78 FR 46448) will also be included as part of this regulatory action. This was requested by affected facilities as adoption by the Board is required for this rule to become effective in Virginia. The Board was informed that under §2.2-4006.A.4.c of the Administrative Process Act, the Board may adopt this amendment under a final exempt action as the amendment is necessary to conform to changes in the federal regulations.

Based on the Board book material and staff presentation, the Board, on a motion of Dr. Van Auken and seconded by Mr. Schmidt, unanimously voted to adopt this amendment to 9VAC20-60 as a final regulation, authorized its publication, and affirmed that the Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Minute No. 6 – Virginia Hazardous Waste Management Regulations, 9VAC20-60, Accumulation Area Clarifications - Fast-Track Action.

Debra Harris of DEQ's Office of Regulatory Affairs presented a regulatory amendment to 9VAC20-60 for the Board's consideration under the fast-track regulatory process. Ms. Harris explained that the amendment to 9VAC20-60 will clarify the accumulation area notification requirements for generators under 9VAC20-60-262. The clarification is necessary as this section is applicable to only large quantity generators but the regulatory language could be incorrectly applied to small quantity generators as well. The proposed amendment will clarify this requirement and bring it in line with the original intent of the regulation and the historical application.

The Board was informed that under §2.2-4012.1 of the Code of Virginia the Board has authority to use of the fast-track process for regulatory actions that are expected to be noncontroversial. Ms. Harris explained that after review by the Governor, a notice of a proposed fast-track regulation will be published in the Virginia regulation followed by 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.

Based on the board book items and the staff presentation, the Board, on a motion of Mr. Schmidt and seconded by Ms. Dobriansky, unanimously voted to 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 constituted 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. Additionally, the Board authorized 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.

Minute No. 7 - Significant Noncompliance Report.

The Board received a final report from Mr. Russell Deppe, the Waste Enforcement Program Manager, on the Hazardous Waste Significant Non-Compliers and Solid Waste Final Orders for Federal Fiscal Year (FFY) 2013 and a to-date report for the Hazardous Waste Significant Non-Compliers and Solid Waste Final Orders for Federal Fiscal Year (FFY) 2014.

Minute No. 8 - Public Forum.

No one appeared during the public forum.

Minute No. 9 – Division Director's Report.


The Board received the Division Director's Report from Mr. Jeffery Steers, Land Protection and Revitalization Director.

Minute No. 10 – Director's Report.

The Board received a report from Director David K. Paylor celebrating the success of the Department of Environmental Quality on its 20th year anniversary.

Minute No. 11 - Future Meetings.

No future meetings were set for the Board at this meeting.



Debra A. Harris
Planning and Policy Specialist
Office of Regulatory Affairs