

MINUTES
VIRGINIA WASTE MANAGEMENT BOARD MEETING

FRIDAY, OCTOBER 25, 2002
TRAINING ROOM, DEPARTMENT OF
ENVIRONMENTAL QUALITY, PIEDMONT REGIONAL OFFICE
4949-A COX ROAD
GLEN ALLEN, VIRGINIA

Board Members Present: Sheila W. McAllister - Vice-Chairman
Ronald E. Bowman
Clements (Tom) Berezowski
Betty Byrne Ware
Paul J. Rich
N. Howard Burns, Jr.
Clarence M. Dunnville, Jr.

Staff Present: Robert G. Burnley, Director
Department of Environmental Quality

Cindy M. Berndt
Department of Environmental Quality

Attorney General's Office: Catherina F. Hutchins, Esq.
Assistant Attorney General

- 1) The following minutes summarize activities, which took place at this Board meeting.
- 2) The meeting was convened at 9:40 a.m. on Friday, October 25, 2002, a quorum was determined and the meeting was adjourned at 11:50 a.m.

MINUTE NO. 1 - Waste Program Briefing: Ms. Karen Jackson Sismour, Director of the Department of Environmental Quality's Division of Waste Program Coordination gave a briefing

on the waste programs. Ms. Sismour detailed the responsibilities of the various offices (regulations, permits, financial assurance, compliance coordination and remediation), as well as highlighted current activities of the staff. In addition, she briefed the Board on several related programs in other divisions within the Department (recycling, waste tire reimbursement, petroleum tanks and enforcement). The Board also received a briefing from Mr. Richard F. Weeks, Deputy Director, on the Department's approved budget reductions.

MINUTE NO. 2 - Solid Waste Management Facility Application Action Fees - Amendment 1: Ms. Melissa Porterfield with the Department of Environmental Quality's Office of Waste Programs presented proposed amendments to the Solid Waste Management Facility Application Action Fees. Ms. Porterfield explained that the regulation, 9 VAC 20-90-10 et seq., establishes the fees for new permits and modifications to permits for solid or regulated medical waste management facilities. Currently emergency regulations which triple the permit fees are in effect in response to changes made to § 10.1-1402.1 of the Code of Virginia. Since the emergency regulations expire prior to the sunset of the statutory changes, these regulations contain a two-part fee schedule. The fee schedule includes tripling permit fees through June 30, 2004, and then establishes a new fee schedule effective July 1, 2004. The fee schedule effective July 1, 2004, adjusts the fees first established in 1992 for inflation to current dollars. Additional fees have been added for the review of permit related documents and will become effective July 1, 2004. In addition, the proposed regulations also transfer the costs of advertising permit actions and variances from the taxpayer to the applicant receiving the permit action.

Based on the Board book material, staff presentation and Board discussion the Board approved the proposed Amendment 1 and authorized the initiation of the public participation process for the proposed amendments. In addition, the Board directed the Department to ask the General Assembly to make the increased permit fees permanent. (The vote was 6 in favor and Mr. Burns abstained.)

MINUTE NO. 3 - Hazardous Waste Management Regulations - Amendment 16: Mr. Robert G. Wickline with the Department of Environmental Quality's Office of Waste Programs presented proposed amendments to the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 et seq. Mr. Wickline explained that the regulation establishes requirements for the generation, transportation, treatment, storage, and disposal of hazardous waste in the Commonwealth.

The proposal would adjust the permit fee system in order to ensure that regulations continue to be appropriate in structure and fee amounts. Fees were last adjusted in 1984. The 2002 General Assembly provided for tripling of the fees by emergency regulations in 2002-2003 and by permanent regulations in 2003-2004. The legislation expires in 2004; therefore, the proposed amendment returns the fee structure at that time to the original level (as it was before 2002, adjusting it only for inflation).

In addition, Mr. Wickline explained proposed amendments that would transfer the responsibility for publishing and broadcasting of notices, as well as the costs of such notices, from the general taxpayer to the applicant or petitioner, who receives the permit or variance. Mr. Wickline also briefed the Board on proposed changes to the financial assurance requirements, to clarify the

language of the regulations, to reinstate provisions inadvertently removed by Amendment 15 A, and to better align the regulations with federal requirements.

Based on the Board book material, staff presentation and Board discussion, the Board unanimously approved the proposed amendments and authorized initiation of the public participation process. In addition, the Board directed the Department to ask the General Assembly to make the increased permit fees permanent. (Mr. Burns declared his interest in a business potentially impacted by the decision, but that he was able to participate in the transaction fairly, objectively and in the public interest.)

MINUTE NO. 4 - Hazardous Waste Management Regulations - IFR Amendment 2002: Mr. Robert G. Wickline with the Department of Environmental Quality's Office of Waste Programs presented final amendments to the Hazardous Waste Management Regulations, 9 VAC 20-60-12 et seq. Mr. Wickline explained that the regulations include requirements in the form of incorporated federal regulatory text at Title 40 of the Code of Federal Regulations. This immediate final rule addresses only 9 VAC 20-60-18 and alters the section by striking the previous prescribed date and adopting the new date of July 1, 2002. This will result in July 1, 2002 being the new date of reference of all incorporated federal regulatory text. Mr. Wickline referred to specific changes described in documents in the Board book.

Based on the Board book material, staff presentation and Board discussion, the Board unanimously adopted the amendment and authorized filing, at a time to be determined by the Department, the amendment as an immediate final regulation. (Mr. Burns declared his interest in a business potentially impacted by the decision, but that he was able to participate in the transaction fairly, objectively and in the public interest.)

MINUTE NO. 5 - Waste Tire End User Reimbursement Regulations: Mr. R. Allan Lassiter, Jr., with the Department of Environmental Quality's Waste Tire Management Program presented final amendments to the Waste Tire End User Reimbursement Regulation, 9 VAC 20-150-10 et seq. Mr. Lassiter explained that the regulation set the administrative, technical and financial aspects of the End User reimbursement Program operated by Department. Further, Mr. Lassiter informed the Board that tire pile clean ups have slowed considerably since FY 1999 and that the Department was requesting an immediate increase in the tire pile rate to \$75.00 per ton on October 25, 2002 and \$100 per ton beginning July 1, 2003,, subject to Available Funding. In addition, several other clerical and administrative changes were included in the proposed final.

Mr. Lassiter advised the Board that the regulation is exempt from the Administrative Process Act, but that a technical advisory committee was formed and public input on the amendments was sought. Both the technical advisory committee and public comments received endorsed the amendments.

Based on the Board book material, staff presentation and Board discussion, the Board unanimously adopted the amendments to the Waste Tire End User Reimbursement Regulation with an effective date of October 25, 2002. (Mr. Burns declared his interest in a business

potentially impacted by the decision, but that he was able to participate in the transaction fairly, objectively and in the public interest.)

MINUTE NO. 6 - Public Forum: No one appeared during the public forum.

MINUTE NO. 7 - Minutes: The Board approved the minutes from the April 25, 2002 meeting (aye: Ms. McAllister, Mr. Berezowski and Mr. Bowman; abstaining: Mr. Burns, Mr. Dunnaville, Mr. Rich and Mrs. Ware).

MINUTE NO. 8 - Future Meetings: The Board set March 27, 2003 as the date of its next meeting.

MINUTE NO. 9 - Other Business: Mrs. Ware asked staff about the existence of a state solid waste management plan and whether there were incentives to reduce the amount of solid waste being disposed of in landfills. Mr. Michael P. Murphy, Director of the Division of Environmental Enhancement, informed Ms. Ware that staff would make a presentation at the next meeting on solid waste planning and recycling.

Cindy M. Berndt