

MINUTES
VIRGINIA WASTE MANAGEMENT BOARD MEETING
FRIDAY, MARCH 28, 2003
HOUSE ROOM C, GENERAL ASSEMBLY BUILDING
9TH AND BROAD STREETS
RICHMOND, VIRGINIA

Board Members Present:

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

Department of Environmental Quality Staff Present:

Robert G. Burnley, Director
Cindy M. Berndt
John E. Ely
Melissa S. Porterfield
Michael P. Murphy
Kathy R. Frahm

Richard F. Weeks, Deputy Director
Karen J. Sismour
Robert G. Wickline
Michael J. Dieter
G. Stephen Coe

Attorney General's Office:

Catherina F. Hutchins, Esq.
Assistant Attorney General

John Byrum, Esq.
Assistant Attorney General

- 1) The following minutes summarize activities, which took place at this Board meeting.
- 2) The meeting was convened at 9:35 a.m. on Friday, March 28, 2003 and a quorum determined. The meeting was recessed at 10:35 a.m., reconvened at 10:45 a.m., recessed at 12:25 p.m. and reconvened at 1:00 p.m. The Board voted to go into closed session at 1:00 p.m. and returned to open session at 1:55 p.m. The meeting was adjourned at 2:45 p.m.

Minute No. 1 - Minutes

The Board approved the minutes from the meeting on October 25, 2002.

Minute No. 2 - Solid Waste Planning and Recycling

The Board received a report on solid waste planning and recycling from Mr. John Ely and Mr. Stephen Coe. Board members suggested that there be a statewide solid waste plan that would contain long-term goals including higher recycling rate as a goal, that would look at the permitting structure and whether it is consistent with the statewide goals. Staff to develop a draft for Board discussion.

Minute No. 3 - 2003 DEQ Legislation

The Board received a report from Kathy Frahm on legislation enacted by the 2003 General Assembly that impacted the Board and the Department of Environmental Quality.

Minute No. 4 - Report on Tire Piles

The Board received a report from Michael Murphy on the Waste Tire Program.

Minute No. 5 - Future Meetings

The Board set April 17, 2003 as the date of a special teleconference meeting to consider amendments to the regulations establishing fees for solid and hazardous waste activities.

Minute No. 6 - Draft Final Regulations Governing the Transportation of Hazardous Materials Amendment 13 - 9 VAC 20-110-10, et seq.

Ms. Melissa Porterfield presented amendments to the Regulations Governing the Transportation of Hazardous Materials, 9 VAC 20-110-10, et seq., for final adoption. Ms. Porterfield briefed the Board on the amendments that were proposed, the public comments received on the proposal and changes to the proposal that were being recommended.

Based on the briefing material, staff presentation and discussion, the Board adopted Amendment 13 to the Regulations Governing the Transportation of Hazardous Materials.

Minute No. 7 - 2002 Immediate Final Rule, Regulations Governing the Transportation of Hazardous Materials, 9 VAC 20-110-10, et seq.

Ms. Melissa Porterfield presented immediately final rule changes to the date of incorporation of federal regulations contained in the regulations. Ms. Porterfield explained that the change updated Virginia's Regulations Governing the Transportation of Hazardous Materials to include requirements found in the federal hazardous material transportation regulations published October 1, 2002. In addition, Ms. Porterfield briefed the Board on the specific changes made to the federal regulations that were being incorporated through the adoption of the amendment.

Based on the briefing material, staff presentation and discussion, the Board adopted the 2002 Immediate Final Rule amendment to the Regulations Governing the Transportation of Hazardous Materials with an effective date to be set one day later than the effective date of Amendment 13.

Minute No. 8 - Virginia Solid Waste Management Regulations - Amendment 3

Mr. Michael Dieter presented Amendment 3 to the Solid Waste Management Regulations to the Board for final action. He advised the Board that Amendment 3 addressed the disposal capacity guarantee as required by 10.1-1408.1.B.6; host community agreements as required by 10.1-1408.1.B.7; reporting requirements for locally owned facilities as required by 10.1-1408.1.B.8; Director's determinations as required by 10.1-1408.1.D.1 and 2; and permit condition for capacity guarantee as required by 10.1-1408.1.P. In addition, the amendment would update to correct any errors or omissions resulting from previous amendments and any outdated material.

Mr. Dieter briefed the Board on the changes that had been proposed, the public comments received on the proposal and the recommended changes to the proposal.

Based on the briefing material, staff presentation and discussion, the Board adopted Amendment 3 to the Solid Waste Management Regulations.

Minute No. 9 - Transportation of Solid and Regulated Medical Wastes on State Waters

Mr. John Ely introduced the agenda item on final regulations governing transportation of solid and medical wastes on state waters. Mr. Ely provided the history of this regulatory action, which establishes requirements governing commercial transport, loading and off-loading of nonhazardous solid wastes as specified by statute. The regulations address: administrative provisions; standards for containers; standards for loading and off-loading facilities; permits-by-rule for off-loading facilities; fees for vessels off-loading waste; financial assurance requirements for vessels; federal requirements for vessels; and variances.

Mr. John Byrum detailed for the Board the litigation history associated with the statute mandating the development of the regulations.

On a motion made by Mr. Rich, the Board voted to go into closed session pursuant to the provisions of Section 2.2-3711 (A)(7) of the Code of Virginia to consult with counsel on the litigation. Pursuant to Section 2.2-3712 (D) of the Code of Virginia, the Board, by roll call vote, unanimously certified that only those matters identified, which are lawfully exempted from the requirements of the Freedom of Information Act, were considered during closed session.

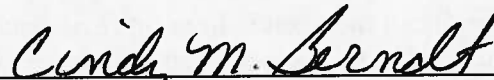
Mr. Robert Wickline then briefed the Board on the regulation being presented for Board adoption including the changes made since the last Board action on the regulation, the public comments received during the most recent public comment period and the agency response to the comments. In addition, Mr. Ely presented a change to the text of the regulation that was not included in the briefing material. Mr. Wickline then recommended that the Board adopt the revised final regulation, including the change presented at the meeting.

Prior to action, the Board allowed Ms. Patricia Jackson from the James River Association to address the Board on the regulation. Ms. Jackson requested that the Board defer action on the entire regulation, reconvene the technical advisory committee and have a full public comment period on the entire regulation with three hearings (one on the Rappahannock, York and James Rivers) prior to final action. Ms. Jackson expressed concern that public comment on the deferred parts would not be adequately considered if adopted and suspended versus an additional public comment period on proposed text. The Board assured Ms. Jackson that the public's comments would be given due consideration by the Board.

Based on the briefing material and presentations by staff and the Attorney General's Office, the Board, after much discussion on several issues, adopted the Regulations for the Transportation of Solid and Regulated Medical Wastes on State Waters. Further, the Board suspended the effective date of Parts II and V for additional public comment.

Minute No. 10 - Out-of-State Waste Resolution

On a motion made by Mrs. Ware, the Board asked staff to draft a resolution for their consideration at a future meeting, asking Congress to take actions necessary to allow individual states to control waste being transported into their state.


Cindy M. Berndt

*Minutes Approved Minute No 2
July 25, 2003*