



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Secretary of Natural and Historic Resources

David K. Paylor
Director
(804) 698-4000

MEMORANDUM

TO: Members of the Virginia Waste Management Board

FROM: David K. Paylor 


DATE: August 5, 2021

SUBJECT: Minutes

Attached are the minutes from your meeting on September 21, 2020. Staff will seek your approval of these minutes at your next regular meeting on October 8, 2021.

If you have any questions, please contact Jill R. Hrynciw at (804) 698-4048 or Jill.Hrynciw@deq.virginia.gov.

Attachment
Cc: Cindy Berndt, DEQ

Approved
10/8/21


MINUTES
VIRGINIA WASTE MANAGEMENT BOARD MEETING

MONDAY, SEPTEMBER 21, 2020
ELECTRONIC COMMUNICATION MEETING

GoToWebinar Recording: <https://attendee.gotowebinar.com/recording/77557760979668491>

Board Members Present:

EJ Scott, Chair	Amarjit Singh Riat	Eric A. DeGroff
Michael Benedetto	Eric K. Wallace	
Jeffery T. Crate	Steven J. Yob	

Department of Environmental Quality:

David K. Paylor, Director	Debra Harris	Michelle Callahan
Cindy M. Berndt	Tiffany Severs	Jeffery Steers

Attorney General's Office:

Christopher E. Bergin, 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 11:19 a.m. (late start due to audio technical issues) and was adjourned at 12:44 p.m.

The Board convened the meeting electronically consistent with Governor Ralph Northam's Executive Order No. 51 (2020), Item 4-0.01 of Chapter 1289 of the 2020 Acts of Assembly and the applicable provisions of the §2.2-3708.2 of the Freedom of Information Act. Further, the Board stated that a meeting was necessary for the Board to discharge its lawful purposes, duties, and responsibility; but impracticable or unsafe for the Board to assemble in a single location due to the declaration of a state of emergency for COVID-19.

Minute No. 1 - Minutes.

On a motion by Mr. Benedetto, and seconded by Mr. Yob, the Board approved the minutes by a vote of 6 to 0 (with Mr. DeGroff abstaining) from the Board's meeting on December 9, 2019.

Minute No. 2 – Final Exempt Action – Regulations Governing Transportation of Hazardous Materials (9VAC20-110), Annual Update 2019

Ms. Debra Harris of DEQ's Office of Regulatory Affairs presented a regulatory amendment to 9VAC20-110 for the Board's consideration for adoption (Note, in the introduction, Ms. Scott noted that Virginia State Police (VSP's) Senior Trooper Patrick Phalen was also virtually in attendance). Ms. Harris informed the Board that their Regulations Governing the Transportation of Hazardous Materials under 9VAC20-110 are regularly amended keep Virginia's regulation current with the federal regulations in order for the Virginia State Police (VSP) to inspect and enforce the federal requirements for hazardous materials transport and that this annual update will cover the federal rules amended by the U.S. Department of Transportation regarding the transportation of hazardous materials from October 1, 2018 to September 30, 2019. Ms. Harris then provided an explanation of the changes to the regulations and noted that the VSP had no comments on the proposed changes. It was explained that the process

used for this amendment is the final exempt process as stipulated in the Administrative Process Act (APA). The Board had no questions.

Based on the Board book material and staff presentation, the Board, on a motion by Mr. DeGroff and seconded by Mr. Yob, unanimously voted to adopt this 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 – Final Exempt Action – Virginia Solid Waste Management Regulations (9VAC20-81), HB1532 Amendment

Ms. Debra Harris of DEQ's Office of Regulatory Affairs presented a regulatory amendment to 9VAC20-81 for the Board's consideration for adoption. Ms. Harris explained that the amendment was necessary based on the action of the 2020 General Assembly under Chapter 621 of the 2020 Acts of Assembly. The 2020 General Assembly amended the Virginia Waste Management Act (Chapter 14 of Title 10.1 of the Code of Virginia) to provide a clarifying prohibition against disposal of solid waste in an unpermitted facility. Ms. Harris noted that this prohibition was added to Section 40 of the solid waste regulations as a new Subsection G. Ms. Harris explained that this action was also a final exempt action as it was necessary to conform to changes in the Virginia statute and is exempt from the Administrative Process Act (APA). The Board had no questions regarding the final exempt amendment to 9VAC20-81.

Based on the Board book material and staff presentation, the Board, on a motion by Mr. Benedetto and seconded by Mr. Wallace, unanimously voted to adopt this amendment to 9VAC20-81 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 – Proposed Regulation – Voluntary Remediation Regulations (9VAC20-16)

Ms. Michelle Callahan, Land Policy and Regulatory Coordinator, presented for the Board's consideration a proposed regulatory amendment to 9VAC20-160. Ms. Callahan provided the background on the voluntary remediation program (VRP) authority for the Board and the purpose of the VRP along with a program overview. Ms. Callahan then explained that a NOIRA was published for this amendment in October 2019 with the purpose to review the fees in order to fully support the VRP and allow for annual inflation cost adjustments to these fees. A Regulatory Advisory Panel (RAP) was formed and met on February 21, 2020 to discuss the changes. The RAP reached consensus on the proposed amendments to 9VAC20-160.

Ms. Callahan then presented and explained the proposed changes to the regulation such as the registration fee increases and reconciliation of the fees paid by sites enrolled prior to July 1, 2014. Additionally, Ms. Callahan reviewed additional revisions to definitions and for consistency and clarity. Finally, Ms. Callahan reviewed the amendments to risk assessment plans and public notice. The Board asked a clarifying question.

Based on the Board book material, staff presentation, and responses to the Board's question, the Board, on a motion by Mr. Yob and seconded by Mr. Benedetto, unanimously voted to approve the proposed regulation to proceed to public comment.

Minute No. 5 - Significant Noncompliance Report.

The Board received a report from Ms. Tiffany Severs, Office of Enforcement Director, on the Hazardous Waste Significant Non-Compliers and Solid Waste Final Orders for first three quarters of Federal Fiscal Year 2020.

Minute No. 6 - Public Forum.

One citizen, Mr. Tim Kennell of Cumberland County, addressed the Board regarding his concerns over the issue of out of state wastes being accepted in Virginia landfills. The Board noted their appreciation of the comments and discussed the effect of other state's tipping fees and interstate commerce provisions.

Minute No. 7 – Director's Report.

The Board received a report from the Director regarding the agency's continued operations and response during the COVID-19 pandemic and the impact of this on the agency's budget.

Minute No. 8 – Division Director's Report.

The Board received the Division Director's Report from Mr. Jeff Steers, Acting Land Protection and Revitalization Division Director. Mr. Steers provided an overview of the land division's programs and accomplishments. He also provided an updated on the status of coal combustion residuals permit program approval that will be reviewed by EPA.

Minute No. 9 - Future Meetings.

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

Debra A. Harris

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