

**ACTION REPORT  
VIRGINIA WASTE MANAGEMENT BOARD MEETING  
FRIDAY, JUNE 18, 2004**

**DEPARTMENT OF ENVIRONMENTAL QUALITY  
PIEDMONT REGIONAL OFFICE  
4949-A COX ROAD  
GLEN ALLEN, VIRGINIA**

	<b>Action Taken</b>
<b>Minutes - July 25, 2003</b>	Approved minutes
<b>Regulations - Proposed</b>	
9 VAC 20-80 - Solid Waste Management Regulations Amendment 4 - Waste Piles	Authorized public comment
<b>Regulations - Final</b>	
9 VAC 20-90 - Solid Waste Management Facility Permit Action Fees - Amendment 2 - Immediate Final Rule	Adopted amendment 2
9 VAC 20-60 - Hazardous Waste Management Regulations - Amendment 17	Adopted amendment 17
9 VAC 20-60-18 - Hazardous Waste Management Regulations Immediate Final Rule 2004	Adopted IFR 2004
9 VAC 20-110 - Transportation of Hazardous Materials - Immediate Final Rule 2003	Adopted IFR 2003
<b>Public Forum</b>	No speakers
<b>Other Business</b>	
2004 Legislative Summary	Received report
Report on Permit-by-Rule Issued under the Transportation of Solid and Medical Wastes on State Waters Regulation	Received report
Future Meetings	Date to be established later
<b>State Solid Waste Management Planning</b>	Discussed state plan

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**SUMMARY OF AGENDA ITEMS:**

**Virginia Solid Waste Management Regulations, 9 VAC 20-80 - Proposed Amendment 4**

The Department of Environmental Quality is requesting that the Board approve as a proposed regulation Amendment 4 to the Virginia Solid Waste Management Regulations (VSWMR), 9 VAC 20-80-10, et seq. Amendment 4 is needed to modify several areas of the regulations that address the storage of wastes in piles. Current regulations require applicants to obtain a full permit from the department for the storage of waste materials in piles. Processing a full permit can be time consuming

and costly. This proposal would allow certain activities to be exempt from permitting requirements and provide expedited procedures for obtaining a permit for the management of other waste materials in piles. The changes would still be protective of human health and the environment.

Conditional exemptions under section 9 VAC 20-80-60 E were provided allowing the storage of waste material in piles as long as they meet the provisions of the exclusion and they do not create an open dump hazard or public nuisance.

Section 9 VAC 20-80-400 was modified to recognize the provisions for permit by rule in Section 485, and will provide reasonable provisions to protect human health and the environment, including provisions to protect surface water and ground water, and minimize the potential for fire.

Section 9 VAC 20-80-480, and 485 were modified to provide for a permit by rule for waste piles. The permit by rule provisions are similar to those used for transfer stations, materials recovery facilities, incinerators, and composting facilities.

Section 485 provides a list of documentation including plans, certifications and financial assurance that must be submitted by the applicant to the department in order to fulfill the requirements for permit by rule for a waste pile.

#### **Solid Waste Management Facility Permit Action Fees and Annual Fees, 9 VAC 20-90-10, et seq. Immediate Final Rule: Amendment 2**

Amendment 2, to the Solid Waste Management Facility Permit Action Fees and Annual Fees, 9 VAC 20-90-10, et seq. is needed to incorporate new statutory provisions for annual permit fees adopted during the legislative session of 2004. The regulation has been modified to include the new requirements from the Code of Virginia and to establish appropriate administrative procedures for implementation of the new annual fee requirements.

The regulation establishes procedures for the payment of annual fees including submission procedures, procedures for payment of fees in four installments, methods of payment, and penalties for late payments. The regulation includes a section discussing the calculation of the annual fee payment with example calculations and procedures for weight/volume conversions. Procedures for waiver of annual fees for emergencies have been provided. Discounted annual fees have been provided for participants in the Environmental Excellence program.

#### **Hazardous Waste Management Regulations, 9 VAC 20-60 - Immediate Final Regulations: Amendment 17**

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Amendment 17 to the Hazardous Waste Management Regulations, 9 VAC 20-60, implements the requirements enacted by the 2004 General Assembly (House Bill 1350 and Senate Bill 365) that amend §§ 10.1-1402 and 10.1-1402.1 and become effective on July 1, 2004. In § 10.1-1402 item 15, the Act changes the authority of the Board to collect permit fees. It is no longer restricted to the assessment of permit application fees but now also authorizes collection of annual fees from facilities and from large quantity generators of hazardous waste. Va. Code § 10.1-1402.1 already required, among other things, that permit fees reflect the average time and complexity of processing of permits or permit actions. Changes to § 10.1-1402.1 require that no fee shall be charged for minor

modifications of permits and that annual fees may recover the costs for maintaining the permits of facilities and maintaining compliance by large quantity generators.

## **Hazardous Waste Management Regulations, 9 VAC 20-60 - Final Regulations: Immediate Final Rule 2004**

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Each year the U. S. Environmental Protection Agency makes several changes to the federal rules regarding the management of hazardous waste in Title 40 of the Code of Federal Regulations. Since Virginia regulations incorporate the federal regulations, with certain exceptions, it is only necessary to change one item to bring Virginia's regulations up-to-date with the federal changes. The item that must be amended is 9 VAC 20-60-18, which specifies the date of the federal regulations that are incorporated into Virginia regulations. This date is always July 1; however, each year the text is amended to change the year of the date to the current year, thus incorporating federal changes from July 1 of the previous year through June 30 of the current year.

Normally, there are a dozen or so changes to consider; however, this year there are only eight. Most are exemptions or delistings of certain wastes in other states from being hazardous waste or from some requirements of the land disposal restrictions. One delisted waste is from the Southeastern Public Service Authority (SPSA) and Onyx Environmental Services (Onyx), on a one-time basis. This exclusion applies to combustion ash previously generated at the SPSA Power Plant in Portsmouth, Virginia, which is currently located at the SPSA Regional Landfill in Suffolk, Virginia.

One amendment of the regulations is applicable only to members of EPA's National Environmental Performance Track Program (Performance Track, or the Program). This action includes a revision to the RCRA regulations to allow hazardous waste generators who are members of Performance Track up to 180 days, and in certain cases 270 days, to accumulate their hazardous waste without a RCRA permit or interim status; and simplified reporting requirements for facilities that are members of Performance Track and governed by Maximum Available Control Technology (MACT) provisions of the Clean Air Act. These provisions are intended to serve as incentives for facility membership in the National Environmental Performance Track Program while ensuring the current level of environmental protection provided by the relevant RCRA and MACT provisions.

**Changes to Federal Hazardous Waste Management Regulations Between July 1, 2003 and June 30, 2004**

<b>USEPA Checklist Number</b>	<b>Date(s) Final Federal Regulations Published</b>	<b>CFR Sections Affected by Federal Amendment (s)</b>	<b>Federal Rule Reference(s)</b>	<b>Summary of Changes</b>
Not Yet Available	July 30, 2003	261, 279	68 <u>FR</u> 44659	This rule eliminates drafting errors and ambiguities in the used oil management standards. Specifically, this rule clarifies when used oil contaminated with polychlorinated biphenyls is regulated under the Resource Conservation and Recovery Act (RCRA) used oil management standards and when it is not; that mixtures of conditionally exempt small quantity generator waste and used oil are subject to the RCRA used oil management standards irrespective of how that mixture is to be recycled; and that the initial marketer of used oil that meets the used oil fuel specification need only keep a record of a shipment of used oil to the facility to which the initial marketer delivers the used oil.
Not Yet Available	July 30, 2003	261	68 <u>FR</u> 44652	The rule excludes (or “delists”) wastewater treatment plant sludge from conversion coating on aluminum generated by six automobile assembly facilities in the State of Michigan from the list of hazardous wastes. The action conditionally excludes the petitioned waste from the requirements of hazardous waste regulations under RCRA when disposed of in a lined Subtitle D landfill that is permitted, licensed, or registered by a state to manage industrial solid waste.
Not Yet Available	August 7, 2003	261	68 <u>FR</u> 46951	The rule excludes (or “delists”) its F002, F003, and F005 mixed waste from the University of California--E.O. Lawrence Berkeley National Laboratory. Also, the rule makes a determination of equivalent treatment for the catalytic chemical oxidation technology that used to treat its original mixed waste.
Not Yet	September 11,	261	68 <u>FR</u> 53517	The rule excludes (or “delists”) a waste

Available	2003			from the Southeastern Public Service Authority (SPSA) and Onyx Environmental Services (Onyx), on a one-time basis. This exclusion applies to combustion ash previously generated at the SPSA Power Plant in Portsmouth, Virginia, which is currently located at the SPSA Regional Landfill in Suffolk, Virginia. Accordingly, this final rule conditionally excludes a specific volume of the subject waste from the requirements of the hazardous waste regulations under RCRA when that waste is disposed of in a Subtitle D landfill that is permitted, licensed, or registered by a state to manage municipal or industrial solid waste.
Not Yet Available	February 11, 2004	268	69 <u>FR</u> 6567	The rule grants three site-specific treatment variances from the Land Disposal Restrictions treatment standards for selenium-bearing hazardous wastes generated by the glass manufacturing industry. The first variance is to Heritage Environmental Services LLC to stabilize a selenium-bearing hazardous waste generated by Guardian Industries Corp. at their RCRA permitted facility in Indianapolis, Indiana. In the second and third variances, EPA establishes two site-specific variances from the Land Disposal Restrictions treatment standards for Chemical Waste Management Inc., at their Kettleman Hills facility in Kettleman City, California, for two selenium-bearing hazardous wastes.
Not Yet Available	February 26, 2004	261	69 <u>FR</u> 8828	The rule excludes (or “delists”) a wastewater treatment plant sludge from conversion coating on aluminum generated by the Daimler-Chrysler Corporation Jefferson North Assembly Plant in Detroit, Michigan from the list of hazardous wastes.
Not Yet Available	April 22, 2004	261	69 <u>FR</u> 21754	The rule excludes (or “delists”) wastes from OxyVinyls, LP that are certain liquid waste generated by its Houston, TX Deer Park VCM Plant from the lists of hazardous wastes. This delists K017, K019, and K020 incinerator off-gas treatment scrubber water generated from

				treating and neutralizing gasses generated in the firebox during the incineration process.
Not Yet Available	April 22, 2004	63,262	69 <u>FR</u> 21737	This amendment of the regulations is applicable only to members of EPA's National Environmental Performance Track Program (Performance Track, or the Program). This action includes a revision to the RCRA regulations to allow hazardous waste generators who are members of Performance Track up to 180 days, and in certain cases 270 days, to accumulate their hazardous waste without a RCRA permit or interim status; and simplified reporting requirements for facilities that are members of Performance Track and governed by Maximum Available Control Technology (MACT) provisions of the Clean Air Act. These provisions are intended to serve as incentives for facility membership in the National Environmental Performance Track Program while ensuring the current level of environmental protection provided by the relevant RCRA and MACT provisions.
Not Yet Available	May 27, 2004	261	69 <u>FR</u> 30227	The rule excludes (or “delists”) a wastes from Bekaert Corporation (Bekaert) generated by its Dyersburg, Tennessee facility from the lists of hazardous wastes. Delisted is an F006 sludge generated from the treatment of wastewaters generated from electroplating processes.

**Regulations Governing the Transportation of Hazardous Materials, 9 VAC 20-110 - Final Regulations: Immediate Final Rule 2003**

Each year the U. S. Department of Transportation makes several changes to the federal rules regarding the transportation of hazardous materials in Title 49 of the Code of Federal Regulations. Since Virginia regulations incorporate the federal regulations, with certain exceptions, it is only necessary to change one item to bring Virginia’s regulations up-to-date with the federal changes. The item that must be amended is 9 VAC 20-110-110, which specifies the date of the federal regulations that are incorporated into Virginia regulations. For the ease of use by the regulated community, this date is always October 1; however, each year the text is amended to change the year, thus incorporating federal changes from October 1 of the previous year through September 30 of the specified year.

This year there are only seventeen changes.

Table of Changes to Federal Regulations October 1, 2002 to October 1, 2003

Number	Subject and Dates	Summary
<p><b>RSPA-03-10373</b> <b>(HM-220D)</b></p>	<p><b>Approval Program for Certain Persons Performing Visual Requalification of DOT Specification Cylinders; Extension of Compliance Date;</b>  Interim final rule; extension of compliance date and request for comments; Published 09/26/2003;  Effective Date: September 26, 2003; 68 FR 55542.</p>	<p>Extends the compliance date of the regulations contained in 49 CFR 107.805(f) and 180.209(g) of the Hazardous Materials Regulations that require persons who perform visual requalification of DOT specification cylinders to obtain approval from RSPA and to mark the requalifier identification number assigned by RSPA on cylinders successfully requalified after May 31, 2004.</p>
<p><b>RSPA-03-15372</b> <b>(RSP-5)</b></p>	<p><b>Penalty Guidelines and Other Procedural Regulations;</b>  Final rule; Published 09/08/2003;  Effective Date: September 8, 2003; 68 FR 52844.</p>	<p>Increases to \$32,500 and \$275, respectively, the maximum and minimum civil penalties for a knowing violation of Federal hazardous materials transportation law or a regulation issued under that law. Publishes revised baseline assessments for frequently cited violations to provide the regulated community and the general public with more current information on RSPA's hazardous material penalty assessment process. The revisions to RSPA's baseline penalty assessments consider the increase in the maximum civil penalty to \$32,500. Advises the public that, in proposing or assessing a civil penalty, RSPA will not normally consider a prior violation in a case that was initiated in a calendar year more than six years prior to the year in which the current proceeding is initiated. Updates the address to which civil penalty payments must be sent, and makes editorial changes to procedural regulations for issuing an administrative determination of preemption.</p>
<p><b>RSPA-98-3554</b> <b>(HM-213)</b></p>	<p><b>Requirements for Cargo Tanks;</b>  Final rule; response to appeals; Published 09/03/2003;  Effective Date: September 3, 2003; 68 FR 52363.</p>	<p>On April 18, 2003, the Research and Special Programs Administration published a final rule under Docket No. RSPA-98-3554 (HM-213) to update and clarify requirements in the Hazardous Materials Regulations applicable to construction and maintenance of cargo tank motor vehicles. In response to appeals submitted by persons affected by the April 18, 2003 final rule, this final rule amends certain requirements and makes minor</p>

		editorial corrections.
<b>RSPA-02-13773</b> <b>(HM-218B)</b>	<b>Miscellaneous Amendments;</b> Final rule; Published 8/14/2003, Effective Date: August 14, 2003 68 FR 48562.	This final rule amends the Hazardous Materials Regulations by incorporating miscellaneous changes based on petitions for rulemaking and RSPA initiatives. The intended effect of these regulatory changes is to update, clarify or provide relief from certain regulatory requirements.
<b>RSPA-03-19016</b> <b>(HM-215E)</b>	<b>Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions;</b> Final rule; Published 7/31/2003, Effective Date: July 31, 2003 68 FR 44991.	Amends the Hazardous Materials Regulations (HMR) to maintain alignment with international standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations and vessel stowage requirements. Because of recent changes to the International Maritime Dangerous Goods Code (IMDG Code), the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions), and the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations), these revisions are necessary to facilitate the transport of hazardous materials in international commerce.
<b>RSPA-01-10373</b> <b>(HM-220D)</b>	<b>Requirements for Maintenance, Requalification, Repair and Use of DOT Specification Cylinders; Correction of Compliance Dates;</b> Correction to final rule compliance dates; Published 6/2/2003; Effective Date: June 2, 2003; 68 FR 32679.	This document corrects several compliance dates in a final rule published May 8, 2003 (68 FR 24653) that made revisions to certain cylinder requirements. The compliance date for the final rule is corrected to permit immediate voluntary compliance. The delayed compliance dates for two other requirements in the final rule are corrected.
<b>RSPA-01-10533</b> <b>(HM-218A)</b>	<b>Transportation of Hazardous Materials; Unloading of Intermodal (IM) and UN Portable Tanks on Transport Vehicles;</b> Final rule; Published 5/29/2003; Effective Date: June 30, 2003; 68 FR 32409.	Amends the Hazardous Materials Regulations to permit, for an interim period and subject to certain unloading conditions, the unloading of IM and UN portable tanks transporting certain liquid hazardous materials when those tanks are not equipped with a thermal means of remote activation of the internal self-closing stop-valves fitted on the bottom discharge outlets. Permitting such unloading for an interim period affords operators time to bring the portable tanks into conformance with the regulations.
<b>RSPA-02-12064</b> <b>(HM-232)</b>	<b>Hazardous Materials Security Plans; Information Collection Approval;</b>	This final rule announces Office of Management and Budget (OMB) approval of information collection request (ICR) OMB No. 2137- 0612,

	<p>Final rule; Published 5/28/2003; Effective Date: June 20, 2003; 68 FR 31627.</p>	<p>"Hazardous Materials Security Plans". This information collection has been approved by OMB until April 30, 2006. This final rule also makes appropriate revisions to regulations concerning the Paperwork Reduction Act to incorporate this new information collection approval under OMB Control No. 2137-0612.</p>
<p><b>RSPA-01-10373</b> <b>(HM-220D)</b></p>	<p><b>Requirements for Maintenance, Requalification, Repair and Use of DOT Specification Cylinders; Response to Appeals and Extension of Compliance Dates;</b></p> <p>Final rule; response to appeals; Published 5/8/2003; Effective Date: June 9, 2003; 68 FR 24653.</p>	<p>On August 8, 2002, RSPA published a final rule - 10373 (HM-220D) amending the requirements of the Hazardous Materials Regulations applicable to the maintenance, requalification, repair, and use of DOT specification cylinders. The revisions simplified the regulations, responded to petitions for rulemaking, addressed recommendations of the National Transportation Safety Board, and enhanced the safe transportation of hazardous materials in cylinders. In response to appeals submitted by persons affected by the August 8, 2002 final rule, this final rule amends certain requirements, extends certain compliance dates, and makes minor editorial corrections.</p>
<p><b>RSPA-03-14982</b> <b>(HM-232C)</b></p>	<p><b>Enhancing Hazardous Materials Transportation Security;</b></p> <p>Interim final rule and request for comments; Published 5/5/2003; 68 FR 23831.</p>	<p>Incorporates into the Hazardous Materials Regulations a requirement that shippers and transporters of certain hazardous materials comply with Federal security regulations that apply to motor carrier and vessel transportation. In addition, revises the procedures for applying for an exemption from the Hazardous Materials Regulations to require applicants to certify compliance with applicable Federal transportation security laws and regulations. This interim final rule will assure that shippers and transporters are aware of and comply with their security obligations.</p>
<p><b>RSPA-98-3554</b> <b>(HM-213)</b></p>	<p><b>Requirements for Cargo Tanks;</b></p> <p>Final rule; Published 4/18/2003; Effective Date: October 1, 2003; 68 FR 19257.</p>	<p>Adopts a number of revisions to the Hazardous Materials Regulations to update and clarify the regulations on the construction and maintenance of cargo tank motor vehicles. This final rule also addresses three National Transportation Safety Board (NTSB) recommendations and several petitions for rulemaking. These revisions will increase the safety of cargo tanks transporting hazardous materials, provide greater flexibility in design and construction of cargo tanks, and reduce operating burdens for owners, operators, and manufacturers of cargo tank motor vehicles.</p>
<p><b>RSPA-02-</b></p>	<p><b>Security Requirements for</b></p>	<p>Establishes new requirements to enhance the security of hazardous materials transported in</p>

<p><b>12064</b> <b>(HM-232)</b></p>	<p><b>Offerors and Transporters of Hazardous Materials;</b> Final rule; Published 3/25/2003; 68 FR 14509.</p>	<p>commerce. Shippers and carriers of certain highly hazardous materials must develop and implement security plans. In addition, all shippers and carriers of hazardous materials must assure that their employee training includes a security component.</p>
<p><b>RSPA-00-7762</b> <b>(HM-206C)</b></p>	<p><b>Availability of Information for Hazardous Materials Transported by Aircraft ;</b> Final rule; Published 3/25/2003; Effective Date: October 1, 2003; 68 FR 14341.</p>	<p>Amends the Hazardous Materials Regulations to require an aircraft operator transporting a hazardous material to: Place a telephone number, on the notification of pilot-in-command or in the cockpit of the aircraft, that can be contacted during an in-flight emergency to obtain information about any hazardous materials aboard the aircraft; retain and provide upon request a copy of the notification of pilot-in-command, or the information contained in it, at the aircraft operator's principal place of business, or the airport of departure, for 90 days, and at the airport of departure until the flight leg is completed; and make readily accessible, and provide upon request, a copy of the notification of pilot-in-command, or the information contained in it, at the planned airport of arrival until the flight leg is completed. The intent of these amendments is to increase the level of safety associated with the transportation of hazardous materials aboard aircraft.</p>
<p><b>RSPA-00-8439</b> <b>(HM-208D)</b></p>	<p><b>Temporary Reduction of Registration Fees ;</b> Final rule; Published 1/9/2003; Effective Date: March 3, 2003; 68 FR 1341.</p>	<p>Reduces the registration fees paid by persons who transport or offer for transportation in commerce certain categories and quantities of hazardous materials, in order to eliminate the unexpended balance in the Hazardous Materials Emergency Preparedness Grants Fund. Also revises regulations to provide that a not-for-profit organization will pay the same registration fee as a small business.</p>
<p><b>RSPA-02-13658</b> <b>(HM-215E)</b></p>	<p><b>Harmonization with the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions; Incorporation by Reference;</b> Final rule; Published 1/8/2003; Effective Date: January 8, 2003; 68 FR 1013.</p>	<p>Amends the Hazardous Materials Regulations (HMR) by updating incorporation by reference materials to include the most recent amendments to the International Maritime Dangerous Goods Code (IMDG Code), the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions) and the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations). This action is necessary to facilitate the continued transport of hazardous materials in</p>

		international commerce by aircraft and vessel after these international standards become effective. The other changes proposed in the notice of proposed rulemaking (NPRM) under this docket will be addressed in a separate rule.
<b>RSPA-01-10568 (HM-207B)</b>	<b>Retention of Shipping Papers;</b> Final rule, response to appeals; Published 11/1/2002;  Effective Date: November 1, 2002; 67 FR 66571.	Makes changes to a final rule published on July 12, 2002, in which RSPA amended the Hazardous Materials Regulations (HMR) to require shippers and carriers to retain a copy of each hazardous material shipping paper, or an electronic image thereof, for a period of 375 days after the date the hazardous material is accepted by a carrier. This final rule responded to five appeals of the July 12, 2002 final rule.
<b>FMCSA-02-13376; RSPA-02-12773 (HM-232B)</b>	<b>Revision to Periodic Tire Check Requirement for Motor Carriers Transporting Hazardous Materials;</b> Final rule; Published 10/4/2002;  Effective Date: November 4, 2002; 67 FR 62191	Eliminates an outdated requirement for certain motor vehicle operators to stop periodically to check their tires. Eliminating this requirement enhances the security of hazardous materials shipments.

**Other Business – Reports**

**Planning Item – Solid Waste Management Planning Discussion**