

**TENTATIVE AGENDA
 VIRGINIA WASTE MANAGEMENT BOARD MEETING
 MONDAY, DECEMBER 8, 2008**

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

Convene - 10:00 A.M.

		Tab
I. Regulations – Final		
9 VAC 20-11 – Public Participation Guidelines	Berndt	A
II. Regulations – Proposed		
9 VAC 20-80 – Solid Waste Management Regulations - Amendment 7 (Adoption of 9 VAC20-81 and Repeal of 9 VAC 20-80 and 9 VAC 20-101)	Beckwith/ Miller/ Williams	B
III. Public Forum		
III. Other Business		
Report on Significant Non-Compliers	Ely	C
Minutes – December 12, 2007		D
Division Director’s Report (Compliance/Enforcement; Updates on Mercury Switch Program, Recycling Rate Report, JLARC Report, Solid Waste Managed in Virginia, and Recycling Markets Council Activities)	Golden/ Davenport/ Murphy	
Future Meetings		

ADJOURN

NOTE: 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 arising as to the latest status of the agenda should be directed to Cindy M. Berndt at (804) 698-4378.

PUBLIC COMMENTS AT VIRGINIA 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 their 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 one public meeting) and during the Notice of Public Comment Period on Proposed Regulatory

Action (minimum 60-day comment period and one public hearing). Notice of these comment periods is announced in the Virginia Register 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 and consent special orders)**, 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 a 45-day comment period and one public hearing.

In light of these established procedures, the Board accepts public comment on regulatory actions, 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 participated in the prior proceeding on the proposal (i.e., those who attended the public hearing or commented during the public comment period) are allowed up to 3 minutes to respond to the summary of the prior proceeding 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. **NEW INFORMATION** will not be accepted at the meeting. The Board expects comments and information on a regulatory action 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 participated 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. 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, an additional public comment period may be announced by the Department 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 pending regulatory actions or pending case decisions. Anyone wishing to speak to the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentation to not exceed 3 minutes.

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: Cindy M. Berndt, Director, Regulatory Affairs, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 698-4378; fax (804) 698-4346; e-mail: cmberndt@deq.virginia.gov.

Public Participation Guidelines: The Administrative Process Act (Act) requires all entities with authority to adopt regulations to establish, by regulation, Public Participation Guidelines (Guidelines) to be used for soliciting the input of interested persons in the formation and development of regulations. The existing Guidelines were adopted by each of the Boards in 1994 and are essentially identical.

The 2008 General Assembly enacted House Bill 1167 which requires all entities with authority to adopt regulations to adopt new public participation guidelines developed by the Department of Planning and Budget in consultation with the Attorney General’s Office. This legislation came out of the Attorney General’s Regulatory Reform Task Force.

The goals of the model guidelines is to promote uniformity and consistence among state agencies and standardize the public participation process so that interested persons know how and when to comment and/or participate in various topics of interest.

The model guidelines apply to the development, amendment or repeal of regulations that are not exempt from the public participation requirements of the Administrative Process Act and address:

1. the purpose of the regulation;
2. maintenance of notification lists;
3. information to be sent to persons on the notification list;
4. opportunity to comment at various stages of the process;
5. minimum comment period durations for various stages of the process;
6. petition for rulemaking
7. regulatory advisory panel or negotiated rulemaking panel to assist in the development of a regulatory proposal;
8. public meetings and public hearings; and
9. periodic review of regulations.

The model guidelines are attached. The only revisions that will be made to the attached text will be the insertion of the appropriate title and chapter number and insertion of the name of the appropriate Board in Section 10 and in the definition of “agency” in Section 20.

The staff will recommend that each Board adopt the model guidelines as a final exempt regulation and repeal the existing public participation guidelines.

VIRGINIA SOLID WASTE MANAGEMENT REGULATIONS, AMENDMENT 7, 9 VAC 20 – 81 – 10 ET SEQ. - PROPOSED REGULATIONS 2008: Specifically the Department proposes to recodify the Virginia Solid Waste Management Regulation (VSWMR) 9 VAC 20-80 into a more cohesive and concise regulation. The recodified regulation will be 9 VAC 20-81. This proposed regulation includes the incorporation of the Vegetative Waste Management and Yard Waste Composting Regulation, 9 VAC 20-101. Other substantive changes include provisions for a pre-approved alternate liner design that does not require a variance submission; a pre-approved alternate cover design without a demonstration; consolidation of related topics; consolidation of exemptions and exclusions into one section; and the addition of standards for Centralized Waste Treatment facilities. Also revisions have been made to conform to existing statutes; the unauthorized waste control program is moved to the operation section of each type of facility; citation to the federal regulations is made where feasible; composting and other types of facilities that are higher in the waste hierarchy will have less burdensome standards; there is a change from full permit to permit by rule status for composting facilities; and the operations manual has been removed from the permit.

The Department will request that the Waste Management Board approve the amendment as a proposed regulation and authorize public comment on (i) adoption of the proposed Solid Waste Management Regulations at 9 VAC 20-81 and (ii) repeal of the existing Solid Waste Management Regulation at 9 VAC 20-80 and the Vegetative Waste Management and Yard Waste Composting Regulation at 9 VAC 20-101.

NOIRA Public Comments

Commenter	Comment	Agency response
Alan Raflo	It is difficult to find the complete NOIRA—that is, the “Agency Background Document”—online.	This comment will be forward to the Department of Planning and Budget for their review.

	The Virginia Register of Regulations entry has only a small portion of the Agency Background Document, and that portion does not emphasize the aspect of the NOIRA regarding changes to make the regulations “less burdensome” (in the “Need” section of the Agency Background Document).	
Larry Bertolet	Was able to find the General, Chapter and Stage information, but unable to locate the “Agency Background Document” online. Shouldn’t have to call to have a copy of the document emailed.	This comment will be forward to the Department of Planning and Budget for their review.
Lisa Smith Rodriguez Craig Coker Bob Broom Mindy Jones	<u>9 VAC 20-80-320. General</u> C. Closure. Requiring other solid waste management facilities to comply with 9 VAC 20-70 Financial Assurance Regulations. The Financial Assurance regulations are in serious need of updating and modification, and I urge VA DEQ to consider amending those regulations as well (see below).	The financial assurance regulations are not part of this amendment however this comment will be forwarded to the Office of Regulatory Affairs.
Lisa Smith Rodriguez Craig Coker Mindy Jones	<u>9 VAC 20-80-330. Compost Facilities</u> A. General. I recommend VA DEQ combine the regulations under 9 VAC 20-101-10, <i>et. seq.</i> (Vegetative Waste Management and Yard Waste Composting Regulations) into this section to facilitate conciseness and consistency.	This comment was accepted and the Vegetative Waste Management And Yard Waste Composting Regulations (9 VAC 20-101) have been incorporated into the proposed Amendment 7 of VSWMR.
Lisa Smith Rodriguez Craig Coker Mindy Jones	C.2. Design/Construction. Increase the minimum tonnage for requiring a hardened compost pad for Category I, II, or III materials from 700 tons per calendar quarter to 3,000 tons per calendar quarter, provided the permit applicant can demonstrate that depth to the seasonal high ground water table exceeds 2 feet and that soil texture is finer than a loamy sand, and that	The requirement for a hardened compost pad at a rate greater than 700 tons per quarter for facilities that accept only Category I or II feedstocks has been removed in the proposed regulation, unless the facility is located in any area where the seasonal high water table lies within two feet of the ground surface. The requirement for a hardened compost pad at facilities which accept Category III feedstocks has been increased to 2000 cubic yards per quarter. All compost facilities that accept

	<p>the pad is graded so that runoff flows to a permitted storm water management system.</p>	<p>Category IV feedstock are required to have a hardened compost pad.</p>
<p>Lisa Smith Rodriguez Craig Coker Mindy Jones</p>	<p>D.2.b. Pathogens (testing for in final product). Allow permit holders to reduce testing frequency requirements for <i>Ascaris</i> ova to once per year who demonstrate four (4) consecutive quarters of no detectable viable ova and who certify that the source of <i>Ascaris</i> (i.e. municipal biosolids, septage, or materials contaminated by sanitary wastewaters) are not accepted for composting at the composting facility during the preceding twelve-month period.</p> <p>Testing for <i>Ascaris</i> is very expensive (\$300 each) and requires two-to-three weeks to get results. If composters are not allowed to distribute product while waiting for lab results to return, and there is no evidence of historical <i>Ascaris</i> presence in their compost product(s), then the multi-week delay for test results can result in significant market impact to producers, as large-volume users (such as the Virginia Department of Transportation) may elect to source compost, or compost-based specialty soils, elsewhere.</p>	<p>The proposed regulation reduces the requirements for Pathogen and Parasite testing to be more consistent with federal rule 503. The proposed regulation requires testing of viable helminth ova density for composting facilities that accept Category III or IV feedstocks. The proposed regulation allows the viable helminth ova reduction to be demonstrated for the composting process, additional helminth ova testing will not be required provided the composting operating parameters and incoming waste stream are consistent with the values or ranges of values documented during the initial helminth ova reduction demonstration.</p>
<p>Lisa Smith Rodriguez Craig Coker Mindy Jones</p>	<p>E. Closure. <u>All</u> composting facilities, including those composting mainly (or solely) Category IV sewage sludge wastes, should be required to comply with both these closure requirements, as well as the Financial Assurance requirements under 9 VAC 20-70-10, <i>et. seq.</i> Requiring this of solid waste composting facilities without requiring it of biosolids composting facilities is inherently discriminatory, and senseless, as biosolids composting facilities have as much potential for environmental and public health damage as do solid waste</p>	<p>Composting facilities that accept sewage sludge or combinations of sewage sludge and other solid wastes that are permitted by DEQ Virginia Pollution Abatement (VPA) or Virginia Pollution Discharge Elimination System (VPDES) programs will be exempt from the requirements of the proposed regulation. This comment was forwarded to the Office of Land Application to address the financial assurance requirements for composting operations permitted by either VPA or VPDES programs.</p>

	composting facilities.	
<p>Lisa Smith Rodriguez</p> <p>Craig Coker</p> <p>Mindy Jones</p>	<p>While the specific aspects of 9 VAC 20-70-10, <i>et. seq.</i> are external to this current regulatory action to amend 9 VAC 20-80-10 <i>et. seq.</i>, it is recommended that VA DEQ consider modifying the financial assurance requirements for composting facilities to: 1) reflect the reality that all material on a composting pad is not a solid waste for the purposes of closure cost estimating; 2) modify requiring closure cost estimates to assume that all collected storm water be pumped out and hauled to a wastewater treatment plant, which is unnecessary and fails to recognize the water quality benefits of storm water Best Management Practices; 3) modify requiring composting facilities to post trust fund financial assurance equal to the total cost estimate of closure before receiving an operating permit, which is both extremely expensive and unfair, given that sanitary landfills have a 30-year period to fund a trust fund for financial assurance; 4) modify the requirements for insurance and bonding companies to allow them to terminate coverage for reasons other than non-payment of premium (this provision has made these two options virtually unavailable to composters).</p>	<p>The financial assurance regulations are not part of this amendment however this comment will be forwarded to the Office of Regulatory Affairs</p>
<p>Lisa Smith Rodriguez</p> <p>Craig Coker</p> <p>Bob Broom</p> <p>Mindy Jones</p>	<p><u>9 VAC 20-80-485. Permits By Rule and other special permits</u></p> <p>A.4. Composting Facilities. Increase the allowable tonnage for processing under a permit by rule (PBR) to 3,000 tons per calendar quarter. The current threshold of 700 tons per quarter is simply not enough potential tipping fee revenue to support the development and expansion of the private-sector solid waste composting industry.</p>	<p>This comment was accepted in part. There is no tonnage requirement in the proposed amendment for a PBR for composting facilities.</p>

<p>Lisa Smith Rodriguez</p> <p>Craig Coker</p> <p>Bob Broome</p> <p>Mindy Jones</p>	<p><u>9 VAC 20-80-500. Permit Application Procedures</u></p> <p>D. Part B application. Modify the language “after receiving Part A approval”; to allow composting facilities to proceed with their Part B applications <i>while</i> VA DEQ is considering a complete Part A application. As the completed Part A application contains the local government certification (Form SW 11-1), there is no conflict with local government solid waste management planning. Thus, the only risk is to the applicant for proceeding with design engineering while the siting approval by VA DEQ is underway. Should VA DEQ decide not to issue the Part A approval, then there is some risk of loss, but this would be vastly overshadowed by the benefits of shortening the whole permitting process timeline.</p>	<p>The department has evaluated this comment and proposed no change. The department currently allows concurrent processing of both the Part A and Part B applications in warranted situations. However, the permit may not be issued until both the Part A and Part B applications are approved.</p>
<p>Lisa Smith Rodriguez</p> <p>Craig Coker</p> <p>Mindy Jones</p>	<p>Permit Fees (9 VAC 20-90-10, <i>et. seq.</i>) - While the specific aspects of 9 VAC 20-90-10, <i>et. seq.</i> are external to this current regulatory action to amend 9 VAC 20-80-10 <i>et. seq.</i>, it is recommended that VA DEQ consider modifying the permit application fees for composting facility Part A applications (currently \$4,180) and Part B applications (from \$6,850 to \$12,670 depending on waste categories) to more accurately reflect VA DEQ’s actual costs of reviewing permit applications. These permit fees are excessively high, compared to other states, and are another obstacle to the development and growth of the solid waste composting industry in Virginia.</p>	<p>The Permit Fee regulation is not part of this amendment however this comment will be forwarded to the Office of Regulatory Affairs.</p>
<p>Lisa Smith Rodriguez</p> <p>Craig Coker</p> <p>Mindy Jones</p>	<p>Waste Management Facility Operator Regulations (18 VAC 155-20-10, <i>et. seq.</i>) – While it is appropriate for Virginia to require licensed (and trained) operators at waste management facilities, there is a critical need to provide</p>	<p>This comment will be forwarded to the Virginia Department of Occupational and Professional Regulation (DPOR). DEQ does not have the authority to make changes to the Waste Management Facility Operator Regulations, 18 VAC 155-20-10.</p>

	<p>specialized training for compost facility operators that reflects the unique nature of the composting process. I received my Class II Waste Management Facility Operator License in 2007 (No. 4605 002846) and in four days of intensive (and expensive) classroom training received no useful training on how to operate a composting facility. There are numerous specialized courses on compost facility operator training available in the U.S., and VA DEQ should consider working with the Virginia Department of Occupational and Professional Regulation (DPOR) to allow license applicants to substitute one or more of these specialized courses as suitable and equivalent education for licensing purposes.</p>	
<p>Bob Broome</p>	<p><u>9 VAC 20-80-330. Compost Facilities</u></p> <p>E. Closure. Is it safer to store sludge and MSW permanently in a lined landfill or would your engineering instincts favor processing in an indoor composting facility to produce a beneficial product under 503 rules is safe to sell to the public. Clearly to protect the water supply landfills of all colors need long term monitoring. This should not be required of composting facilities where nothing is permanently stored and additionally they are designed to operate with zero discharges. Certainly, I would recommend review of the run-off requirements and if they are inadequate change them, otherwise, this requirement unnecessarily burdens composting with costs when there is no danger.</p>	<p>The current and proposed regulations do not require long term monitoring during or after closure of a composting facility unless solid wastes remain closed in place or potentially if the facility is determined to be an Open Dump. All composting facilities are required to conduct closure activities if operations cease at the permitted location. These activities are necessary to remove solid waste and solid waste residues from the facility, but do not include long term monitoring unless solid wastes remain closed in place or the facility is determined to be an Open Dump.</p>
<p>Terri Philips</p>	<p>9VAC20-80-300.B.3.d(1), 9VAC20-80-300.B.3.g, and 9VAC20-80-300.C.4.e.(3) – clarify how verification resampling is to be handled. In the past, DEQ wanted the 14-day notifications made after receipt of all analytical data for an event, inclusive of resampling data. Now, some regions want the 14-day notifications after receipt of the initial data package, and another notification after the verification sampling. We'd</p>	<p>The proposed regulation clarifies the timeframes for both the 14-day notification and verification resampling.</p>

	recommend the former.	
Terri Philips	9VAC20-80-300.B.3.g and 9VAC20-80-300.C.4.e.(3) – clarify whether a statistical comparison to the Groundwater Protection Standard (GPS) (using a minimum of 4 data points) constitutes an Alternate Source Demonstration (ASD). We do not think it does; however, at least one region interprets these regulations as requiring a statistical comparison to GPS to be treated as an ASD.	This comment was accepted in part. The requirements for an ASD submittal are clarified; however, the specific concerns as noted by this commenter are not included as this would be an issue to handle by agency guidance, and not regulatory changes.
Terri Philips	9VAC20-80-300.C.4.b(4) and 9VAC20-80-300.C.5 – modify so that the Modified Sampling Program is an option, not a required step. According to DEQ during the Amendment 3 process, the Modified Sampling Program was intended to be a less strict (than Phase II) program for those sites that would bounce back and forth between Phase I and Phase II programs. However, as written, the Modified Sampling Program is more expensive to implement than Phase II. Alternatively, modify the requirements of the Modified Sampling Program so that it is not actually more burdensome than Phase II (changes to 9VAC20-80-300.C.5.b).	This comment was accepted, in part. The proposed regulation deletes the Phase I and modified Phase I program. The proposed regulation establishes a new monitoring program (First Determination Monitoring) which should prevent facilities from bouncing between two levels of groundwater monitoring. The new monitoring program allows facilities to request the director delete any constituents from the semi-annual sampling list if the owner or operator demonstrates that the proposed deleted constituents are not reasonably expected to be in or derived from the waste which should achieve the original goal of the modified Phase I program and reduce cost.
Terri Philips	Also, I'd recommend modifying the applicability language in 9VAC20-80-300.B.1.e to be consistent with the AG's opinion on this matter, especially as more landfills affected by this section close. Basically, a landfill that <i>had been</i> subject to quarterly monitoring under this provision is no longer required to be monitored quarterly after it ceases to accept waste.	This comment was accepted and the proposed regulation clarifies the quarterly monitoring required by this section will no longer be required following cessation of waste.
Noel Lyons	We recommend the existing 2-stage Part A-B permitting process be changed to a single step process whilst simultaneously establishing a higher level of relevant controls. Existing zoning regulations address most, if not all, of the issues that Part A covers.	The department has evaluated this comment and proposed no change. The Part A application addresses a large number of topics not covered by existing zoning regulations. The Part A application includes a detailed subsurface investigation of the proposed location including an evaluation of the geologic, seismic, and hydrogeologic conditions. In addition the Part A application verifies compliance with siting standards commonly not replicated in zoning regulations

		including those contained in the Waste Management Act. The Part B portion of the permit application is focused on the design, construction, operation, and closure of the facility. The Part A (site suitability) and Part B (design/construction/operation/closure) of the application address two very different subjects and require two different skill sets for the department's review. Therefore, it is both more efficient and logical to maintain the Part A and Part B process.
Noel Lyons	<p>We recommend the following stipulations are part of a single pass permitting process:</p> <ol style="list-style-type: none"> 1. Biosolids and putrescent materials must be handled in a controlled environment (within a building or an in-vessel technology) 2. All composting and storage must be conducted on an impermeable surface with proper storm water containment to ensure a negative impact on the local environment 3. A reasonable technology to control odor must be in place 4. The existing EPA 503 pathogen control protocols should remain 	<ol style="list-style-type: none"> 1. The proposed regulation exempts the composting of sewage sludge (including biosolids) if permitted by DEQ VPA or VPDES programs. This comment has been provided to the Office of Land Application. 2. The current and proposed regulations include provisions for maximum permeability of composting pads for facilities that accept Category IV or over an established tonnage per quarter of Category II or III feedstocks. 3. The current and proposed regulations require all composting facilities to control odors so they do not constitute nuisances or hazards. 4. The proposed regulation includes pathogen and parasite testing for facilities that accept Category II or IV feedstocks.
Greg Evanylo	I would like to recommend that one regulation be developed to include all composting rules (i.e., vegetative waste reg and solid waste reg). These should be separate from the solid waste regulation to enhance clarity and ease of use for the industry.	This comment was accepted and the Vegetative Waste Management And Yard Waste Composting Regulations (9 VAC 20-101) have been incorporated into the proposed Amendment 7 of VSWMR. New sections 9 VAC 20-81-310 A,

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
Part I	Part I	Definitions	This part contains the definitions for terms used in this regulation.
9 VAC 20-80-10	9 VAC 20-81-10	Definitions	Some definitions were clarified and several definitions were added to specify facility boundaries and capacity.
Part II & III	Part II	General Information	This part contains the waste hierarchy and also describes the authority for the regulation, purpose of chapter, prohibitions, open dump criteria, enforcement policy, statutory reporting requirements of the

			department, the identification of solid waste and the requirements for obtaining a beneficial use demonstration.
80-20	N/A	Reserved	Deleted as not necessary.
80-30	81-20	Policy	For consistency Recycling was added to reflect the Waste hierarchy as defined in the Solid Waste Planning and Recycling regulations. Section was recodified. No other changes.
80-40	81-25	Purpose of Chapter	Explains the purpose of these regulations. Section was recodified. No other changes.
80-50	81-30	Administration of Chapter	This section explains the statutory authority and also describes the role of the Waste Management Board and the Director. Section was recodified. No other changes.
80-60	81-35	Applicability of chapter	Explains the types of facilities and persons who are required to comply with these regulations. Also provides a table with those facilities subject to the prioritization schedule in accordance with 10.1 1413.2 of the Virginia Waste Management Act. Section was recodified. No other changes.
80-70	81-40	Prohibitions	Section was recodified. No other changes.
80-80	81-45	Open dumps	Reference to federal regulations where feasible. Section was recodified.
80-90	N/A	Unpermitted facilities	Deleted as not necessary, included in 81-40.
80-100	81-50	Enforcement and appeal	Section was recodified. No other changes.
80-105	81-60	Ten-year permit review	Section was recodified. No other changes
80-110	81-70	Public participation	Because of budget constraints, removed requirement for newspaper notice of enforcement actions and maintained notice of such actions on department's website. Section was recodified.
80-113	deleted	Control Program for unauthorized waste	Section 113 is deleted here and included in sections 81-100 E, 140, 300 E and 340.
80-115	81-80	Solid Waste Information and Assessment Program	Section was recodified. No other changes.
80-120	81-90	Relationship with other regulations promulgated by the Virginia Waste Management Board	Deleted reference to Vegetative waste regulations because it is incorporated into this amendment. Section was recodified.
80-60 E, 130, 140, 150, 160; 20-85, 9 VAC 20-101	81-95	Identification of Solid Waste	Exemptions, conditional exemptions and exclusions that were previously spread throughout the regulation have been consolidated into this section. References to federal regulations have been made where feasible. Addition of onsite composting of vegetative and yard waste composting, vermicomposting, onsite composting of animal carcasses at the farm of generation, composting of pre consumer food waste generated on site. Section was recodified.
80-150	81-97	Beneficial Use Demonstrations	No change in requirements, made its own section for clarity. Section was recodified.
Part V	Part III	Solid Waste Disposal Facility Standards	This part describes the siting, design and construction, operation, closure, post closure, gas monitoring, leachate control, groundwater monitoring and corrective action requirements for all disposal

			facilities; i.e. Sanitary, Construction/Demolition/Debris (CDD) and Industrial Waste Landfills. Requirements for Sanitary landfills remain the same due to program approval requirements from EPA.
80-240	81-100	General (Disposal facilities)	Description of general requirements for disposal facilities. Also includes control program for unauthorized waste requirements for disposal facilities. Section has been recodified.
N/A	81-110	Applicability	New section. Provides that this section applies to Sanitary, Construction/Demolition/Debris (CDD) and Industrial Waste Landfills.
80-250 A, 260 A, 270 A	81-120	Siting requirements for disposal facilities	Consolidation of sections 80-250 A, 260 A, and 270 A. This section outlines the siting requirements for the three types of disposal facilities.
80-250 B, 260 B, 270 B	81-130	Design and Construction Requirements for disposal facilities	Consolidation of sections 80-250 B, 260 B, 270 B. This section outlines the design and construction requirements for the three types of disposal facilities. Included pre-approved alternate liner. Added alternate liner demonstration process (currently a variance request).
80-113, 250 C, 260 C, 270 C	81-140	Operation Requirements for disposal facilities	Consolidation of sections 80-250 C, 260 C, 270 C. This section outlines the operation requirements for the three types of disposal facilities. Clarified operation standards to make them more performance based.
80-250 E, 260 E, 270 E	81-160	Closure Requirements for disposal facilities	Consolidation of sections 80-250 E, 260 E, 270 E. This section outlines the closure requirements for the three types of disposal facilities. Revised section so that it follows the order in which the closure requirements must be met. Also includes pre-approved alternate final cover that will not require demonstration to the department.
80-250 F, 260 F, 270 F	81-170	Post Closure Requirements for disposal facilities	Consolidation of sections 80-250 F, 260 F, 270 F. This section outlines the post closure requirements for the three types of disposal facilities. Also clarifies termination of post-closure care.
80-280	81-200	Control of Decomposition Gases	Section was recodified. No other changes
80-290	81-210	Leachate Control	Addition of seep control. Section was recodified.
80-250 D, 260 D, 270 D	81-250	Groundwater Monitoring Program	Revised section so that it is easier to read and follow, eliminated Phase 1 and modified Phase 1 monitoring as obsolete. Clarified reporting timeframes and report content to reduce the reporting burden on facilities. Added Alternate Concentration Level (ACL) approval process (currently a variance request).
80-310	81-260	Corrective Action Program	Clarified that Subtitle D landfills are not eligible for presumptive remedy. Section was recodified.
Part VI	Part IV	Other Solid Waste	This part describes the siting, design and

		Management Facility Standards	construction, operation, closure, and recordkeeping requirements for storage and treatment facilities. This includes transfer stations (TS), solid waste composting facilities, materials recovery facilities (MRFs), Centralized Waste Treatment Facilities (CWT), Waste to Energy and Incineration Facilities, Surface Impoundments and Lagoons and Waste Piles.
80-320	81-300	General (storage and treatment facilities)	Description of general requirements for storage and treatment facilities. Also includes control program for unauthorized waste requirements for these facilities. Section has been recodified.
80-330 A, 340 A, 350 A, 360 A, 370 A, 400 A	81-310	Applicability	Consolidation of sections 80-330 A, 340 A, 350 A, 360 A, 370 A, 400 A. Provides that this section applies to Solid Waste Compost Facilities, Solid Waste Transfer Stations, the addition of Centralized Waste Treatment Facilities (CWT), Materials Recovery Facilities, Waste to Energy and Incineration Facilities, Surface Impoundments and Lagoons and Waste Piles. Also clarifies compost categories and incorporates vegetative waste composting facilities. Section was recodified.
80-330 B, 340 B, 350 B, 360 B, 370 B, 400 B	81-320	Siting Requirements for storage and treatment facilities	Consolidation of sections 80-330 B, 340 B, 350 B, 360 B, 370 B, 400 B. This section outlines the siting requirements for storage and treatment facilities. Added siting standards for CWTs. Section was recodified.
80-330 C, 340 C, 350 C, 360 C, 370 C, 400 C	81-330	Design and Construction requirements for storage and treatment facilities	Consolidation of sections 80-330 C, 340 C, 350 C, 360 C, 370 C, 400 C. This section outlines the design and construction requirements for storage and treatment facilities. Added design and construction requirements for CWTs. Section was recodified.
80-330 D, 340 D, 350 D, 360 D, 370 D, 400 D	81-340	Operation Requirements for storage and treatment facilities	Consolidation of sections 80-330 D, 340 D, 350 D, 360 D, 370 D, 400 D. This section outlines the operation requirements for storage and treatment facilities. Added design and construction requirements for CWTs. Section was recodified.
N/A	81-350	Recordkeeping requirements	New section. Added to clarify which recordkeeping requirements apply to storage and treatment facilities.
80-330 E, 340 E, 350 E, 360 E, 370 E, 400 E	81-360	Closure Requirements for Storage and treatment facilities	Consolidation of sections 80-330 E, 340 E, 350 E, 360 E, 370 E, 400 E. This section outlines the closure requirements for storage and treatment facilities. Added closure requirements for CWTs. Section was recodified.
80-380	81-370	Closure requirements for Surface Impoundments and Lagoons	Section was recodified. No other changes.
80-450	81-380	Remediation Waste Units	Section was recodified. No other changes.
80-460	81-385	Landfill Mining	Section was recodified. No other changes.

80-470	81-395	Miscellaneous Facilities	Section was recodified. No other changes.
	81-397	Exempt Facilities	New section. Added to incorporate the exempt facilities from the Vegetative Waste Management and Yard Waste Composting Regulation.
Part VII	Part V	Permitting of Solid Waste Management Facilities	This part outlines all of the requirements needed to obtain a permit or permit by rule for a solid waste management facility. It also clarifies the requirements of the stand alone operation manual, how a permit is denied, revoked, and modified. There are also sections describing how to appeal a denial and/or revocation of a permit as well as recordkeeping and reporting requirements of the permittee.
80-480	81-400	Applicability	Section was recodified. No other changes.
80-485	81-410	Permits-by-Rule and other special Permits	Clarified submittal requirements and Department administrative procedures. Removed RDD plans to section 600. Section was recodified.
80-490	81-430	Permit Conditions	Section was recodified.
80-500	81-450	Permit Application Procedures	Added State Corporation Commission certification by applicant. Also, to be consistent with the Administrative Process Act and other boards, increased time from 30 days to 90 days for decision by Director to permit, deny or modify a draft permit after close of the public hearing comment period. Section was recodified.
80-510	81-460	Part A Permit Application	Changed name of form from SW 7-3 to SW PTA. Section was recodified.
80-520	81-470	Part B Permit Application for Solid Waste Disposal Facilities	Added requirement for form SW PTB, removed operations manual from Part B application to make it a stand alone document that is not incorporated into the permit.
80-530 & 540	81-480	Part B Permit Application for other Solid Waste Management Facilities	Section was recodified. No other changes.
new	81-485	Operations Manual Requirements for Solid Waste Management Facilities	New section. Added to clarify requirements of stand alone operation manual.
80-550	81-490	Effect of the Permit	Section was recodified. No other changes.
80-570	81-530	Recording and Reporting Required of a Permittee	Section was recodified. No other changes.
80-580	81-550	Permit Denial	Section was recodified. No other changes.
80-590	81-560	Appeal of Permit Denial	Updated statutory citation. Section was recodified.
80-600	81-570	Revocation or Suspension of Permits	Added termination of permit after post closure has been terminated and permit termination if facility has not been constructed within five years of permit issuance (longer period may be approved).
80-610	81-580	Appeal of a Revocation of a Permit	Updated statutory citation. Section was recodified.
80-620	81-600	Modification of Permits	Reorganized Table 7.2 and renamed table 5.2. Revised wording from amendment to modification to be consistent with other DEQ

			programs. Inserted RDD plans from 485 to this section to eliminate confusion.
Part VIII	Part VI	Special Wastes	This part contains the requirements for certain wastes that require special handling.
80-630	81-610	General	Section was recodified. No other changes.
80-640	81-620	Asbestos containing wastes material	Reference to federal standards where feasible. Deleted requirements for asbestos waste preparation because the Department does not manage this activity. Section was recodified.
80-650	81-630	Wastes Containing polychlorinated biphenyls (PCBs)	Section was recodified. No other changes.
80-660	deleted	Liquids	Already included in operations section 81-140.
80-670	81-640	Tires	Clarification of statutory provisions as they apply to facilities storing tires.
80-680	deleted	Drums	Already included in operations section 81-140.
80-690	81-650	White Goods	Clarified storage requirements. Section was recodified.
80-700	81-660	Soil contaminated with petroleum products	Section was recodified. No other changes
80-710	deleted		Already included in prohibitions section 81-40.
Part IX	Part VII	Variance Procedures	This part describes the procedures to follow when requesting a variance from this regulation. The word “ rulemaking” has been removed. The words “petition” and “ petitioner” have been replaced with “application” and “applicant”.
80-730	81-700	General	Section was recodified. No other changes.
80-740	81-710	Solid Waste Classification Exemption Procedure	Section was recodified. No other changes.
80-750	81-720	Variance to Permitting Requirements	Section was recodified. No other changes.
80-760	deleted	Variance to groundwater protection standards	Deleted. Approval mechanism for Alternate Concentration Levels (ACLs) added to 81-250.
80-770	81-740	Variance to location of the groundwater monitoring system	Section was recodified. No other changes.
80-780	deleted	Variance to liner system design	Deleted. Incorporation of pre-approved liner system design in section 81-130. Added approval mechanisms for other liner systems.
80-790	81-760	Administrative Procedures	Removed part referencing informal fact finding because that option does not apply to variance processing. Section was recodified.

The changes to this regulation have been made to develop a more cohesive regulation. While many of the sections have remained the same except for recodification, others have been rearranged for clarity, conciseness, and efficiency.

REPORT ON HAZARDOUS WASTE SIGNIFICANT NON-COMPLIERS AND SOLID WASTE FINAL ORDERS IN FEDERAL FISCAL YEAR 2008 (October 1, 2007 through September 30, 2008)

“Significant Non-Compliers (SNCs)...are those [alleged] violators that have caused actual exposure or a substantial likelihood of exposure to hazardous waste [HW] or HW constituents; are chronic or recalcitrant violators; or deviate substantially from the terms of a permit, order, agreement or from RCRA statutory or regulatory requirements...” Hazardous Waste Civil Enforcement Response Policy, December 2003.

BRRO= Blue Ridge Regional Office

NRO = Northern Regional Office

PRO = Piedmont Regional Office

SWRO = Southwest Regional Office

TRO = Tidewater Regional Office

VRO = Valley Regional Office

Active HW SNC Cases – Table A

Location (DEQ Region)	Case Name	Brief Description of Alleged Violations	Status
Henrico Co. (PRO)	Advanced Technologies Processing, Inc., et als.	Failure to obtain permit to receive, store or recycle HW; failure to operate UW lamp processing equipment properly; failure to contain releases from UW lamps; others.	Draft order sent to party 10/08.
Essex Co. (PRO)	SCER Supreme Inc. (New Jersey ID)	Failure to meet notification or storage requirements for HW and universal waste lamps (UW lamps) in trailers at facility; failure to obtain HW transporter permit.	Issues combined with Advanced Technologies Processing, Inc.
Hanover Co. (PRO)	AERC.COM.Inc.	Failure to obtain permit to treat or store HW; failure to contain releases from UW lamps; exceed accumulation times; others.	Draft order sent to party 11/08.
City of Roanoke (BRRO)	Chemicals and Solvents, Inc.	Failure to adhere to HW generator and transporter requirements; possible releases.	Pending EPA enforcement action.
City of Chesapeake (TRO)	Hazel Court Enterprises, former Bernuth	Storage of HW (creosote) without a permit.	EPA has properly disposed of stored waste through a Superfund “removal action.” Site contamination from previous site activities in 1950s and 1960s. Awaiting final EPA report.
Franklin Co. (BRRO)	HC Shively Jr. Excavating	Land disposal of used oil; failure to determine whether HW.	Final Consent Order dated 9/18/06. One portion of order has not been completed.
Sussex Co. (PRO)	Indmar Coatings (2)	Used paint reformulator. Two sites. Possible releases into pond; container issues.	Draft order sent to party 2/08.
Scott Co. (SWRO)	J-W Filters Antifreeze Recycling	Exceed accumulation times for HW; failure to clean up used oil spills.	EPA removal action, related Tanks issues and an ability-to-pay issue. Consent order under development.
City of Virginia Beach (TRO)	Naval Air Station Oceana – Dam Neck Annex	Transportation of HW off-site without a permit. Receiving facility (also a Naval facility) self-reported to DEQ.	NOV issued 8/08. Consent order under development.
City of Roanoke (BRRO)	Office Outlet, Inc.	Disposal of HW by abandonment. Failure to adhere to consent order of 12/04. Successor corporation.	HW properly disposed of by landlord. NOV issued 5/08. Consent order under development.
Prince William Co. (NRO)	Palm Pools, Inc.	Discharge of HW (acid) to the ground. Failure to remediate the	Order drafted and sent to party 7/08.

Location (DEQ Region)	Case Name	Brief Description of Alleged Violations	Status
Louisa Co. (NRO)	Paul Decorative Products	discharge. Failure to determine whether HW; label containers; exceed accumulation times.	Repeat violations from 2007. Order drafted and sent to party 4/08.
Franklin Co. (BRRO)	Scott Manufacturing (Leo Scott Cabinets)	Storage of HW without a permit; drums in poor condition and exposed. EPA order of 9/07 not complied with.	Drums and equipment have been removed, but final clean-up not yet completed. Site has new owner.
Caroline Co. (NRO)	VSE-Ladysmith Blast & Paint Facility	Failure to follow generator requirements for notification, containers, training, fees, and contingency plans.	Consent order executed after end of FFY (10/08). Injunctive relief and civil charge of \$17,400 plus payment of four years' LQG fees (\$4,000).
Chesterfield County (PRO)	WAKO Chemicals USA, Inc.	Generator pre-transport requirements for HW	Pending EPA enforcement action.

Resolved HW Cases – Table B

Location (DEQ Region)	Case Name	Brief Description of Alleged Violations	Status
Augusta Co. (VRO)	American Safety Razor Company	Storage in excess of regulatory timeframes; failure to characterize or label HW; use of improper tank for HW accumulation; UW lamps violations; others.	Order issued 12/7/2007 requiring compliance and payment of \$27,930.
City of Norfolk (TRO)	Commander, Navy Region, Mid- Atlantic	Unmanifested hazardous waste from trucks received at permitted HW storage facility.	Order issued 12/4/2007 payment of \$10,000. Violations corrected.
Buckingham Co. (BRRO)	Giant Resource Recovery - Arvonnia, Inc.	Operation of aerosol can cruncher did not ensure separation of flammable liquid and gas wastes from potential ignition sources; others.	Order issued 9/30/2008 requiring compliance and payment of \$89,760, including Supplemental Environmental Project (SEP) of \$67,320.
Campbell Co. (BRRO)	Gladys Timber Products, Inc.	Failure to perform annual review and recertification of drip pad, other violations re: drip pad (wood treatment).	Order issued 2/8/2008 requiring compliance and payment of \$10,650.
City of Richmond (PRO)	Hawkeye Manufacturing, Inc.	Waste not characterized; excess HW accumulation; storage; containers open and outside.	Order issued 11/6/2007 requiring payment of \$30,000. Violations corrected.
Orange Co. (NRO)	Lohmann Specialty Coatings, LLC	Failure to have a permit to store hazardous waste at the facility; containers open; others.	Order issued 5/30/2008 requiring compliance and payment of \$20,000.
City of Fredericksburg (NRO)	Pohanka Collision Center, Inc.	Failure to determine whether spent lacquer thinner still bottoms met definition of HW prior to disposal as solid waste.	Order issued 11/29/2007 requiring compliance and payment of \$7,800.
City of Martinsville (BRRO)	The Southern Finishing Company, Incorporated	No HW permit; excess generation rates and accumulation; Air emissions; HW determinations; others.	Order issued 12/27/2007 requiring compliance and payment of \$146,000.
City of Virginia Beach (TRO)	City of Virginia Beach	Improper storage, container management and recordkeeping (manifests).	Order issued 12/4/2007 requiring payment of \$5,500. Violations corrected.
City of Lynchburg (BRRO)	Waytec Electronics Corporation	Improper labeling of hazardous waste; container management; others.	Order issued 10/29/2007 requiring compliance and payment of \$10,700, including SEP of \$8,025.
Henry Co. (BRRO)	Mr. Michael Westmoreland dba West Imports Metal Recyclers	Failure to make HW determination; failure to obtain EPA ID; operation of a HW pile.	Order issued 1/22/2008 requiring compliance and payment of \$5,000.

Total FFY 08 final Hazardous Waste orders = 11 and \$363,340 in civil charges

Resolved Solid Waste Cases – Table B

Note: SNC status does not apply to Solid Waste cases

Location (DEQ Region)	Case Name	Brief Description of Alleged Violations	Status
Goochland Co. (PRO)	Goochland County Landfill (Permit No. 179)	Erosion damage not repaired; failure to implement fully the Landfill Gas Remediation Plan in permit. Gas exceeded lower explosive limit at the facility boundary.	Consent order signed 6/08 requiring compliance and payment of \$11,270.
Goochland Co. (PRO)	J.E. Liesfeld Contractor, Inc.	Unpermitted construction/ demolition/debris landfill closed under previous order. Failure to comply completely with previous order re: groundwater, closure, post-closure care, and financial assurance.	Consent order signed 5/08 requiring compliance and payment of \$20,300.
Rappahannock Co. (NRO)	Rappahannock County Landfill (Permit No. 520)	Erosion and lack of cover resulting in areas of exposed waste; repeated violations.	Consent order signed 6/08 requiring compliance and payment of \$4,800.
Scott County (SWRO)	Scott County Landfill (Permit No. 023)	Request by County to extend deadline to cease receiving waste at the facility by six months to allow redesign and rebid of a transfer station to replace landfill.	Consent order signed 3/08. Amended injunctive relief. No civil charge.
Tidewater (TRO)	Southeastern Public Service Authority of Virginia (Permit No. 417)	On-site operator erroneously pumped pond containing leachate into state waters during a high water event of about one week.	Consent order signed 4/08 requiring compliance and payment of \$14,000, including SEP of \$12,600.

Total FFY 08 final Solid Waste orders = 5 and \$50,370 in civil charges