

**TENTATIVE AGENDA & MINIBOOK**

**WASTE MANAGEMENT BOARD MEETING**

**MONDAY, JANUARY 9, 2017**

**DEPARTMENT OF ENVIRONMENTAL QUALITY  
2ND FLOOR CONFERENCE ROOM  
629 EAST MAIN STREET  
RICHMOND, VIRGINIA**

**CONVEVE – 10:00 A.M.**

**T A B**

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|---|----------|---|
| <b>I. Board Business</b>  |          |   |
| Minutes (June 20, 2016)   |          | A |
| <b>II. Regulations – Final Exempt</b>   |          |   |
| Annual Update 2016, Regulations Governing the Transportation<br>of Hazardous Materials (9VAC20-110) | Harris   | B |
| CCR Amendment, Virginia Solid Waste<br>Management Regulations (9VAC20-81)                           | Perszyk  | C |
| <b>V. Significant Noncompliance Report</b>  | Sadtler  | D |
| <b>VI. Public Forum</b>   |          |   |
| <b>VII. Other Business</b>  |          |   |
| Division Director's Report  | Williams |   |
| Future Meetings   |          |   |

**ADJOURN**

NOTES: 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 or should be directed to Debra A. Harris at (804) 698-4209 or [Debra.Harris@deq.virginia.gov](mailto: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](mailto:Debra.Harris@deq.virginia.gov)

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***Final Exempt Amendment - Annual Update 2016, Regulations Governing the Transportation of Hazardous Materials (9VAC20-110)***

This regulatory amendment to 9VAC20-110 will be presented to the Board for their consideration for adoption. The final exempt action amends the Regulations Governing the Transportation of Hazardous Materials, 9VAC20-110. 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 (49 CFR). As 9VAC20-110 incorporates certain parts of Title 49 of the CFR, it is necessary to amend 9VAC20-110 in order to incorporate the federal changes. This amendment will bring the 49 CFR citations in 9VAC20-110 up to date and incorporate the applicable changes to 49 CFR to the most current CFR published in the October 1, 2016 update. Section 2.2-4006 A 4 (c) of the Code of Virginia allows the Board to adopt this regulatory amendment to 9VAC20-110 as a final exempt action as the changes are necessary to conform to changes in the federal regulations. This regulatory amendment will be effective 30 days after publication in the Virginia Register.

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***Final Exempt Amendment - CCR Amendment, Virginia Solid Waste Management Regulations (9VAC20-81)***

This regulatory amendment to 9VAC20-81 will be presented to the Board for their consideration for adoption. The Virginia Solid Waste Management Regulations, 9VAC20-81, are being modified in response to changes to the federal regulations concerning inactive coal combustion residual (CCR) surface impoundments. On August 5, 2016, EPA published in the Federal Register a direct final rule titled “Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals from Electric Utilities; Extension of Compliance deadlines for Certain Inactive Surface Impoundments; Response to Partial Vacatur.” The federal rule became effective October 4, 2016. The revised federal rule modified the requirements certain inactive CCR surface impoundments are required to meet. Prior to this rule, federal regulations allowed inactive CCR surface impoundments to complete closure by April 17, 2018 and meet other notification requirements (“early closure provision”) to avoid having to meet the same requirements as existing CCR surface impoundments. This provision was included in EPA’s rule to incentivize the early closure of inactive CCR surface impoundments. Prior to EPA’s revised rule, CCR surface impoundments were allowed to close the CCR surface impoundment by leaving CCR in place, removing free liquids, and installing a final cover system designed to minimize infiltration and erosion. CCR surface impoundments were also allowed to remove the CCR from the surface impoundment as part of closing the surface impoundment. The federal rule did not require inactive surface impoundments to meet design, operating criteria, groundwater monitoring, corrective action, or closure and post-closure care requirements. Virginia’s regulations however did require inactive CCR surface impoundments to conduct groundwater monitoring and post closure care monitoring and these activities would be included in a permit for the inactive surface impoundment. The US Court of Appeals for the D.C. Circuit court ordered a vacatur of the “early closure” provisions for inactive CCR surface impoundments on June 14, 2016 and EPA issued a direct final rule that became effective October 4, 2016. The federal rule now requires inactive CCR surface impoundments that were complying with the “early closure” provision to meet the same requirements as existing CCR surface impoundments. This includes meeting the requirements for design, operating criteria, groundwater monitoring, corrective action, closure and post closure care requirements that are all applicable to existing CCR surface impoundments. EPA has extended the compliance deadlines for qualifying inactive CCR surface impoundments to comply with these requirements. Compliance deadlines for inactive surface impoundments are being extended by 547 days (the number of days between the signature date of the final EPA rule and the last business day of the week during which the order from the court granting the motion to vacate 40 CFR 257.100 (b), (c), and (d) was signed). Virginia previously adopted the federal requirements concerning CCR landfills and surface impoundments by incorporating the federal requirements by reference into Virginia’s Solid Waste Management Regulations (VSWMR). This regulatory amendment incorporates the revised federal requirements concerning these inactive CCR surface impoundments into the VSWMR. This regulatory amendment is exempt from the state administrative procedures for adoption of regulations that are not materially different from the federal requirements (§2.2-4006 A 4 c of the Code of Virginia).

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***Significant Noncompliance Report*****Active HW SNC Cases – Table A**

<b>Location (DEQ Region)</b>	<b>Case Name</b>	<b>Brief Description of Alleged Violations</b>	<b>Status</b>
Chesterfield Co. (PRO)	AAMCO Transmission	Improper management of HW and petroleum products. Failure to make HW determination.	Consent Order under development.
Gloucester Co. (PRO)	Advanced Finishing Systems, Inc.	HW accumulation violations. Failure to evaluate tank structural integrity.	Consent Order under development.
City of Richmond	Aerc.com Inc.	Accumulation violations. UW violations.	Consent Order under development.

<b>Location (DEQ Region)</b>	<b>Case Name</b>	<b>Brief Description of Alleged Violations</b>	<b>Status</b>
(PRO)			
Chesterfield Co. (PRO)	AI Biotech, LLC	Failure to make HW determination. Failure to notify as LQG and pay fee. Exceeded HW accumulation time. Manifest violations. Labeling violations. Training, inspection, emergency planning, and UW violations.	Consent Order under development.
City of Richmond (PRO)	Colonial Ford Truck Sales	Failure to make HW determination. Container violations. Labeling violations. Contingency/emergency violations. Inspection violations. Training violations. UW lamp violations.	Consent Order under development
City of Portsmouth (TRO)	Columbus Avenue LLC	Exceeding HW accumulation time. Failure to notify of LQG status and pay annual fee.	Referred for adversarial enforcement.
Various Sites Throughout Commonwealth	CVS Pharmacy	Failure to notify LQG status and pay annual fee. Improper disposal and management of HW.	Consent Order under development.
Rockingham Co. (VRO)	Dynamic Aviation Group, Inc.	Improper HW disposal and storage. HW management violations.	Consent Order under development.
Henry Co. (BRRO)	Easter's Auto & Bus Sales	Failure to make HW determination. Used oil violations.	Consent Order under development.
Henrico Co. (PRO)	Epacoat, Inc.	Failure to make HW determination. Failure to notify as LQG, pay fee, and submit biennial report. Manifest violations. Container violations. Exceed HW accumulation time limits. Labeling violations. Contingency violations. HW storage violations.	Consent Order under development.
City of Chesapeake (TRO)	Hess Chesapeake Terminal	Exceeding HW accumulation time limits.	Consent Order under development.
City of Richmond (PRO)	Grand Eagle Services	Failure to make proper waste characterization. Used oil violations. Wipes stored in improper containers.	Consent Order under development.
Henrico Co. (PRO)	Hauni Richmond, Inc.	Failure to make a haz waste determination. Failure to notify LQG status, pay fee, or submit biennial report. Labeling violations. Container violations. Inspection violations. Emergency arrangement violations. UW violations.	Consent Order under development.
City of Hampton (TRO)	Howmet Castings & Services, Inc.	Improper disposal of HW.	Consent Order under Development.

<b>Location (DEQ Region)</b>	<b>Case Name</b>	<b>Brief Description of Alleged Violations</b>	<b>Status</b>
Various Sites Throughout Commonwealth	Kroger	Failure to notify LQG status and pay annual fee. Improper disposal and management of HW.	Consent Order under development.
Tazwell Co. (SWRO)	Lawrence Brothers, Inc.	Exceeding HW accumulation time limits. Failure to meet SQG requirements. Inspection and storage violations. Improper labeling. Failure to submit Land Disposal Restrictions documentation. Universal waste violations.	Consent Order under development.
City of Richmond (PRO)	Magellan Terminals Holdings, LP – Richmond Terminal	Exceeding HW accumulation time limits. Notification violations. Failure to pay annual fee. HW management violations. Contingency plan and inspection violations.	Consent Order under development.
Albemarle Co. (VRO)	Mikro Systems Inc.	Exceed HW accumulation amount. Failure to notify SQG status. Improper labeling. Inspection violations.	Consent Order under development.
Various Sites Throughout Commonwealth	Rite Aid	Failure to notify LQG status and pay annual fee. Improper disposal and management of HW.	Consent Order under development.
Campbell Co. (BRRO)	Sanfacon Virginia Inc.	Exceeded HW accumulation time and amount. Failure to notify. Labeling and training violations.	Consent Order in negotiations.
Charlotte Co. (BRRO)	Siteline Cabinetry	Failure to notify as LQG. Failure to submit biennial report. Failure to make HW determination. Failure to comply with LQG requirements. Training/emergency/contingency violations.	Consent Order under development.
City of Fairfax (NRO)	Suburban Auto Body Inc.	Exceed HW accumulation time. Failure to provide notification updating info for EPA ID. Labeling violations. Open containers. Emergency response violations. Inspection violations.	Consent Order under development.
City of Richmond (PRO)	Virginia Commonwealth University	SAA violations. Containers not labeled with “Haz Waste” or identifying words. Missing inspections. Training violations. Emergency response/contingency plan violations. UW violations.	Executive Compliance Agreement under development.
Henrico Co. (PRO)	W. W. Enroughty & Son, Inc.	Failure to have EPA ID number. Failure to make HW determination. Improper management and storage of HW. Contingency plan violations. Inspection violations.	Consent Order under development.

**Resolved HW Cases FFY 2016 – Table B**

<b>Location (DEQ Region)</b>	<b>Case Name</b>	<b>Brief Description of Alleged Violations</b>	<b>Status</b>
City of Petersburg (PRO)	Amsted Rail Company, Inc.	Failure to make waste determination. Failure to comply with LQG requirements.	Consent Order effective September 28, 2016. \$15,575 civil penalty.
Warren Co. (VRO)	Axalta Coating Systems, LLC	Violation of HW pre transport requirements. HW management	Consent Order effective December 15, 2015. \$7,800 civil penalty.
Westmoreland Co. (PRO)	Carry-On Trailer, Inc.	Exceeding HW accumulation time limits. Contingency plan failures. UW violations.	Consent Order effective April 26, 2016. \$12,250 civil penalty.. Schedule of compliance included.
Rockingham Co. (VRO)	Dynamic Aviation Group, Inc.	HW labeling violations. Failure to document inspections. Failure to notify location of accumulation areas. Open container. UW violations. Exceeded HW accumulation limit.	Consent Order effective March 29, 2016. \$42,262 civil penalty. Schedule of compliance included.
City of Newport News (TRO)	Bridgestone Retail Operations, LLC	Failure to ensure HW was delivered to a permitted disposal facility.	Consent Order effective January 11, 2016. \$5,250 civil penalty.
Essex Co. (PRO)	FDP Virginia, Inc.	Exceeding HW accumulation time limits. Failure to notify DEQ of HW accumulation. Labeling and training violations.	Consent Order effective September 30, 2016. \$110,700 civil penalty. Schedule of compliance included.
Frederick Co. (VRO)	HP Hood LLC	Labeling violations. Failure to notify. Lack of inspection documentation. Exceeding HW accumulation time limits.	Consent Order effective November 10, 2015. \$21,000 civil penalty. Schedule of compliance included.
Gloucester Co. (PRO)	Riverside Walter Reed Hospital	HW management violations. Improper disposal of HW.	Consent Order effective August 22, 2016. \$89,250 civil penalty. Schedule of compliance included.
Lunenburg Co. (BRRO)	Virginia Marble Manufacturers, Inc. (Main Plant & Plant 2)	Failure to make waste determination. Open HW containers. Failure to label containers. Failure to inspect. Contingency plan failures. Failure to properly manifest HW.	Consent Order effective January 26, 2016. \$50,000 civil penalty. \$37,410 satisfied by supplemental environmental project. Schedule of compliance included.

Total FFY 16 Final Hazardous Waste Consent Orders = 9

Total FFY 16 Final Civil Charges = \$354,087

**Resolved HW Cases FFY 2017 – Table C**

<b>Location (DEQ Region)</b>	<b>Case Name</b>	<b>Brief Description of Alleged Violations</b>	<b>Status</b>
Campbell Co. (BRRO)	Schrader Bridgeport International, Inc.	Exceeded accumulation time. Labeling violations. Open containers. UW violations.	Consent Order effective October 4, 2016. \$8,400 civil penalty.
City of Fredericksburg (NRO)	Mary Washington Hospital	Failure to make waste determination. Failure to comply with LQG	Consent Order under development. Public notice until December 15, 2016. Proposed civil penalty of

Location (DEQ Region)	Case Name	Brief Description of Alleged Violations	Status
		requirements.	\$81,960. Schedule of compliance included.

Total FFY 17 Final Solid Waste Consent Orders = 2

Total FFY 17 Final Civil Charges = \$90,360

**Resolved Solid Waste Cases FFY 2016 – Table D**

*Note: SNC status does not apply to Solid Waste cases*

Location (DEQ Region)	Case Name	Brief Description of Alleged Violations	Status
Sussex Co. (PRO)	Atlantic Waste Disposal Inc.	Leachate management violations.	Consent Order effective October 29, 2015. \$26,000 civil penalty. Schedule of compliance included.
Sussex Co. (PRO)	Atlantic Waste Disposal Inc.	Leachate management violations. Failure to notify DEQ of unusual conditions.	Consent Order in public notice until July 16, 2016. \$99,000 proposed civil penalty. Schedule of compliance included.
City of Danville (BRRO)	Marshall Construction Co., Inc. Soyars Property	Disposal of solid waste without a permit.	Consent Order effective October 2, 2015. \$12,620 civil penalty.
Pulaski Co. (BRRO)	Town of Pulaski for the Former Landfill Site	Improper disposal of solid waste.	Consent Order in public notice until June 29, 2016. Multimedia order, \$7,730 proposed civil penalty for solid waste violations. \$819 satisfied by supplemental environmental project. Schedule of compliance included.
Page Co. (VRO)	Recycle Management of Stanley, LLC	Storage of Solid waste without a permit. Waste tires on site exceeded regulatory threshold.	Consent Order effective December 28, 2015. \$7,525 civil penalty. Schedule of compliance included.
Scott Co. (SWRO)	Scott County for Scott County Sanitary Landfill	Post closure care violations. Leachate seeps.	Consent Order effective January 11, 2016. \$2,030 civil penalty. Schedule of compliance included.
Arlington Co. (NRO)	Virginia Hospital Center Arlington Health System for Virginia Hospital Center	Financial assurance deficiencies. Regulated medical waste violations. Failure to report noncompliance.	Consent Order effective February 19, 2016. \$40,000 civil penalty.

Total FFY 16 Final Solid Waste Consent Orders = 7

Total FFY 16 Final Civil Charges = \$194,905

**Resolved Solid Waste Cases FFY 2017 – Table E**

Location (DEQ Region)	Case Name	Brief Description of Alleged Violations	Status
Rockingham Co. (VRO)	Green Earth LLC	Speculative accumulation of solid waste. Unpermitted disposal of solid waste.	Amended Consent Order effective October 3, 2016. Schedule of compliance included.
Lunenburg Co. (BRRO)	RWG5, LLC	Failure to comply with cover requirements. Failure to limit size of working face of landfill. Improper leachate management.	Consent Order effective October 11, 2016. \$33,450 civil penalty. Schedule of compliance included.

Total FFY 17 Final Solid Waste Consent Orders = 2

Total FFY 17 Final Civil Charges = \$33,450