

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS MEETING AGENDA

9960 Mayland Drive

Training Room 1 2ND Floor _ 10:00 A.M.

Thursday, August 29, 2024

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

MEETING AGENDA

1. CALL TO ORDER:

- a) Emergency Egress
 - b) Determination of Quorum
-

2. APPROVAL OF DRAFT AGENDA:

Thursday, August 29, 2024

3. MINUTES:

Approval of April 4, 2024, Draft Minutes

4. PUBLIC COMMENT: ***FIVE MINUTE PUBLIC COMMENT, PER PERSON***

5. NEW BUSINESS:

- a) Regulatory Update
 - b) General Regulation Reduction Initiative
 - c) General Notice: Closed-book Exams: Comments Received
 - d) Examination Statistics
 - e) Executive Director Report
 - sf) Board Member Training Conference – October 10th & 11th
-

6. OTHER BOARD BUSINESS:

- a) Board Financial Statements
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7. COMPLETE CONFLICT OF INTEREST AND TRAVEL VOUCHERS:

8. ADJOURNMENT:

NEXT MEETING SCHEDULED FOR: Thursday, November 7, 2024, at 10:00 AM

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

PERIMETER CENTER CONFERENCE CENTER
EMERGENCY EVACUATION OF BOARD AND TRAINING ROOMS
(Script to be read at the beginning of each meeting.)

PLEASE LISTEN TO THE FOLLOWING INSTRUCTIONS ABOUT EXITING THE PREMISES IN THE EVENT OF AN EMERGENCY.

In the event of a fire or other emergency requiring the evacuation of the building, alarms will sound. When the alarms sound, leave the room immediately. Follow any instructions given by Security staff

Board Room 1

Exit the room using one of the doors at the back of the room. Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Board Room 2

Exit the room using one of the doors at the back of the room. (Point) Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

You may also exit the room using the side door, turn **Right** out the door and make an immediate **Left**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Board Rooms 3 and 4

Exit the room using one of the doors at the back of the room. Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Training Room 1

Exit the room using one of the doors at the back of the room. Upon exiting the room, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Training Room 2

Exit the room using one of the doors at the back of the room. Upon exiting the doors, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

MINUTES OF MEETINGS

The Board for Waste Management Facility Operators met on April 4, 2024, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, 23233.

The following members of the board were present:

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

Ellen C. Thacker, Chair, was not in attendance.

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

Kishore S. Thota, Director
Steve Kirschner, Licensing and Regulatory Programs Division Deputy Director
Marjorie King, Executive Director
Tanya M. Pettus, Deputy Executive Director
Cameron Parris, Regulatory Operations Administrator
Rachel Harris, Administrative Coordinator

Elizabeth Peay of the Office of the Attorney General was not in attendance.

Mr. Lawhorne, Vice-Chair, finding a quorum of the Board present, called the meeting to order at 10:04 a.m.

Call to Order

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

Emergency Evacuation Procedures

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

Approval of Agenda

Mr. Byerly moved to approve the minutes of the October 26, 2023, Board meeting. Mr. B. Williams seconded the motion which was unanimously approved by: Bailey, Byerly, Lawhorne, Terrell, B. Williams, and J. Williams.

Approval of Minutes

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

Public Comment Period

Ms. King advised the Board of an internal reorganization of the agency wherein two additional regulatory Boards will now be under the same management as the Board for Contractors section. As part of the reorganization, the section has also taken on additional staff. Ms. King advised that Tanya M. Pettus is now the Deputy Executive Director of the Board, and introduced Cameron Parris as the Board's

DPOR Staff Updates

Regulatory Operations Administrator, and Rachel Harris as the Board's Administrative Coordinator.

Ms. Pettus provided an overview of Board member responsibilities.

Board Member Training

Ms. Parris provided an update of the Board's regulatory actions.

Regulatory Update

Jennifer Sayeigh, Policy and Legislative Affairs Manager, provided the Board with an update on the 2024 legislative session, and bills that may impact the Board.

Legislative Update

Ms. King provided the Board with the most current exam statistics.

Examination Statistics

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

Executive Director Report

Pursuant to § 2.2-4023.1 of the Code of Virginia, a party may petition for reconsideration of a Board decision within fifteen days of the decision, after which, the Board or its agents must make the determination or reconsideration within thirty days of receipt of the request. In order to adhere to statutory timelines, Ms. King and Mr. Kirschner asked the Board to consider authorizing the Executive Director to consider petitions for the reconsideration of Board decisions on licensing and disciplinary cases. Mr. Terrell moved to authorize the Executive Director to make determinations as to whether to reconsider Board decisions in such cases that a petition is received. Mr. Bailey seconded the motion which was unanimously approved by: Bailey, Byerly, Lawhorne, Terrell, B. Williams, and J. Williams.

Reconsideration of Case Decisions

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

Board Member Training Conference

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

Board Financial Statements

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

Complete Conflict of Interest Forms and Travel Vouchers

Mr. Lawhorne reminded the Board that the next scheduled meeting date is August 29, 2024.

Future Meeting Dates

Ms. King reminded the Board members that Conflict-of-interest Training is due every two years. Ms. King advised the training can be completed online at the Virginia Conflict of Interest and Ethics Advisory Council website.

Board Member Conflict of Interest Training

There being no further business, the meeting was adjourned at 11:22 a. m.

Adjourn

Ellen C. Thacker, Chair

Brian P. Wolford, Secretary

DRAFT

Board for Waste Management Facility Operators

Update on Regulatory Actions – 18 VAC 155-20

(as of August 20, 2024)

Action: Fee Amendment

Current Stage: Proposed

- Executive Branch review complete.
- Published to the Virginia Register on 8/26/2024. The 60-day public comment period will conclude on 10/25/2024. A public hearing is scheduled for 10/1/2024.

Next Step: Final

- Board to review all comments received and consider adoption of Final stage.
- Board staff to file final stage.

Action: General Regulatory Reduction Initiative

Current Stage: Proposed

- Executive Branch review complete.
- Published to the Virginia Register 8/12/2024. The 60-day public comment period will conclude on 10/11/2024. A public hearing is scheduled for 9/3/2024.

Next Step: Final

- Board to review all comments received and consider adoption of Final stage.
- Board staff to file Final Stage.

Other: Closed Book Exam – Soliciting Feedback

Current Stage: General Notice

- On 10/26/2023, the Board voted to solicit feedback from stakeholders and licensees regarding closed-book exams.
- On March 28, 2024, a General Notice was posted to Town Hall. The public comment period concluded on 4/30/2024. The Board received 27 comments.

Next Step

- Board to review all public comments received at the August 29, 2024, meeting.

Project 7452 - Proposed

Board For Waste Management Facility Operators

General Regulatory Reduction Initiative

Part I

General

18VAC155-20-10. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18VAC155-20-40. Fees.

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

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

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

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

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

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

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

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

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

18VAC155-20-50. Change of status.

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

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

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

Part II

Licensure

18VAC155-20-110. License classification.

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

1. An individual operating a facility ~~that is defined in 9VAC20-81-10~~ regulated under 9VAC20-81, Solid Waste Management Regulations, as a transfer station, a materials recovery facility ~~receiving mixed waste,~~ an experimental facility, ~~or a composting facility,~~ a centralized waste treatment facility, a surface impoundment or lagoon, a waste pile, a remediation waste management unit, or a miscellaneous unit, ~~shall~~ must hold a Class I license. An individual who has obtained a Class II, III or IV license may also operate a facility listed under Class I.

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

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

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

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

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

18VAC155-20-120. Qualifications for licensure.

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

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

2. Unless otherwise exempt, the applicant ~~shall~~ must have successfully completed a basic training course approved by the board. Additionally, an applicant for a Class II, III, or IV license ~~shall~~ must complete a training course approved by the board specific to the license for which he applies.

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

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

~~54.~~ Applicants certified or licensed as waste management facility operators by governing bodies outside of the Commonwealth of Virginia ~~shall be~~ are considered to be in compliance with this chapter if the board or its designee has determined the certifying system to be substantially equivalent to the Virginia system.

6. In accordance with § 54.1-204 of the Code of Virginia, each applicant ~~shall~~ must disclose a conviction, in any jurisdiction, of any non-marijuana misdemeanor within the last 3 years or felony within the last 10 years. Any plea of nolo contendere shall be considered a conviction for the purpose of this subdivision. The record of conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt. The board, at its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

7. The applicant ~~shall~~ must report suspensions, revocations, or surrendering of a certificate or license in connection with a disciplinary action. The applicant ~~shall~~ must report if a license has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia. The board, at its discretion, may deny licensure to any applicant based on prior suspensions, revocations, or surrender of certifications or licenses based on disciplinary action by any jurisdiction.

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

18VAC155-20-130. Application procedures.

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

18VAC155-20-140. Examinations.

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

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

Part III

Renewal of License

18VAC155-20-160. Procedures for renewal.

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

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

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

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

continuing education ~~shall be~~ is required for the first renewal after the issuance of the initial license to an individual.

18VAC155-20-180. Late renewal.

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

18VAC155-20-190. Reinstatements.

If the licensee fails to renew his license within six months following the expiration date, the licensee ~~shall~~ will be required to apply for reinstatement of the license. The applicant will be required to present reasons that the license was allowed to expire, and the board may grant reinstatement of the license or require requalification or reexamination or both. The application fee for reinstatement of a license ~~shall~~ must be the amount provided for in 18VAC155-20-40 B 4. An individual who has not been reinstated within two years after expiration of the license must reapply as a new applicant. The new applicant ~~shall~~ must provide evidence of satisfactory completion of the training course(s) required by this chapter and ~~shall~~ pass the examination as determined by the board.

18VAC155-20-200. Board discretion to deny renewal or reinstatement.

The board may deny renewal or reinstatement of a license for the same reasons as it may refuse an initial license or discipline a licensee.

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

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

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

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

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

Part IV

Training Requirements

18VAC155-20-220. Education courses.

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

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

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

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

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

18VAC155-20-230. Training records.

An approved training provider ~~shall~~ must retain records for all participants for a period of 40 5 years and shall maintain a written policy on the retention and release of records. All records pertaining to the approved training and participants ~~shall~~ must be made available to the board immediately upon request.

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

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

1. Courses being offered no longer meet the standards established by the board;
2. The course provider, through an agent or otherwise, advertises its services in a fraudulent or deceptive way;

3. The course provider, instructor, or designee of the provider falsifies any information relating to the application for approval, course information, or student records or fails to produce records required by the Board for Waste Management Facility Operators; or
4. The course provider fails to maintain student course completion records for a minimum of ~~10~~ 5 years.

Part V

Disciplinary Action

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

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

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

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

18VAC155-20-285. Prohibited acts.

Any of the following are cause for disciplinary action:

1. Violating or inducing another to violate any provisions of Chapter 1 (§ 54.1-100 et seq.), 2 (§ 54.1-200 et seq.), 3 (§ 54.1-300 et seq.) or 22.1 (§ 54.1-2209 et seq.) of Title 54.1 of the Code of Virginia, or any provision of this chapter.
2. Obtaining or renewing a license through fraudulent means or misrepresentation.
3. Having been found guilty by the board, an administrative body, or by a court of ~~any material~~ misrepresentation in the course of performing his operating duties.
4. Subject to the provisions of § 54.1-204 of the Code of Virginia, having been convicted or found guilty, regardless of jurisdiction, of any felony or any violation that resulted in the ~~significant~~ harm or the imminent and substantial threat of ~~significant~~ harm to human health or the environment, there being no appeal pending therefrom, or the time of appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this chapter. A certified copy of the final order, decree, or case decision by a court or regulatory agency with lawful authority to issue such order, decree, or case decision shall be admissible as prima facie evidence of such conviction.
5. Failing to inform the board in writing within 30 days of pleading guilty to, pleading nolo contendere to, being convicted of, or being found guilty of (i) any felony or (ii) any violation that resulted in the ~~significant~~ harm or the imminent and substantial threat of ~~significant~~ harm to human health or the environment.
6. Gross negligence, or a continued pattern of incompetence, in the practice of a waste management facility operator.
7. Violating the permit conditions for the facility, or violating federal, state, or local laws or regulations, which resulted in the ~~significant~~ harm or the imminent and substantial threat of ~~significant~~ harm to human health or the environment.

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

TO: Board for Waste Management Facility Operators
FROM: Cameron Parris, Regulatory Operations Administrator
SUBJECT: General Notice: Solicitation of Feedback RE: Closed-Book Exams
DATE: August 29, 2024

The Board received numerous comments in response to the General Notice seeking feedback regarding closed-book exams. Slightly more commenters expressed desire for the Board to offer an open-book exam than continue with the closed-book exam. There were also a few comments that offered the idea of a doing a closed- book portion in addition to an open-book portion and comments that touched on the pros and cons of both exam formats.

Most commenters feel as though an open-book exam is challenging enough and requires fundamental knowledge more so than memorization, which is more beneficial to the occupation. Commenters express that whether the exam is open or closed-book, examinees must be prepared and have adequate knowledge to complete the exam successfully. It is pointed out that, in real time, an operator can utilize reference materials to ensure compliance with up-to-date codes. Many feel as though it is equally or more important to know where and how to access information rather than try to memorize things for the sole purpose of passing an examination. Finally, commenters express that, for years, the examination was administered successfully in an open-book format and individuals that passed the open-book exam have been and continue to engage in the profession competently and successfully. The closed-book format has caused the failure rate to increase and creates additional challenges in recruiting new individuals to the profession.

Commenters opposed to the Board offering an open-book exam largely express that examinees will not study, prepare, and learn the information as they would with the closed-book exam. Commenters express concern in allowing examinees to access reference materials during the examination because of the importance of truly knowing and learning the materials, not simply referring to a study-guide of sorts to recall information. There is a shared belief that the closed-book exam requires a basic knowledge of the industry and those that prepare adequately should have no issue successfully completing the exam.

The full comments received are attached to this memo for review. The Board must issue a response to the commenters, which can be delivered as a single statement inclusive of all commenters. Board staff offers the following in response to the commenters:

“The Board thanks everyone that took time to offer suggestions and insight in regard to the format in which the Waste Management Facility Operator examination is offered. The Board has reviewed and will consider each comment during any future discussion of the examination and the format in which it is offered.”

If the Board is agreeable to this response, a motion is needed to adopt the response, followed by a second and the full Board vote.

COMMENTER / ORGANIZATION	COMMENT
Larry Hall	I think it should remain closed book. There is not enough time for the exam to look up each answer and in the past have had employees not study for the exam because it was an open book exam and they assumed that it would be enough time to look up the answers
Jerod A Roberts	I recently took the closed book exam and it was not hard at all I think the open book test would keep individuals from studying the material and brush off the test. I passed the exam closed book because I studied and prepared for the test. If the exam goes back to open book I think the questions should be more.
C. Brian Thacker	The exam should remain closed book; if an individual seeks to gain this license, they should make sufficient preparations to be fully prepared to take the exam without assistance from a study guide.
Joshua Hoffman	I personally have never taken an open book test. If you study you pass. All information on the test is in the book. Like my teacher used to say write it on your brain. These are environmental codes and you should know them not just read them.
Buddy Bentley	I THANK THEY SHOULD GO BACK TO OPEN BOOK EXAM. BECAUSE THE INSPECTORS EVEN GO BACK TO THE BOOK TO LOOK UP AND REFERENCE THE CODES. DEQ IS ADDING NEW CODES TO THE BOOK ALL THE TIME ALONG WITH THE EPA I'VE LEARN THE CODES WHEN I DID THE TEST AND UNDERSTAND THAT EVEN IF IT'S A OPEN BOOK EXAM THAT YOU HAVE TO STUDY FOR THE EXAM THERE IS A LOT OF CODES THAT HAVE TO BE REMEMBERED.
Anthony Parker	I think the exam should be open book, reason being, some students may very well know the material, but get fogged when taking an exam from anxiety. The book is just a tool as inspectors still use them when they have to look up an issue or have specific questions when on different sites. Again, you still have to know the material and study, but having a tool when you need it is helpful. Everyone doesn't remember every detail about every topic.
Eric Walter	<p>The Waste Management Operators Exam should be an open book exam. Having taken (and passed) the exam when it was open book, I can't imagine trying to recall specific measurements and quantities that can sometimes vary between all the different types of waste facilities covered by the exam. Even today, I need to periodically look up information in the regulations.</p> <p>The classes, exam prep and exam helped me learn the regulations and more importantly how to look up the information should I need to recall it in the future. The purpose of the exam shouldn't be whether you can memorize all of the details of the regulations, but rather do you understand the fundamentals and know how to look up the specifics.</p>
Chris Myers	I think the test should go back to open book. I was trying to get my class 1 license and I missed 1 question to many and it was because they ask you questions about a landfill and that is not what I was

	<p>taking the test for. In my opinion you can not learn and retain all that is in the book not with all the numbers and meaning and definitions of the information that is in the book.</p>
Duane Hendricks	<p>I've taken courses and exams both ways. In my opinion, Open Book affords students the opportunity to revisit the items learned during classroom and study which allows for better retention of the materials. We want the individual to learn but also be able to know where to look up information on an as needed basis. I'm certain folks here have a plethora of certifications and certificates on various subjects, yet still have to reference materials for guidance and clarification from time to time. I don't think that's a bad thing. Happy Learning, All.</p>
Southeastern Public Service Authority	<p>I agree with having the open book test. As others have mentioned the book is a place to look up information on regulations that may not be used daily.</p>
Monteir Pulley	<p>I think the exam should remain closed book. It kept me on my toes and gave me the willingness to put some study time in.</p>
David Rhoades	<p>I believe reintroducing the open-book exam would be beneficial. It's crucial for individuals to grasp that despite the presence of resources, success still hinges on thorough preparation. With time constraints in mind, it becomes clear that looking up every answer is impractical. Prioritizing one's existing knowledge is essential, followed by utilizing available resources as needed. In the real world, it's unlikely that many operators have every regulation committed to memory.</p>
Edward Gauldin	<p>Since the book will always be available for reference (for day-to-day operation), all you test with a closed-book test is memory. Some people have better memories than others, but that doesn't make them better operators.</p>
Jeremy Garret	<p>Shifting the Virginia Solid Waste Operators License exam to a closed book model may seem like a step toward upholding high standards, but it actually makes it much harder for us to bring in, grow, and keep the talented people we need. In the fast-changing world of waste management, it's not just about what you can remember; it's about how well you can use the information at hand to solve problems. I strongly believe that giving our staff access to resources during the exam mirrors the real-life scenarios they'll face on the job, helping them to not just know the facts, but understand how to apply them. This isn't just about passing a test; it's about preparing our people to be the best in the field, ensuring they're equipped to make smart, informed decisions that will benefit our community and environment.</p>
James Canty	<p>Please consider the negative impacts of a closed-book testing platform. The exam was administered successfully as open-book for years, and many current licensees who tested this way are effectively performing their duties. Forcing memorization of text materials to pass the test is potentially counterproductive if the ability to efficiently utilize the resource documents is lost in the process. The</p>

	<p>logic of training licensees to pick up the reference book and proficiently access the broad range of data therein at any given point in time throughout their career is a higher skillset than temporarily reproducing data for a test and then likely failing to retain much of it. As regulations and industry standards are in a constant state of evolutionary development, the skill of knowing which source document applies and how to search its contents to solve problems and perform safe, efficient, and compliant operations is the higher goal of any related proficiency testing. Negative impacts on workforce recruitment and long-term career advancement need to be factored into the consideration of the testing platform. The prospect of a closed-book testing platform may well yield the unintended consequence of deterring generally capable and willing professionals away from a tenured career in solid waste management if their learning style is not congruent with memorization of this volume of data, yet with proper training in the use of regulatory and operational manuals, they could be successful in their roles and demonstrate this skill through their licensure testing and continuing education. In a world where many entering or navigating the workforce have been encouraged to seek work in computer information technology or other generally non-manual industries, significant focus should be applied to the ability to attract, recruit, train, and advance individuals with the fortitude and commitment to enter the solid waste industry. Providing a reasonable path to licensure is essential to the long-term sustainability of the industry, and returning to the open-book testing model keeps these opportunities more accessible to a broader population.</p>
Darryl Durham	<p>I prefer the open book test, Because I had my book very organized with pertinent or major topics highlighted for reference. This made things easier to go to, thus saving me time.</p>
Anonymous	<p>I do not understand why the exam was ever made closed book. You will always have your materials with you in the field if needed. Also, I do not think that making this exam open book would prohibit anyone from studying. Everyone knows this exam is notoriously difficult and time restrictive.</p>
Anonymous	<p>I think that the open book option would be beneficial. In the workplace, the book would be accessible. The time constraint on the exam in conjunction with the amount of material would still make the exam competitive. Serious candidates would still need to study in order to pass.</p>
Blake P.	<p>With the test being open book, while candidates are studying, they will be more likely to absorb the information and shift the focus to applying the material to real situations rather than memorizing. This may also reduce testing anxiety and be a better evaluation of the individual's knowledge.</p>
Mike Debroux	<p>I feel that open book exam is less stressful than closed book and help boost the confidence of exam takers. Although it is time consuming</p>

	<p>to revert to your book during the exam it is simplified when adding a self-prepared glossary tabs within your book to help with finding locations of answers to minimize the search. While creating my glossary, it actually allowed me to retain a lot of the information more clearly.</p>
Jennifer Wheeler	<p>I believe having closed book exams helped me to study and prepare myself more for the testing, resulting in me converting more of the information to memory as opposed to looking the information up on the spot. I believe this retention of information will assist me in the future.</p>
Jack Murray, Panorama Paydirt	<p>The test is a good measure of knowledge of the regulations. Knowing the top line regulations is important in the day to day management of a site. The nitty gritty details can be looked up, but having a base line of the regulations makes decision making easier and will have a bigger impact on overall compliance. I think being able to recall this info should be a priority, so keeping the test closed book, or doing a split (closed book for top line, open book for details because you should also know where the info is that is relevant and be able to locate it in the regulations material).</p>
Stiles Peabody	<p>I took the Class 1 Facility Operators Exam 17 years ago at an H&R Block Tax office in DC. It was an open book exam at that time. However, I would never have been able to complete the test if I had to rely on the book to look up each answer. I believe there were three questions that I had to look up in the book to provide the exact answer, but it was only my familiarity with the regulations that allowed me to find the information quickly enough to complete the test in the time allotted. I'd recommend a closed book exam.</p>
Lonnie Givens	<p>I feel that it should be open book because I have my book highlighted and marked for reference. It makes the exam less stressful.</p>
Dan Ciesla	<p>In September 2023, I successfully navigated the challenges of the closed-book Class 2 certification exam. My approach to studying was methodical, which I believe contributed significantly to my ability to pass what I found to be a very manageable exam. However, my personal experience aside, it's imperative for the board to critically evaluate the objectives they aim to achieve with this examination and the certification process at large.</p> <p>The essence of closed-book testing lies in its ability to mandate a comprehensive mastery over a foundational body of knowledge. This is particularly crucial in the context of waste facility operations across the Commonwealth. While it's a given that operators will consult regulatory documents throughout their careers, the necessity for a preliminary knowledge benchmark cannot be overstated. It instills confidence among the Commonwealth and the general public that operators are not only familiar with but are also operating within the bounds of established laws and regulations.</p> <p>Should there be a shift back to open-book testing, it's essential that the examination undergoes a significant overhaul to emphasize</p>

	<p>higher-order cognitive skills, such as situational analysis and evaluation. This would ensure that examinees are not merely searching for answers within their materials but are also engaging in critical thinking to devise solutions. Maintaining the current test format while transitioning to an open-book format would likely fail to capture the depth of a candidate's understanding and mastery of the material.</p>
<p>Beverly Lail</p>	<p>Open book exams does not test your knowledge all it does is test how quickly you can scan the book to find the answers. If you don't want to put forth the effort to learn and study for the exam then you certainly should not have the job. In the field, you don't always have access to the books and may have to make a spur of the moment decision. This is only be done if you comprehend what you study.</p>
<p>Curtis Knisley</p>	<p>When learning any new task I don't believe the goal is to know everything about the task before beginning. Exam takers go through a class prior to taking the exam to learn the critical elements of the subject. The exam however, may include specific details not covered in the class. I don't think exam takers should be expected to memorize an entire book in order to pass an exam. This is why I believe the exam should be open book. If someone is not familiar with the material, even if the exam is open book, they are not going to pass. There simply is not enough time to find the answer to every exam question.</p> <p>I appreciate the Board seeking comments on the subject of the closed or open book exam.</p>
<p>Steven Cheehy</p>	<p>I TOOK THE EXAM TWICE IN 2010. IT WAS OPEN BOOK BOTH TIMES. I HAVE A CLASS IV LICENSE SO MOST OF THE TEST AND THE LAW DOES NOT APPLY TO MY CERTIFICATION AREA OF PRACTICE. WITHOUT AN OPEN BOOK TEST I THINK THAT IT WILL BE VERY DIFFICULT FOR ANYONE TO PASS THE EXAM.</p> <p>WHEN I TOOK THE EXAM 14 YEARS AGO; I REMEMBER THAT THE QUESTIONS WERE SOMEWHAT ABIGUOUS AND IN SOME CASES 'WRONG' IN THESE CASES I WAS ABLE TO FIND THE TEXT IN THE BOOK REFERRED TO IN THE TEST QUESTION BUT THE POSSIBLE ANSWER WAS NOT ON THE TEST PAGE.</p> <p>IN THE PREPARATION FOR THE SECOND TIME I STUDIED VERY DILIGENTLY AND KNEW THE MATERIAL. THE OPEN BOOK STILL HELPED IMMENSELY. AFTER I COMPLETED THE TEST I SPENT SEVERAL MINUTES LISTING THE DISCREPANCIES I DISCOVERED. SO MY SUGGESTION IS TO CREATE QUESTIONS THAT ARE DIRECTLY QUOTING THE LAW. I WOULD PREFER AN OPEN BOOK TEST IN ORDER TO BETTER KNOW THE CLASS I THROUGH III TEST ITEMS. I ALSO SUGGEST REVISIONS TO THE CLASS IV PORTIONS OF THE LAW THAT PROVIDE MORE DETAILS AND BETTER TECHNICAL EXPLANATION OF METHODS AND REQUIRED ENVIRONMENTAL AND SAFETY REQUIREMENTS.</p>

	MY VOTE IS FOR OPEN BOOK TESTING.
Healthcare Waste Institute	<p>HWI understands that that the failure rate has greatly increased under the closed-book policy. And, based on our members' experience, the open-book test was still challenging. Without specific knowledge, passing the test would have been very challenging even with the training manual available.</p> <p>We believe that operators should know where to look in the operations manual for specific information. Given that, the test should reflect an applicant's thorough familiarity with the operations manual to successfully pass the test. This replicates actual operating procedures at permitted facilities.</p> <p>Research supports this. According to a paper by Beth Johanns, Amber Dinkens, and Jill Moore entitled <i>A systematic review comparing open-book and closed-book examinations: Evaluating effects on development of critical thinking skills</i>, open book exams promote critical thinking skills, require higher ordering thinking skills, and simulate the working environment. Further, students prefer them because it decreases their anxiety.</p> <p>The initial coursework from initial and continuing education training classes are very comprehensive. We favor of reinstating the open-book test.</p>

Content Outline Pass Rates: August 1, 2018 to August 1, 2020 (Open Book)

WMFO Class I	
Topic Areas	Average of Pass Rate
Definition of Solid Waste	78.2%
Operations and Facility Types	80.3%
Record Keeping and Financial Assurance	69.6%
Regulatory Framework and Permitting	79.2%
Relationship to Other Regulations	66.1%

WMFO Class III	
Topic Areas	Average of Pass Rate
Class I License	61.5%
Definition of Regulated Medical Waste	74.2%
General RMW Requirements	80.1%
RMW Alternate Treatment	77.3%
RMW Incineration	66.5%
RMW Steam Sterilization	62.1%
RMW Storage Facilities	77.1%

WMFO Class II	
Topic Areas	Average of Pass Rate
Class I License	72.1%
Definition of Solid Waste	77.8%
Facility Standards	80.2%
Record Keeping and Financial Assurance	76.1%
Regulatory Framework and Permitting	69.1%
Relationship to Other Regulations	77.1%

WMFO Class IV	
Topic Areas	Average of Pass Rate
Class I License	69.1%
Definition of Solid Waste	66.1%
Operational Requirements	70.1%
Record Keeping and Financial Assurance	60.1%
Solid Waste Management Regulations	66.1%

Content Outline Pass Rates: August 1, 2020 to August 1, 2022 (Closed Book)

WMFO Class I		
Topic Areas	Average Pass Rate	% Increase/Decrease (+/-) Since Open to Closed Book
Definition of Solid Waste	77.2%	-1.0%
Operations and Facility Types	78.9%	-1.4%
Record Keeping and Financial Assurance	70.1%	+0.5%
Regulatory Framework and Permitting	77.2%	-2.0%
Relationship to Other Regulations	67.3%	+1.2%

WMFO Class III		
Topic Areas	Average Pass Rate	% Increase/Decrease (+/-) Since Open to Closed Book
Class I License	64.3%	+2.8%
Definition of Regulated Medical Waste	73.1%	-1.1%
General RMW Requirements	80.9%	+0.8%
RMW Alternate Treatment	72.3%	-5.0%
RMW Incineration	64.2%	-2.3%
RMW Steam Sterilization	68.7%	+6.6%
RMW Storage Facilities	76.6%	-0.5%

WMFO Class II		
Topic Areas	Average Pass Rate	% Increase/Decrease (+/-) Since Open to Closed Book
Class I License	75.2%	+3.1%
Definition of Solid Waste	78.9%	+1.1%
Facility Standards	76.1%	-4.1%
Record Keeping and Financial Assurance	74.3%	-1.8%
Regulatory Framework and Permitting	68.8%	-0.3%
Relationship to Other Regulations	72.2%	-4.9%

WMFO Class IV		
Topic Areas	Average Pass Rate	% Increase/Decrease (+/-) Since Open to Closed Book
Class I License	68.9%	-0.2%
Definition of Solid Waste	69.4%	+3.3%
Operational Requirements	71.5%	+1.4%
Record Keeping and Financial Assurance	61.4%	+1.3%
Solid Waste Management Regulations	67.9%	+1.8%

Content Outline Pass Rates: August 1, 2020 to August 1, 2023 (Closed Book)

WMFO Class I		
Topic Areas	Average Pass Rate	% Increase/Decrease (+/-) Since Open to Closed Book
Definition of Solid Waste	81%	+3%
Operations and Facility Types	76%	-4%
Record Keeping and Financial Assurance	74%	+4%
Regulatory Framework and Permitting	74%	-5%
Relationship to Other Regulations	61%	-5%

WMFO Class III		
Topic Areas	Average Pass Rate	% Increase/Decrease (+/-) Since Open to Closed Book
Class I License	63%	+1%
Definition of Regulated Medical Waste	81%	+7%
General RMW Requirements	79%	-1%
RMW Alternate Treatment	44%	-33%
RMW Incineration	72%	+6%
RMW Steam Sterilization	74%	+12%
RMW Storage Facilities	73%	-4%

WMFO Class II		
Topic Areas	Average Pass Rate	% Increase/Decrease (+/-) Since Open to Closed Book
Class I License	62%	-10%
Definition of Solid Waste	74%	-4%
Facility Standards	76%	-4%
Record Keeping and Financial Assurance	76%	0%
Regulatory Framework and Permitting	65%	-4%
Relationship to Other Regulations	72%	-5%

WMFO Class IV		
Topic Areas	Average Pass Rate	% Increase/Decrease (+/-) Since Open to Closed Book
Class I License	76%	+7%
Definition of Solid Waste	71%	+5%
Operational Requirements	76%	+6%
Record Keeping and Financial Assurance	64%	+4%
Solid Waste Management Regulations	69%	+3%



TO: Board for Waste Management Facility Operators
FROM: Marjorie King, Executive Director
SUBJECT: Executive Director Update
DATE: August 29, 2024

Application Statistics

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

2024	2023	2022	2021	2020	2019	2018	2017	2016	2015
49	76	68	76	90	75	104	101	93	60

*As of 8/17/2024

2014	2013	2012
88	51	23

As of August 19, 2024, there are 4 applications waiting to be processed.

Email Statistics

On average, the Board receives about 48 emails a month. Each month is identified below for 2024.

Month	Number of Emails Received
January	59
February	50
March	50
April	46
May	44
June	41
July	

Licensing Statistics

As of August 1, 2024, there are 602 licensed Waste Management Facility Operators. DPOR’s total regulant population is 323,781.

	1/1/2024	2/1/2024	3/1/2024	4/1/2024	5/1/2024	6/1/2024	7/1/2024	8/1/2024
WMFO Operators	615	608	599	607	606	602	598	602



SAVE THE DATE!

The 2024 DPOR Board Member
Training Conference,
*The Spirit of Service & Innovation:
Advancing Regulatory Excellence*,
will be held

October 10-11, 2024, at Great Wolf Lodge in
Williamsburg. The conference will include high
profile guest speakers, relevant training sessions,
breakout sessions, and
networking opportunities.

Stay tuned— additional information regarding
registration and reservations will be provided
as we get closer to the date.



549 E. Rochambeau Drive

Williamsburg, VA 23188

<https://www.greatwolf.com/williamsburg>

**Department of Professional and Occupational Regulation
Statement of Financial Activity**

**Board for Waste Management Facility Operators
954730**

2022-2024 Biennium

May 2024

	May 2024 Activity	Biennium-to-Date Comparison	
		July 2020 - May 2022	July 2022 - May 2024
Cash/Revenue Balance Brought Forward			0
Revenues	1,425	37,425	37,735
Cumulative Revenues			37,735
Cost Categories:			
Board Expenditures	521	5,656	11,012
Board Administration	1,131	13,968	15,441
Administration of Exams	521	6,893	4,345
Enforcement	3	27	38
Legal Services	0	44	54
Information Systems	558	9,988	10,508
Facilities and Support Services	314	8,231	5,739
Agency Administration	681	6,606	10,418
Other / Transfers	0	(0)	(0)
Total Expenses	3,729	51,413	57,557
Transfer To/(From) Cash Reserves	(2,304)	0	(19,822)
Ending Cash/Revenue Balance			0

Cash Reserve Beginning Balance	18,761	0	36,279
Change in Cash Reserve	(2,304)	0	(19,822)
Cash Reserve Ending Balance	16,457	0	16,457

Number of Regulants	
Current Month	602
Previous Biennium-to-Date	650

**Department of Professional and Occupational Regulation
Statement of Financial Activity**

Agency Total

2022-2024 Biennium

May 2024

	May 2024 Activity	Biennium-to-Date Comparison	
		July 2020 - May 2022	July 2022 - May 2024
Cash/Revenue Balance Brought Forward			3,453,476
Revenues	1,789,884	38,919,639	39,295,316
Cumulative Revenues			42,748,792
Cost Categories:			
Board Expenditures	180,788	3,229,564	3,743,320
Board Administration	704,551	8,531,154	9,569,236
Administration of Exams	41,993	579,915	594,616
Enforcement	907,311	13,589,924	14,327,127
Legal Services	26,043	464,839	505,125
Information Systems	356,015	6,254,562	6,675,947
Facilities and Support Services	221,985	3,748,658	3,806,777
Agency Administration	434,786	4,137,205	6,619,268
Other / Transfers	0	4,862	554
Total Expenses	2,873,472	40,540,681	45,841,971
Transfer To/(From) Cash Reserves	(256,643)	0	(5,171,116)
Ending Cash/Revenue Balance			2,077,937

Cash Reserve Beginning Balance	13,079,477	0	17,993,950
Change in Cash Reserve	(256,643)	0	(5,171,116)
Ending Cash Reserve Balance	12,822,834	0	12,822,834

Number of Regulants

Current Month	322,537
Previous Biennium-to-Date	308,696