



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

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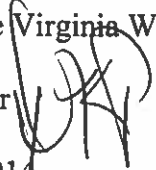
Molly Joseph Ward  
Secretary of Natural Resources

David K. Paylor  
Director

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### MEMORANDUM

**TO:** Members of the Virginia Waste Management Board

**FROM:** David K. Paylor 

**DATE:** December 5, 2014

**SUBJECT:** Minutes

Attached are the minutes from your meeting on June 24, 2014. Staff will seek your approval of these minutes at your next regular meeting.

If you have any questions, please contact Debra Harris at (804) 698-4209 or [Debra.Harris@deq.virginia.gov](mailto:Debra.Harris@deq.virginia.gov).

Attachment  
cc: Cindy Berndt, DEQ

Approved  
1/9/15  
DAA

MINUTES  
VIRGINIA WASTE MANAGEMENT BOARD MEETING  
TUESDAY, JUNE 24, 2014

GENERAL ASSEMBLY BUILDING  
HOUSE ROOM C  
9<sup>TH</sup> AND BROAD STREETS  
RICHMOND, VIRGINIA

**Board Members Present:**

Eric DeGroff  
Tyrone W. Murray  
Amarjit S. Riat

EJ Scott  
Thomas Van Auken  
Paul R. Schmidt (arrived at 10:31 a.m.)

**Board Member Absent:**

Larisa Dobriansky

**Department of Environmental Quality:**

David K. Paylor, Director  
Cindy M. Berndt  
Debra A. Harris

**Attorney General's Office:**

Kelci Block, Assistant Attorney General

These minutes summarize activities that took place at this Board meeting. The meeting was convened at 10:05 a.m. and was adjourned at 11:20 p.m.

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**Minute No. 1 – Minutes.**

The Board unanimously approved the minutes from the Board's meeting on December 13, 2013.

**Minute No. 2 – *Virginia Hazardous Waste Management Regulations, 9VAC20-60, Revision for HB856 - Final Exempt Action.***

Mr. Justin Williams, the Office of Waste Permitting and Compliance Director, presented a final exempt regulatory amendment of 9VAC20-60 to the Board. Mr. Williams explained that this regulatory amendment is in response to Chapter 139 of the 2014 Acts of Assembly, effective July 1, 2014, that removes the statutory requirement to obtain a permit to transport hazardous waste. This regulatory amendment to 9VAC20-60 removes the transporter permit requirement. Mr. Williams explained that transporters of hazardous waste will continue to comply with federal and state regulations that address the transportation of hazardous waste; however a permit will not be required to transport hazardous waste. The Board was informed that §2.2-4006 A 4 of the Code of Virginia provides an exemption to the Administrative Process Act for this regulatory amendment as the amendment is necessary to conform to changes in state law where the agency or board has no discretion. Additionally, the regulation will become effective 30 days after publication in the Virginia Register.

Based on the Board book briefing items and staff presentation, the Board, on a motion of Dr. Van Auken and seconded by Mr. Riat, 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. 3 – *Voluntary Remediation Regulations, 9VAC20-160, Fee Amendment (SB431) - Final Exempt Action.***

Mr. Gary Graham with the Office of Regulatory Affairs presented a final exempt regulatory amendment of 9VAC20-160 to the Board. Mr. Graham explained that the purpose of the amendment was to implement the revision to the statutory requirements of §10.1-1232.A.5 (as revised by Chapter 366 of the 2014 Acts of Assembly) in order to defray the actual reasonable program costs.

Mr. Durwood Willis, the Office of Remediation Program's Director, then provided the Board with background on the voluntary remediation program including the type of sites that enter this program, the number of sites currently enrolled, the number closed to date, and the types of certificates and institutional controls used. Mr. Willis reviewed the historical funding issues for this program and the issues that Chapter 366 of the 2014 Acts of Assembly attempts to address such as the decline in federal funding.

Mr. Graham then presented a summary of the proposed regulation to 9VAC20-160 to the Board. Following the summary of the proposed regulation, the regulatory process as required under the enacting clause of Chapter 366 of the 2014 Acts of Assembly was reviewed. The enacting clause exempted the regulatory action from the Administrative Process Act and required a Regulatory Advisory Panel meeting and comment period on the proposed regulation. Mr. Graham noted that a Regulatory Advisory Panel meeting was held on April 11, 2014 followed by the comment period from May 9, 2014 to May 30, 2014. He then presented the public comments received during the noticed comment period and the revisions made to the regulation in response to the public comments. The Board asked clarifying questions and then the staff recommendation was presented to the Board.

Based on the Board book briefing items and staff presentation, the Board, on a motion of Mr. Riat and seconded by Mr. DeGroff, unanimously voted to adopt this amendment to 9VAC20-160 as a final regulation and authorized its publication.

**Minute No. 4 – Regulations Governing the Transportation of Hazardous Materials, 9VAC20-110, Amendment to add Subpart F of 49 CFR 107 - Fast Track Process.**

Debra Harris with the Office of Regulatory Affairs presented a regulatory amendment to 9VAC20-110 for the Board's consideration as a fast-track regulatory action. Ms. Harris explained that the compliance and enforcement of 9VAC20-110 is implemented by the Virginia State Police. The federal government's Motor Carrier Safety Assistance Program in a program audit noted that the hazardous materials transportation regulation under 9VAC20-110 did not include the requirements of Subpart F of 49 CFR 107 which is a condition for the grant. Therefore, an amendment to 9VAC20-110-110 to add Subpart F to the list of federal regulations incorporated by reference is necessary to provide the Virginia State Police with the ability to ensure hazardous material transport cargo tank registration and records are in accordance with federal requirements. Ms. Harris informed the Board that under §2.2-4012.1 of the Code of Virginia the Board has authority to use of the fast-track process for this regulatory action as it is expected to be noncontroversial.

Based on the board book items and the staff presentation, the Board, on a motion of Dr. Van Auken and seconded by Mr. Murray, unanimously voted to authorize the Department to promulgate the proposed amendment to 9VAC20-110 for public comment using the fast-track process established in §2.2-4012.1 of the Administrative Process Act for regulations expected to be noncontroversial. 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. 5 – Regulation for Alternate Dispute Resolution, 9VAC20-15, Rev. 1 Amendment - Fast Track Process.**

Debra Harris with the Office of Regulatory Affairs presented Revision 1 to the Regulation for Dispute Resolution, 9VAC20-15, as a fast-track regulatory action. Ms. Harris informed the Board that the authorizing provisions under §10.1-1186.3 of the Code of Virginia make reference to statutory requirements for dispute resolution and mediation under Chapter 20.2 and Chapter 21.2 of Title 8.01 of the Code of Virginia and these chapters have been amended since 9VAC20-15 became effective. Ms. Harris also informed the Board that a periodic review was conducted prior to this regulatory action and no comments were received; however, based on the agency's review, changes to the regulation were necessary to: (i) include revised and additional requirements for dispute resolution and mediation under Title 8.01 of the Code of Virginia; (ii) update the APA references; and, (iii) update the document incorporated by reference. Ms. Harris informed the Board that under §2.2-4012.1 of the Code of Virginia the Board has authority to use the fast-track process for this regulatory action as it is expected to be noncontroversial.

Based on the board book items and the staff presentation, the Board, on a motion of Mr. Riat and seconded by Mr. DeGroff, unanimously voted to authorize the Department to promulgate the proposed amendment to 9VAC20-15 for public comment using the fast-track process established in §2.2-4012.1 of the Administrative Process Act for regulations expected to be noncontroversial. 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. 6 - Significant Noncompliance Report.**

The Board received a 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) 2014.

**Minute No. 7 - Public Forum.**

No one appeared during the public forum.

**Minute No. 8 – Division Director's Report.**

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

**Minute No. 9 - Future Meetings.**

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

**Minute No. 10 – Board Comment.**

As this was likely his last meeting as a Board member, Dr. Van Auken thanked everyone on the Board and at the DEQ for their efforts.



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