

**TENTATIVE AGENDA
VIRGINIA WASTE MANAGEMENT BOARD MEETING
MONDAY, JUNE 11, 2007**

**HOUSE ROOM C
GENERAL ASSEMBLY BUILDING
9TH & BROAD STREETS
RICHMOND, VIRGINIA**

Convene - 10:00 A.M.

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| | 9 VAC 20-130 – Regulations for the Development of Solid Waste Management Plans | Brockman | A |
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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 Broad Street, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 698-4378; fax (804) 698-4346; e-mail: cmberndt@deq.virginia.gov.

Virginia Regulations for the Development of Solid Waste Management Plans, Amendment 2, 9 VAC 20 – 130 – 10 *et seq.*, - Final Regulations 2007: Code section 10.1-1411 in the Virginia Waste Management Act requires that cities, counties and towns of the Commonwealth develop solid waste management plans for their jurisdiction and to include provisions to achieve the statutory recycling rate. Several other parts of the Act require the Department of Environmental Quality to consider the plans when issuing permits for solid waste management facilities and in making other specific decisions. The Waste Management Board is authorized to promulgate and maintain regulations to establish structure for the plans and is further authorized to review and approve the plans. In fulfillment of these responsibilities, the Board adopted Regulations for the Development of Solid Waste Management Plans, 9 VAC 20-130-10 *et seq.*, *Amendment 1* (2001).

Specifically, the Virginia Solid Waste Management and Planning Regulations are open, in their entirety, to revisions needed to accommodate recent statutory changes in Virginia Code sections §10.1-1411 and §10.1-1408.1, to eliminate a regulatory provision on the waste information and assessment program that is redundant with a similar provision in the Virginia Solid Waste Management Regulations, to clarify standards for plan amendments and plan variances, and to consolidate and clarify the existing language in the regulations.

Changes since publication of the proposed amendments are:

Section number	Requirement at proposed stage	What has changed	Rationale for change
40	Purpose 6 was retained.	Deleted purpose 6.	To ensure the purpose section reflects the change in Section 165, removing the waste assessment program from these planning regulations, due to the redundancy of this requirement in 9 VAC 20-80-115 of the solid waste management regulations.
120.I	A planning unit that does not meet the requirements of these regulations may submit an action plan ...	“may” has been changed to “shall”	The planning unit is required to submit an action plan if the solid waste management plan does not meet the requirements in this regulation. In the event of a deficient plan, such a submission is not intended to be optional.
130.A & B	The use of citizen advisory groups was deleted from the Public Participation Requirements both for development of the solid waste management plan and amendments thereto	The optional use of a citizen advisory groups for plan development and amendments has been restored (to the extent accorded by the procedures of government(s) in the solid waste planning unit, and the explanation of procedures has been reordered to explain, first, their part in plan development, and second, their part in plan amendments.	The purpose of this change is both to clarify and to avoid narrowing the requirements for public participation in the development of plans and amendments.
175.A.1.a	Major amendments shall include: <u>a.</u> any addition, deletion,	The word “disposal” was added	To address an adverse economic impact to small businesses identified in a public comment from Mr. Harry Gregori and to clarify that only disposal facilities constitute

	<p>or cessation...</p>		<p>major plan amendments. In the original wording, the requirement that “any addition” of any solid waste facility constituted a major plan amendment (even when the facility to be added represented a implementation of a strategy that was higher in the waste management hierarchy) conflicted both with the wording in 175.A.2: “Minor amendments shall include any change that moves toward implementation of a waste management strategy that is higher in the waste management hierarchy” and with the hierarchy, itself, established at 9 VAC 20-80-30.</p>
<p>175.A.2.</p>	<p>See changes to proposed stage underlined at right:</p>	<p>2. Minor amendments shall include:</p> <ul style="list-style-type: none"> a. <u>any addition, deletion, or cessation of operation of any facility that is not a solid waste disposal facility;</u> b. any change that moves toward implementation of a waste management strategy that is higher in the waste management hierarchy; and <u>or</u> c. any nonsubstantive administrative change such as a change in name. Minor amendments shall be submitted, by mail or electronic mail, directly to the department for notation. The planning units are the repository for the minor amendments to the plans. 	<p>For additional clarification between major and minor plan amendments.</p>

		<u>3. Minor amendments shall be submitted, by mail or electronic mail, directly to the department for notation. The planning units are the repository for the minor amendments to the plans.</u>	
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Significant Non-Compliers for the First and Second Quarter 2007:

DEQ Region	Case Name	Brief Description of Alleged Violations	Status
VRO	American Safety Razor, Co.	Failure to properly store and handle hazardous waste (LQG*)	NOV issued 8/3/06, pending
PRO	Indmar Coatings Corp.	Improper discharge of waste to a surface impoundment and failure to properly manage waste (LQG)	NOV issued 1/8/07; pending
WCRO	Southern Finishing Company, Inc.	Failure to obtain a TSD permit; improper management of hazardous waste	NOVs issued 5/19/04, 9/23/05, and 9/22/06; pending
NVRO	Atlantic Research Corp.	Failure to properly manage hazardous waste during facility closure	NOV issued 6/27/06; Consent Order executed 1/17/07 with a \$13,500 civil charge
NVRO	Chemetrics, Inc.	Improper disposal of hazardous waste into a drainfield	NOV issued 10/13/05; Consent Order executed 10/5/06 with a \$19,000 civil charge
WCRO	Couvrette Building Systems	Failure to make a waste determination and manage hazardous waste properly	NOVs issued 2/22/05 and 9/25/06; Consent Order executed 3/2/07 with a \$37,100 civil charge
TRO	Portsmouth Police Operations Center	Failure to properly identify and manage hazardous waste demolition material	NOV issued 7/13/05; Consent Order executed 12/21/06 with a \$8,000 civil charge
WCRO	Safety-Kleen Systems, Inc.	Failure to complete an integrity assessment of a	NOV issued 8/16/06; Consent Order executed 1/4/07 with a \$6,300 civil charge

DEQ Region	Case Name	Brief Description of Alleged Violations	Status
		hazardous waste storage tank	
VRO	Toray Plastics (America), Inc.	Failure to comply with LQG standards	NOV issued 8/14/06; Consent Order executed 3/14/07 with a \$14,630 civil charge

* LQG = Large Quantity Generator

~~Virginia Solid Waste Management Regulations, 9 VAC 20-80 – Amendment 5, Proposed Odor Management Plan:~~ At the last Board meeting you were presented proposed Amendment 5 to the Virginia Solid Waste Management Regulations. In the proposed amendment was language that requires odor management plans to be submitted to the Department under certain circumstances.

In order to provide more information on this issue we have asked Mr. Rick Guidry of Waste Management to give a presentation on odor management at landfills.

No action will be taken on the regulation at this time. For your reference the proposed language follows:

D. Odor Management

1. When an odor nuisance or hazard is created under normal operating conditions and upon notification from the department, the permittee shall, within 90 days, develop and implement an odor management plan to address odors that may impact citizens beyond the internal property boundaries. The permittee shall place the plan in the operating record and a copy shall be submitted to the department for its records. Odor management plans developed in accordance with Virginia Air Regulations, 9VAC5-40-140, 9VAC 5-50-140 or other state air pollution control regulations will suffice for the provisions of this section (D).
2. The plan shall identify a contact at the facility that citizens can notify about odor concerns.
3. Facilities shall perform and document an annual review and update the odor management plan, as necessary, to address ongoing odor management issues.

~~Financial Assurance Requirements:~~ A brief report will be presented to the Board concerning questions regarding the amount of financial assurance costs submitted to the Department and the actual costs set aside by the facility for closure and post-closure activities. No action will be taken at this time.