

**MINUTES**  
**VIRGINIA WASTE MANAGEMENT BOARD MEETING**  
**THURSDAY, MAY 12, 2005**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**PIEDMONT REGIONAL OFFICE**  
**4949-A COX ROAD**  
**GLEN ALLEN, VIRGINIA**

Attendees were determined as follows:

Board Members Attending:

Sheila W. McAllister, Chairman	Hunter H. McGuire, III
Clements (Tom) Berezoski	Betty Byrne Ware
N. Howard Burns, Jr.	Donald L. Williams

Board Members Absent:

Clarence M. Dunnaville, Jr.

Department of Environmental Quality:

Robert G. Burnley, Director  
Cindy M. Berndt

Attorney General's Office:

Catherina F. Hutchins, Assistant Attorney General

The meeting was convened at 9:42 a.m., recessed at 12:00 p.m., reconvened at 12:45 p.m. and adjourned at 1:12 p.m.

**Minute No. 1 – Minutes:** The Board approved the minutes from the meeting on June 18, 2004. (Mr. Williams abstained)

**Minute No. 2 - Regulation Governing Management of Coal Combustion By-Products, 9 VAC 20-85-10, et seq. – Proposed Regulation – Amendment 1:** Mr. Michael J. Dieter, Waste Division, presented proposed Amendment 1 to the Regulation Governing Management of Coal Combustion By-Products, 9 VAC 20-85-10, et seq. He advised the Board that the proposed amendments incorporate provisions for fossil fuel combustion products; remove compaction specifications; modify requirements for placement of fossil fuel combustion products as specified by a registered professional engineer; and clarifies that the approval of the department is required prior to placement of the material.

The Board, based on the Board book material, staff presentation and Board discussion, (1) approved the proposed amendments, (2) authorized the Department to proceed to public comment on the proposed amendments and (3) directed that the notice of public comment include a request for comment on whether (a) the compaction specification requirements should be replaced with compaction as specified by a registered professional engineer; (b) the regulations should include specific allowable uses for fossil fuel combustion products or whether the general requirement for use, reuse or reclamation of the material is sufficient; and (c) the regulation should be incorporated in its entirety into the Virginia Solid Waste

Management Regulations or whether requirements for fossil fuel combustion products contained in the Virginia Solid Waste Management Regulations should be incorporated into the Regulations Governing Management of Coal Combustion By-Products.

**Minute No. 3 - Virginia Solid Waste Management Regulations, 9 VAC 20-80-10, et seq. - Final Regulation - Amendment 4:** Mr. Michael J. Dieter, Waste Division, presented a final regulation Amendment 4 to the Virginia Solid Waste Management Regulations (VSWMR), 9 VAC 20-80-10, et seq. He advised the Board that Amendment 4 would modify several areas of the regulations that address the storage of wastes in piles allowing certain activities to be exempt from permitting requirements and provides expedited procedures for obtaining a permit for the management of other waste materials in piles. He briefed the Board on the public comment received and revisions to the proposal being presented

The Board, based on the Board book material, staff presentation and Board discussion, approved Amendment 4 with editorial amendments to 9 VAC 20-80-60 E 12 a and 9 VAC 20-80-400 C 4 as a final regulation.

**Minute No. 4 - Virginia Solid Waste Management Regulations, 9 VAC 20-80-10, et seq. - Fast Track - Amendment 4a:** Mr. Michael J. Dieter, Waste Division, presented a final regulation Amendment 4a to the Virginia Solid Waste Management Regulations, 9 VAC 20-80-10, et seq. He advised the Board that Amendment 4a would eliminate the requirement for a radio advertisement for the tentative approval of a variance application contained in 9 VAC 20-80-790 B 3 c. In addition, he explained the fast track rulemaking process that the Department was recommending the Board use to adopt the amendment.

Based on the Board book material, the staff presentation and Board discussion, the Board:

1. authorized the Department to promulgate Amendment 4a using the fast track rulemaking process established in Section 2.2-4012.1;
2. affirmed that the authorization constitutes adoption of the amendment at the end of the applicable public comment period unless the Department receives objections from at least 10 persons to the use of the fast track rulemaking process, or receive an objection from the applicable standing legislative committees or Joint Commission on Administrative Rules, or (2) the Department does not find it necessary to make changes based on public comment or for any other reasons;
3. set an effective date 30 days after the close of the public comment period provided the amendment completes the process without objection and the Department does not find it necessary to make any changes to the proposal; and
4. authorized the Director, if amendment 4a does not complete the fast track rulemaking process, to determine whether the Department will use an advisory committee to assist in the development of a proposal.

**Minute No. 5 – 9 VAC 20-20, Schedule of Fees for Hazardous Waste Facility Site Certification; 9 VAC 20-30, Technical Assistance Fund Administrative Procedures; 9 VAC 20-40, Administrative Procedures for Hazardous Waste Facility Site Certification and 9 VAC 20-50, Hazardous Waste Facility Siting Criteria – Immediate Final Rules 2005:** Mr. Robert G. Wickline, Waste Division, presented amendments to the four regulations governing hazardous waste facility siting. Mr. Wickline explained that the regulations have not been updated since 1986, and refer to the Hazardous Waste Siting Council, predecessor-in-interest to the Waste Management Board, and other institutions that no longer exist. No substantive changes to the regulations are included. Mr. Wickline advised the Board that the amendments are written such that the board is cited as the functional element for nearly all tasks under the regulations, most of which can be more appropriately managed by the staff. Therefore, a new section has been added to each body of regulations that includes the following sentence, “The director may perform

any act of the board provided under this chapter, except as limited by Sections 10.1-1433 through 10.1-1449 of the Code of Virginia.” This delegation is a confirmation of pre-existing statutory authority under §10.1-1405. The phrase, similar to those in several regulations of the State Water Control Board, will allow for smoother operations and compliance with deadlines established in the law and regulations. In addition, Mr. Wickline presented additional amendments for the Board’s consideration.

Based on the Board book material, staff presentation and Board discussion, the Board adopted the amendments with revisions presented at the meeting and affirmed that the Board would receive, consider and respond to any petition received from any person at any time with respect to reconsideration or revision.

**Minute No. 6 - Virginia Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities, 9 VAC 20-70-10, et seq. - Fast Track - Amendment 3:** Mr. Allen Brockman, Waste Division, presented a final regulation Amendment 3 to the Virginia Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities, 9 VAC 20-70-10, et seq. He advised the Board that Amendment 3 would correct two technical errors in the wording of financial mechanisms contained in the regulations concerning the ratio of total liabilities to net worth and operation deficit percentages. In addition, he advised the Board that the fast track rulemaking process was being recommended for the amendments.

Based on the Board book material, the staff presentation and Board discussion, the Board:

1. authorized the Department to promulgate Amendment 4a using the fast track rulemaking process established in Section 2.2-4012.1;
2. affirmed that the authorization constitutes adoption of the amendment at the end of the applicable public comment period unless the Department receives objections from at least 10 persons to the use of the fast track rulemaking process, receive an objection from the applicable standing legislative committees or Joint Commission on Administrative Rules, or the Department does not find it necessary to make changes based on public comment or for any other reasons;
3. set an effective date 30 days after the close of the public comment period provided the amendment completes the process without objection and the Department does not find it necessary to make any changes to the proposal; and
4. authorized the Director, if amendment 4a does not complete the fast track rulemaking process, to determine whether the Department will use an advisory committee to assist in the development of a proposal.

**Minute No. 7 – Public Forum:** No one appeared during the public forum.

**Minute No. 8 – Legislative Update:** Ms. Melissa Porterfield, Division of Policy, presented a report to the Board on the 2005 General Assembly Session.

**Minute No. 9 – Report on Significant Noncompliers:** Ms. Mary Susan Davies, Division of Enforcement, presented a report on significant noncompliers.

**Minute No. 10 – Future Meetings:** No date was set.

**Minute No. 11 - Solid Waste Management Planning – Elements of Virginia’s Solid Waste Management Program:** Mr. John E. Ely, Waste Division, introduced Mr. Bernie Harris from the Central Virginia Waste Management Agency. Mr. Harris briefed the Board on the Central Virginia Waste Management Agency’s development of a local solid waste management plan. Mr. Allen Brockman

briefed the Board on the state plan. He explained that Virginia's program was a bottom up program based on statutes, regulations and local plans. Mr. Brockman then presented the elements of Virginia's solid waste management program. The Board directed that the elements document be put on the web site as soon as possible.

Mr. Steve Yob from Henrico County appeared. Mr. Yob briefed the Board on the County's solid waste management program before taking the members on a tour of the Nuckols Road landfill.

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Cindy M. Berndt