

**TENTATIVE AGENDA  
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**

**Convene – 9:30 AM**

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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 actions. These procedures establish the times for the public to provide appropriate comment to the Board for their consideration. 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:

**1. REGULATORY ACTIONS (adoption, amendment or repeal of regulations):** Public participation for regulatory actions 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. 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.

**Comments on the regulatory action are not allowed at a Board meeting while a regulatory action is being processed in accordance with the Administrative Process Act. In rare instances the Board may (at a Board meeting) vote to reopen the public comment file on the regulatory action. If this happens, individuals may address the Board for up to 2 minutes on material previously submitted to the Board. Should the Board decide to accept new information on a regulatory action, an additional public comment period will be announced by the Department in order for all interested persons to have an opportunity to participate.**

**2. 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 2 minutes.

**The Board reserves the right to alter the time limitations set forth above without notice and to ensure comments presented at the meeting conform to this policy.**

**Additional Information:** For additional information or questions on the adopted public participation procedures for regulatory actions contact Cindy M. Berndt at (804) 698-4378.

## **SUMMARY OF AGENDA ITEMS:**

**Hazardous Waste Management Regulations - Amendment 16 The Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.*, establish requirements for the generation, transportation, treatment, storage, and disposal of hazardous waste in the Commonwealth.**

This action adjusts the permit fee system in order to insure 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). The schedules are shown in a table with one column for the fees appropriate in 2003-2004 and a second column for the fees appropriate after 2004.

The changes in this amendment regarding responsibility for publishing and broadcasting of notices are intended to transfer the cost of such notices from the general taxpayer to the applicant or petitioner, who receives the permit or variance. The department will provide the content of text and acceptable publication/broadcast venues. The department may issue the notice and require the applicant to remit the costs incurred (the department expects this to occur rarely and does not expect to use this procedure unless necessary to prevent scheduling failures or a similar problem).

The changes to financial assurance requirements include additional and more specific documentation of the financial assurance provided by the owner/operator. These changes are believed necessary to properly protect the Commonwealth and local host community from financial loss in the event the site must be closed and the owner is unavailable or insolvent.

Other changes proposed are to clarify the language of the regulations, to reinstate provisions inadvertently removed by Amendment 15 A, or to better align the regulations with federal requirements.

Solid Waste Management Facility Application Action Fees - Amendment 1: The Virginia Waste Management Board's Solid Waste Management Facility Permit Application Fee 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 are in effect in response to changes made to § 10.1-1402.1 of the Code of Virginia. These statutory changes are effective for two years and allow the tripling of permit fees. The emergency regulations tripled permit fees in effect on June 30, 2002, and new permit fees became effective July 1, 2002. 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.

Hazardous Waste Management Regulations - IFR Amendment 2002:

Hazardous Waste Management Regulations, 9 VAC 20-60-12 et seq., include requirements in the form of incorporated federal regulatory text at Title 40 of the Code of Federal Regulations. The federal regulatory text as it existed July 1, 2001 was specified as that incorporated. Immediate Final Rule: Amendment 2002 addresses only 9 VAC 20-60-18, the section making the specification of the date of incorporated text. This section is altered by striking the previous prescribed date and adopting the new date of July 1, 2002, thus making it the new date of reference of all incorporated federal regulatory text. The effective date of the incorporated text will be the effective date as published in the Federal Register notice or the effective date of this amendment, whichever is later.

Waste Tire End User Reimbursement Regulations: These Regulations set the administrative, technical and financial aspects of the End User reimbursement Program operated by DEQ. Direct payments ("reimbursements") are made by DEQ to end users of Virginia-generated waste tire material for uses such as civil engineering, energy recovery and recycled products. The current reimbursement rates (since 1995) are up to \$22.50 per ton for "current flow" tires (daily generation by tire dealers, etc.) and up to \$50.00 per ton for tires from tire piles.

Since pile clean ups have slowed considerably since FY 1999, DEQ is requesting that the Waste Board increase the tire pile rate up to \$75.00 per ton, subject to Available Funding, to renew interest by clean up contractors. There were several other clerical and administrative changes proposed. A Technical Advisory Committee (TAC) endorsed the entire proposal at its September 17, 2002 meeting. Public comments also endorsed the changes.

The promulgation or changes to these Regulations are not subject to the Administrative Processed Act since it is a "grant of state or federal funds or property (Section 9.6-14:4.1.B.4 of the Code of Virginia). Accordingly, the Waste Management Board may change this regulation at any time and without public comment. However, DEQ did establish a TAC which met on two occasions, sought public input through two mailings to an interested parties list and published a notice in the June 17, 2002 Virginia Register. All comments were considered.