

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

Tuesday, November 19, 2024 - 10:00 a.m.
1st Floor – Training Room

Department of Professional and Occupational Regulation
9960 Mayland Drive
Richmond, Virginia 23233

Our mission is to protect the health, safety and welfare of the public by licensing qualified individuals and businesses and enforcing standards of professional conduct for professions and occupations as designated by statute.

I. CALL TO ORDER

- a. Emergency Evacuation Procedures
- b. Determination of Quorum

II. ADMINISTRATIVE MATTERS

- a. Approval of Agenda
- b. Approval of Minutes:
 - i. August 29, 2024, Board for Waste Management Facility Operators draft meeting minutes.

III. PUBLIC COMMENT PERIOD ***FIVE MINUTE PUBLIC COMMENT, PER PERSON***

IV. CASE FILES - None

V. EDUCATION

- a. Examination Updates
 - i. Examination Statistics

VI. NEW BUSINESS

- a. Regulatory Update
- b. General Regulatory Review Update
- c. Fee Amendment

VII. OTHER BUSINESS

- a. Executive Director Report

VIII. COMPLETE CONFLICT OF INTEREST FORM AND TRAVEL VOUCHER.

IX. ADJOURNMENT

NEXT MEETING SCHEDULED FOR THURSDAY, JANUARY 30, 2025

- ❖ *Agenda materials made available to the public do not include disciplinary case files or application files pursuant to §54.1-108 of the Code of Virginia.*
- ❖ *Five-minute public comment, per person, with the exception of any open disciplinary or application file.*
- ❖ *Persons desiring to participate in the meeting and requiring special accommodations or interpretative services should contact the Department at (804) 367-2785 at least ten days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation.*
- ❖ *The Department fully complies with the Americans with Disabilities Act.*

DRAFT AGENDA Materials contained in this agenda are proposed topics for discussion and are not to be construed as regulation or official Board position. DRAFT AGENDA

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

MINUTES OF MEETINGS

The Board for Waste Management Facility Operators met on August 29, 2024, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, 23233.

The following members of the board were present:

Wade Bailey
Joshua Byerly
Donald Lawhorne, Vice Chair
Ellen Thacker, Chair
Matthew Terrell
Brent Williams
Jason Williams

DPOR staff present for all or part of the meeting included:

Brian P. Wolford, Director
Jeb Wilkerson, Special Assistant to the Director
Steve Kirschner, Licensing and Regulatory Programs Division Deputy Director
Marjorie King, Executive Director
Joseph Haughwout, Regulatory Affairs Manager
Cameron Parris, Regulatory Operations Administrator
Rachel Harris, Administrative Coordinator

Elizabeth Peay of the Office of the Attorney General was in attendance.

Ms. Thacker, Chair, finding a quorum of the Board present, called the meeting to order at 9:58 a.m.

Call to Order

Ms. King advised the board of the emergency evacuation procedures.

**Emergency
Evacuation
Procedures**

Mr. Lawhorne moved to approve the agenda as presented. Mr. Byerly seconded the motion which was unanimously approved by: Bailey, Byerly, Lawhorne, Thacker, Terrell, B. Williams, and J. Williams.

**Approval of
Agenda**

Mr. Terrell moved to approve the minutes of the April 4, 2024, Board meeting. Mr. J. Williams seconded the motion which was unanimously approved by: Bailey, Byerly, Lawhorne, Thacker, Terrell, B. Williams, and J. Williams.

**Approval of
Minutes**

There were no members of the public present to address the Board.

**Public
Comment
Period**

Mrs. Parris provided the Board with a regulatory action update.

**Regulatory
Update**

Mr. Haughwout presented the Board with draft proposed amendments to the Waste Management Facility Operators Regulations, for review and consideration.

**General
Regulatory
Reduction
Initiative**

After a thorough review, Mr. Haughwout asked the Committee to consider adopting the draft proposed amendments as amended.

Mr. Lawhorne moved to accept the proposed amendments as amended. Mr. J. Williams seconded the motion which was unanimously approved by: Bailey, Byerly, Lawhorne, Thacker, Terrell, B. Williams, and J. Williams.

Mrs. Parris provided the Board with the public comments received regarding the Board's closed-book examination.

Mr. Lawhorne moved to accept the closed-book examination response drafted by Mrs. Parris. Mr. Byerly seconded the motion which was unanimously approved by: Bailey, Byerly, Lawhorne, Thacker, Terrell, B. Williams, and J. Williams.

Ms. King provided the Board with examination statistics.

After review and discussion, Mr. Lawhorne moved to reinstate the open-book examinations. Mr. Bailey seconded the motion which was approved by: Bailey, Byerly, Lawhorne, Terrell, B. Williams, and J. Williams. Ms. Thacker opposed the motion.

Ms. King provided an update of the Board's current application, email, and licensing statistics.

Ms. King reminded the Board members of the upcoming Board Member Training Conference being held at Great Wolf Lodge in Williamsburg, VA, on October 10th and 11th.

Ms. King provided the Board with the most recent financial statements for informational purposes.

Ms. King reminded the Board members to complete and return their conflict-of-interest forms and travel vouchers.

Ms. King reminded the Board that the next scheduled meeting date is November 7, 2024.

There being no further business, the meeting was adjourned at 11:24 a.m.

**General
Notice:
Closed-book
Exams:
Comments
Received**

**Examination
Statistics**

**Executive
Director
Report**

**Board
Member
Training
Conference –
October 10th
& 11th**

**Board
Financial
Statements**

**Complete
Conflict of
Interest
Forms and
Travel
Vouchers**

**Future
Meeting
Dates**

Adjourn

Donald Lawhorne, Vice Chair

Brian P. Wolford, Director

Draft

Portion Statistics Cumulative
VIRGINIA WASTE MANAGEMENT

From: 1/1/2024 To: 10/31/2024

		Pass		Fail		Total
		N	%	N	%	N
VA Waste Management Facility Operator Class I	First Time	13	59.09	9	40.91	22
	Repeat	3	42.86	4	57.14	7
	Total	16	55.17	13	44.83	29
VA Waste Management Facility Operator Class II	First Time	13	56.52	10	43.48	23
	Repeat	4	30.77	9	69.23	13
	Total	17	47.22	19	52.78	36
VA Waste Management Facility Operator Class III	First Time	2	66.67	1	33.33	3
	Repeat	1	100.00	0	0.00	1
	Total	3	75.00	1	25.00	4
VA Waste Management Facility Operator Class IV	First Time	1	33.33	2	66.67	3
	Repeat	0	0.00	1	100.00	1
	Total	1	25.00	3	75.00	4

Board for Waste Management Facility Operators

Update on Regulatory Actions – 18 VAC 155-20

(as of October 28, 2024)

Action: Fee Amendment

Current Stage: Proposed

- Published to the Virginia Register on 8/26/2024. The 60-day public comment period concluded on 10/25/2024. No comments were received. A public hearing was held on 10/1/2024. No comments were received.

Next Step: Final

- Board to review and consider adoption of final regulation.

Action: General Regulatory Reduction Initiative

Current Stage: Proposed

- Executive Branch review complete.
- Published to the Virginia Register 8/12/2024. The 60-day public comment period concluded on 10/11/2024. No comments were received. A public hearing was held on 9/3/2024. No comments were received.

Next Step: Final

- Board to review and consider adoption of final regulation.

Project 7452 - Final

Board For Waste Management Facility Operators

General Regulatory Reduction Initiative

18VAC155-20-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Board" means the Board for Waste Management Facility Operators.

"Class I license" means the authorization from the board to act as a waste management facility operator of a transfer station, a material recovery facility ~~receiving mixed waste~~, an experimental facility, ~~or a composting facility~~, a centralized waste treatment facility, a surface impoundment or lagoon, a waste pile, a remediation waste management unit, or a miscellaneous unit.

"Class II license" means the authorization from the board to act as a waste management facility operator of a sanitary landfill, an industrial landfill, ~~a construction landfill~~, or a ~~debris construction/demolition/debris (CDD) landfill.~~

"Class III license" means the authorization from the board to act as a waste management facility operator of ~~an infectious waste incinerator or autoclave~~ a regulated medical waste management facility.

"Class IV license" means the authorization from the board to act as a waste management facility operator of a municipal waste ~~combustor~~ combustion unit, a waste-to-energy facility, or an incineration facility.

"Contact hour" means 50 minutes of participation in a group program or 60 minutes of completion time for a project.

"Department" means the Department of Professional and Occupational Regulation.

~~"Full time employment" means 1,760 hours per year or 220 work days per year.~~

~~"License" means an authorization issued by the board to an individual to practice as a waste management facility operator who meets the provisions of this chapter.~~

"Municipal solid waste" means that waste that is defined as "municipal solid waste" in 9VAC20-81-10.

~~"Municipal waste combustor" means a mass burn or a refuse derived fuel incinerator or facility designed or modified for the purpose of noninfectious solid waste combustion.~~

"Operation" means any waste management facility that is under construction, treating, processing, storing, or disposing of solid waste, or in the act of securing a facility for closure as defined in 9VAC20-81-10.

~~"Organized program" means a formal learning process designed to permit a participant to learn a given subject or subjects through interaction with an instructor in a formal course, seminar or conference as approved by the board.~~

~~"Owner" means the person who owns a solid waste management facility or part of a solid waste management facility.~~

"Solid waste" means any of those materials ~~identified~~ defined as ~~nonhazardous~~ solid waste in 9VAC20-81-95.

18VAC155-20-40. Fees.

A. All fees are nonrefundable and ~~shall~~ will not be prorated.

B. An application ~~shall~~ is not be ~~deemed~~ complete and ~~shall~~ will not be processed without the required fee.

1. The application fee for licensure ~~shall be~~ is \$75.

2. The fee for renewal of licensure ~~shall be~~ is \$50.

3. The fee for late renewal of licensure ~~shall be~~ is \$75.

4. The fee for reinstatement of licensure ~~shall be~~ is \$125.

5. The examination fee is charged to the applicant by an outside vendor competitively negotiated and contracted for in compliance with the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia). Fees may be adjusted and charged to the applicant in accordance with this contract.

C. All checks ~~shall~~ must be made payable to the Treasurer of Virginia.

D. Receipt and deposit of fees submitted with applications do not indicate licensure.

18VAC155-20-50. Change of status.

A. Each licensee ~~shall~~ must provide written notification of any change of address to the department within 30 days.

B. Each licensee ~~shall~~ must provide written notification and proof of any change of name to the department within 30 days.

C. The license issued by the board ~~shall~~ will not be transferred or otherwise reassigned.

18VAC155-20-110. License classification.

A. The applicant ~~shall~~ must apply for at least one classification of license as outlined in this subsection:

1. An individual operating a facility ~~that is defined in 9VAC20-81-10~~ regulated under Solid Waste Management Regulations (9VAC20-81), as a transfer station, a materials recovery facility ~~receiving mixed waste~~, an experimental facility, ~~or~~ a composting facility ~~shall~~, a centralized waste treatment facility, a surface impoundment or lagoon, a waste pile, a remediation waste management unit, or a miscellaneous unit must hold a Class I

license. An individual who has obtained a Class II, III, or IV license may also operate a facility listed under Class I.

2. An individual operating a facility that is defined in 9VAC20-81-10 as a sanitary landfill, industrial waste landfill, or construction/demolition/debris (CDD) landfill, ~~shall~~ must hold a Class II license.

3. An individual operating a facility regulated under ~~9VAC20-120~~, Regulated Medical Waste Management Regulations (9VAC20-121), ~~shall~~ must hold a Class III license.

4. An individual operating a facility defined in 9VAC5-40-6560 as a municipal waste combustion unit ~~shall~~ or a facility regulated under 9VAC20-81 as a waste-to-energy facility or incineration facility must hold a Class IV license.

B. A licensee may not operate a facility outside of his the licensee's classification other than that defined by subdivision A 1 of this section.

~~C. An individual operating a solid waste management facility that has been issued a permit by the Department of Environmental Quality but for which the board has not established training and licensure requirements shall hold a Class I license until the board establishes the training and licensing requirements by regulation.~~

18VAC155-20-120. Qualifications for licensure.

A. Every applicant to the Board for Waste Management Facility Operators for licensure ~~shall~~ must meet the requirements and have the qualifications provided in this subsection.

1. The applicant ~~shall~~ must be at least 18 years of age.

2. Unless otherwise exempt, the applicant ~~shall~~ must have successfully completed a basic training course approved by the board. Additionally, an applicant for a Class II, III,

or IV license ~~shall~~ must complete a training course approved by the board specific to the license for which ~~he~~ the individual applies.

3. Unless exempt, the applicant ~~shall~~ must have passed the applicable examination provided by the board or by a testing organization acting on behalf of the board.

4. Each applicant ~~shall~~ must document a minimum of ~~one year~~ six months of verified operational experience with a waste management facility of the same class for which ~~he~~ the individual applies. Experience claimed on the application for licensure ~~shall~~ must be verified by the individual's supervisor or personnel officer. Individuals who are under contract with a facility owner may obtain a letter from the facility owner to verify experience.

5. Applicants certified or licensed as waste management facility operators by governing bodies outside of the Commonwealth of Virginia ~~shall be~~ are considered to be in compliance with this chapter if the board or its the board's designee has determined the certifying system to be substantially equivalent to the Virginia system.

6. In accordance with § 54.1-204 of the Code of Virginia, each applicant ~~shall~~ must disclose a conviction, in any jurisdiction, of any non-marijuana misdemeanor within the last three years or felony within the last 10 years. ~~Any plea of nolo contendere shall be considered a conviction for the purpose of this subdivision. The record of conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt.~~ The board, at its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

7. The applicant ~~shall~~ must report suspensions, revocations, or ~~surrendering~~ surrender of a certificate or license in connection with a disciplinary action. The applicant ~~shall~~ must report if a license has been the subject of discipline in any jurisdiction prior to

applying for licensure in Virginia. The board, at its discretion, may deny licensure to any applicant based on prior suspensions, revocations, or surrender of certifications or licenses based on disciplinary action by any jurisdiction.

B. The board may make further inquiries and investigations with respect to the qualifications of the applicant.

18VAC155-20-130. Application procedures.

Application ~~shall~~ must be made on forms supplied by the department, and application forms ~~shall~~ must be completed in accordance with the instructions on the forms. Failure to provide a complete application and all applicable addenda may result in a denial of ~~approval~~ the application. ~~The failure to provide complete information may be interpreted as misrepresentation and may result in disciplinary action as described in 18VAC155-20-280.~~

18VAC155-20-140. Examinations.

A. Applicants will be approved to sit for the examination for licensure once all training and experience requirements have been satisfied and documentation pertaining to all other qualifications has been received by the board.

B. An applicant must follow all rules established by the board or by the testing service acting on behalf of the board with regard to the conduct at the examination site. Such rules ~~shall~~ include any written instructions communicated prior to the examination date and any [oral or written] instructions given at the site on the date of the exam.

18VAC155-20-160. Procedures for renewal.

A. Licenses issued under this chapter ~~shall~~ expire two years from the last day of the month in which ~~they were~~ the license was issued as indicated on the license.

B. The board will ~~mail~~ send a renewal notice to the licensee at the address on file with the board outlining the fee and procedures for license renewal. Failure to receive written notice from the department does not relieve the licensee from the requirement to renew ~~his~~ the license. ~~[If the license holder fails to receive the renewal notice, a copy of the license may be submitted with evidence of completion of the continuing education requirements and the appropriate fee.]~~

C. The date the required fee is received by the department or ~~its~~ the department's agent will be used to determine whether a penalty fee or the requirement for reinstatement of a license is applicable.

D. As a condition of renewal or reinstatement, all individuals holding a license ~~shall be~~ required to must satisfactorily complete ~~eight~~ six hours of continuing education from a provider approved by the board in accordance with the provisions of this chapter, except that no continuing education ~~shall be~~ is required for the first renewal after the issuance of the initial license to an individual.

18VAC155-20-180. Late renewal.

If the renewal fee, as provided for in 18VAC155-20-40 B 2, is not received by the department within 30 days after the expiration date noted on the license, the late renewal fee provided for in 18VAC155-20-40 B 3 ~~shall be~~ is required.

18VAC155-20-190. Reinstatements.

If the licensee fails to renew ~~his~~ the license within six months following the expiration date, the licensee ~~shall~~ will be required to apply for reinstatement of the license. The applicant will be required to present reasons that the license was allowed to expire, and the board may grant reinstatement of the license or require requalification or reexamination or both. The application fee for reinstatement of a license ~~shall~~ will be the amount provided for in 18VAC155-20-40 B 4. An individual who has not been reinstated within two years after expiration of the license must

reapply as a new applicant. The new applicant ~~shall~~ must provide evidence of satisfactory completion of the training ~~course(s)~~ course required by this chapter and ~~shall~~ pass the examination as determined by the board.

18VAC155-20-210. Status of licensure during the period prior to reinstatement.

A. Reinstated licenses ~~shall~~ will continue to have the same license number and ~~shall~~ will be assigned an expiration date two years from the previous expiration date of the license.

B. Reinstated licenses ~~shall be~~ are regarded as having been continuously licensed without interruption. Therefore, the holder of the reinstated license ~~shall~~ will remain under the disciplinary authority of the board during this entire period and may be held accountable for ~~his~~ any activities during this period.

C. Licenses ~~which~~ that are not renewed or reinstated ~~shall be~~ are regarded as expired from the date of the expiration forward.

D. Nothing in this chapter ~~shall divest~~ divests the board of its authority to take disciplinary action for a violation of the law or regulations during the period of time for which an individual was licensed.

18VAC155-20-220. Education courses.

A. All training and continuing education courses must be completed through accredited colleges, universities, junior and community colleges, Virginia Apprenticeship Council programs, proprietary schools approved by the Virginia Department of Education, or other programs approved by the board.

B. All courses for which credit for pre-license education is sought ~~shall~~ must be related to the operation of the class of waste management facility for which the course is being offered and ~~shall~~ must be approved by the board.

C. All courses for which credit for continuing education is sought ~~shall~~ must be related to the operation of the class of waste management facility for which the course is being offered and may be reviewed by the board.

D. Each provider of a pre-license education course or person submitting a course for continuing education credit ~~shall~~ must submit an application for approval on a form provided by the board. The application ~~shall~~ must include, ~~but is not limited to:~~

1. The name of the provider;
2. Provider contact person, address, and telephone number;
3. Course contact hours;
4. Schedule of courses, if established, including dates, times, and locations;
5. Course syllabus; and
6. Instructor information, including name, license number if applicable, education and training background, and a list of other appropriate trade designations or training certifications.

18VAC155-20-230. Training records.

An approved training provider ~~shall~~ must retain records for all participants for a period of 40 five years and shall maintain a written policy on the retention and release of records. All records pertaining to the approved training and participants ~~shall~~ must be made available to the board immediately upon request.

18VAC155-20-235. Denial or withdrawal of approval.

The board may deny or withdraw the approval of any training or continuing education course for the following reasons:

1. Courses being offered no longer meet the standards established by the board;

2. The course provider, through an agent or otherwise, advertises its services in a fraudulent or deceptive way;
3. The course provider, instructor, or designee of the provider falsifies any information relating to the application for approval, course information, or student records or fails to produce records required by the ~~Board for Waste Management Facility Operators~~ board;
or
4. The course provider fails to maintain student course completion records for a minimum of ~~10~~ five years.

18VAC155-20-280. Grounds for denial of application, denial of renewal, or discipline.

A. The board ~~shall have the authority to~~ may (i) deny an application for and ~~to~~ deny renewal of a license or training course approval, (ii) revoke or suspend ~~the~~ a license or training course approval, and (iii) discipline a licensee or an approved training provider who is found to be in violation of the statutes or regulations governing the practice of licensed waste management facility operators.

B. Any individual whose license is revoked under this section ~~shall not be eligible to apply for licensure for a period of one year from the effective date of the final order of revocation. After the one year period, the individual shall~~ must meet all education, examination, experience, and training requirements, complete the application, and submit the required fee for consideration as a new applicant.

C. The board ~~shall~~ will conduct disciplinary procedures in accordance with the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

18VAC155-20-285. Prohibited acts.

Any of the following are cause for disciplinary action:

1. Violating or inducing another to violate any provisions of Chapter 1 (§ 54.1-100 et seq.), 2 (§ 54.1-200 et seq.), 3 (§ 54.1-300 et seq.), or 22.1 (§ 54.1-2209 et seq.) of Title 54.1 of the Code of Virginia, or any provision of this chapter.

2. Obtaining or renewing a license through fraudulent means or misrepresentation.

3. Having been found guilty by the board, an administrative body, or by a court of any material any material misrepresentation in the course of performing his operating duties.

4. Subject to the provisions of § 54.1-204 of the Code of Virginia, having been convicted or found guilty, regardless of jurisdiction, of any felony or any violation that resulted in the significant significant harm or the imminent and substantial threat of significant significant harm to human health or the environment, there being no appeal pending therefrom, or the time of appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this chapter. A certified copy of the final order, decree, or case decision by a court or regulatory agency with lawful authority to issue such order, decree, or case decision shall be admissible as prima facie evidence of such conviction.

5. Failing to inform the board in writing within 30 days of pleading guilty to, pleading nolo contendere to, being convicted of, or being found guilty of (i) any felony or (ii) any violation that resulted in the significant significant harm or the imminent and substantial threat of significant significant harm to human health or the environment.

6. Gross negligence, or a continued pattern of incompetence, in the practice of a waste management facility operator.

7. Violating the permit conditions for the facility, or violating federal, state, or local laws or regulations, which resulted in the [significant significant] harm or the imminent and substantial threat of [significant significant] harm to human health or the environment.

8. Failure to comply with all rules established by the board and the testing organization with regard to conduct at the examination.

TO: Board for Waste Management Facility Operators
FROM: Marjorie King, Executive Director
SUBJECT: Executive Director Update
DATE: November 19, 2024

Application Statistics

The table below outlines the number of applications received per calendar year (Jan. 1 – Dec. 31) since 2012.

2024	2023	2022	2021	2020	2019	2018	2017	2016	2015
70	76	68	76	90	75	104	101	93	60

*As of 10/31/2024

2014	2013	2012
88	51	23

As of November 4, 2024, there is 1 application waiting to be processed.

Email Statistics

On average, the Board receives about 50 emails a month. Each month is identified below for 2024.

Month	Number of Emails Received
January	59
February	50
March	50
April	46
May	44
June	41
July	50
August	53
September	51
October	63

Licensing Statistics

As of November 1, 2024, there are 600 licensed Waste Management Facility Operators. DPOR’s total regulant population is 325,168.

2024	1/1	2/1	3/1	4/1	5/1	6/1	7/1	8/1	9/1	10/1	11/1
WMFO Operators	615	608	599	607	606	602	598	602	612	602	600