



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 629 East Main Street, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

Fax: (804) 698-4019 - TDD (804) 698-4021

[www.deq.virginia.gov](http://www.deq.virginia.gov)

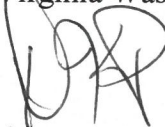
Molly Joseph Ward  
Secretary of Natural Resources

David K. Paylor  
Director

(804) 698-4000  
1-800-592-5482

### MEMORANDUM

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

**FROM:** David K. Paylor 


**DATE:** December 15, 2016

**SUBJECT:** Minutes

Attached are the minutes from your meeting on June 20, 2016. Staff will seek your approval of these minutes at your next regular meeting on January 9, 2017.

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  
2/24/17  


**MINUTES**  
**VIRGINIA WASTE MANAGEMENT BOARD MEETING**

**MONDAY, JUNE 20, 2016**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
2<sup>ND</sup> FLOOR CONFERENCE ROOM  
629 E. MAIN STREET  
RICHMOND, VIRGINIA

**Board Members Present:**

EJ Scott, Chair	Amarjit Riat
Michael Benedetto	Paul Schmidt
Jeffery Crate	Eric K. Wallace
Eric DeGroff	

**Department of Environmental Quality (DEQ):**

James Golden, DEQ Director of Operations  
Cindy M. Berndt  
Debra A. Harris

**Attorney General's Office:**

David C. Grandis, Assistant Attorney General

These minutes summarize activities that took place at this Board meeting. The meeting was convened by the chairperson, Ms. EJ Scott, at 10:31 a.m. and was adjourned at 12:02 p.m.

---

**Minute No. 1 - Minutes.**

A typographical error on Minute No. 4 was noted for correction. On a motion by Mr. Benedetto and seconded by Mr. Riat, the Board unanimously approved the minutes with the noted typographical error correction from the Board's meeting on December 4, 2015.

**Minute No. 2 – Regulations Governing the Transportation of Hazardous Materials (9VAC20-110) - Annual Update 2015, Final Exempt Action.**

Ms. Debra Harris of DEQ's Office of Regulatory Affairs presented an amendment to the Board's Regulations Governing the Transportation of Hazardous Materials, 9VAC20-110. Ms. Harris explained that each year, the U.S. Department of Transportation makes changes to the federal regulations regarding the transportation of hazardous materials in Title 49 of the Code of Federal Regulations (49 CFR). As 9VAC20-110 incorporates certain parts of Title 49 of the CFR, it is necessary to amend 9VAC20-110 in order to incorporate the federal changes. Ms. Harris informed the Board that Annual Update 2015 will incorporate the applicable changes to 49 CFR to the most current CFR published October 1, 2015. Ms. Harris explained that this regulatory action was exempt from the Administrative Process Act (APA) under Section 2.2-4006.A.4(c). This exemption allows the Board to adopt this regulatory amendment as a final exempt action as the changes are necessary to conform to changes in the federal regulations and the amendment will become effective 30 days after publication in the Virginia Register.

Based on the Board book material and staff presentation, the Board, on a motion of Mr. Schmidt and seconded by Mr. Riat, unanimously voted to adopt Annual Update 2015 amendment to 9VAC20-110 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 - *Administrative Procedures for Hazardous Waste Facility Site Certification (9VAC20-40)* – Technical Corrections, Final Exempt Action.**

Ms. Melissa Porterfield of DEQ's Office of Regulatory Affairs presented an amendment to the Board's regulations, Administration Procedures for Hazardous Waste Facility Site Certification, 9VAC20-40. Ms. Porterfield informed the Board that changes in style or form or corrections of technical errors are exempt from the APA under Section 2.2-4006.A.3. Under this amendment, technical corrections are being made to citations and to term definitions to make them consistent with state statute.

Based on the Board book material and staff presentation, the Board, on a motion of Mr. Schmidt and seconded by Mr. Benedetto, unanimously voted to adopt this amendment to 9VAC20-40 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. 4 – *Hazardous Waste Siting Criteria (9VAC20-50)* – Technical Corrections, Final Exempt Action.**

Ms. Melissa Porterfield of DEQ's Office of Regulatory Affairs presented an amendment to the Board's regulations, Hazardous Waste Siting Criteria, 9VAC20-50. Ms. Porterfield informed the Board that this amendment is exempt from the APA under Section 2.2-4006.A.3 as only changes in style or form or corrections of technical errors are being made. This amendment will make technical corrections to definitions to make them consistent with state statute, update agency contact information, update statutory citations, and remove reference to hazardous waste transporter permits.

Based on the Board book material and staff presentation, the Board, on a motion of Mr. Riat and seconded by Mr. Schmidt, unanimously voted to adopt this amendment to 9VAC20-50 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. 5 – *Waste Tire End User Reimbursement Regulation (9VAC20-150)* – Final Exempt Action.**

Ms. Melissa Porterfield of DEQ's Office of Regulatory Affairs presented an amendment to the Board's Waste Tire End User Reimbursement Regulation, 9VAC20-150. Ms. Porterfield informed the Board that Chapter 150 establishes procedures for applications, processing of applications, and rates of reimbursement for the end user of waste tires. Ms. Porterfield also explained that the amendments to this regulation are exempt from the APA under Section 2.2-4002.B.4 and that an informal comment period was held for this amendment. Ms. Porterfield then explained the amendments to the regulations and noted that this regulatory action will update the regulation to be consistent with state statute, clarify existing requirements, remove outdated language, and increase flexibility concerning the format of documentation required for reimbursement.

Based on the Board book material and staff presentation, the Board, on a motion of Mr. Schmidt and seconded by Mr. Riat, unanimously voted to adopt this amendment to 9VAC20-150 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. 6 – *Mercury Switch Regulations (9VAC20-200)* – Repeal, Fast Track Action.**

Ms. Melissa Porterfield of DEQ's Office of Regulatory Affairs presented an amendment to the Board's Mercury Switch Regulations, 9VA20-200. Ms. Porterfield informed the Board that the action was expected to be non-controversial and was necessary as the statutory provision under Section 10.1-1402 of the Code of Virginia which authorized the Board to adopt regulations concerning the criteria and standards for the safe removal of mercury switches by vehicle demolishers had expired. Therefore, these regulations are proposed to be repealed under a fast-track process.

Based on the Board book material and 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 9VAC20-200 for public comment using the fast-track process established in Section 2.2-4012.1 of the APA 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 APA and (ii) the Department does not find it necessary to make any changes to the proposal.

**Minute No. 7 – Mercury Containing Lamp Crushing, Virginia Hazardous Waste Management Regulations (9VAC20-60) – Amendment 18.**

Mr. Ashby Scott of the Office of Financial Assurance and Waste Programs presented Amendment 18 to the Board's *Virginia Hazardous Waste Management Regulations, 9VAC20-60*. Mr. Scott provided the background on the universal waste rule and mercury containing lamp crushing in Virginia. He noted that, as Virginia's lamp crushing regulations are not authorized by the EPA, facilities which crush lamp are not in compliance with the Federal regulations. Therefore, DEQ worked with EPA to develop the regulatory changes necessary to support an equivalency demonstration in order to receive the necessary authorization from EPA. Mr. Scott summarized the regulatory process including the public comment received on the proposed regulation. Based on the DEQ's review and response to the public comments received, no changes were made to the proposed regulation. The Board asked clarifying questions of the DEQ staff and noted that a typographical correction to Section 261.B.34.b was needed.

Mr. Tom Griffin, a consultant with Air Cycle Corporation, provided comment noting that there was no objection to the regulations but asked that guidance include practical measures for meeting the requirements of the regulations regarding the secondary air filtration and containment systems.

Based on the Board book material and staff presentation, the Board, on a motion of Mr. Schmidt and seconded by Mr. Crate, unanimously voted to adopt, as final regulation, Amendment 18 to the Virginia Hazardous Waste Management Regulations, 9VAC20-60, with the minor amendment correcting the typographical error.

**Minute No. 8 - 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) 2016 from October 1, 2015 to May 19, 2016.

**Minute No. 9 - Public Forum.**

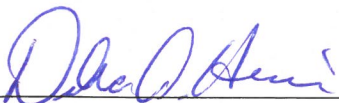
No one appeared during the public forum.

**Minute No. 10 – Division Director's Report.**

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

**Minute No. 11 - Future Meetings.**

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



---

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