

# MINUTES

## STATE AIR POLLUTION CONTROL BOARD MEETING

FRIDAY, JUNE 21, 2013  
GENERAL ASSEMBLY BUILDING  
HOUSE ROOM C  
9TH & BROAD STREETS  
RICHMOND, VIRGINIA

### Board Members Present:

Roger Chaffe, Chair  
Hullihen Williams Moore  
Jo Anne Scott Webb  
Michael D. Overstreet

Richard Langford, Vice-Chair  
Manning "Chip" Gasch, Jr.  
Tedd Jett

### Department of Environmental Quality:

David K. Paylor  
Debra Harris

Cindy M. Berndt

### Attorney General's Office:

Sarah J. Surber

These minutes summarize activities that took place at this Board Meeting. The meeting convened at 10:00 a.m. and adjourned at 10:48 a.m.

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**Minute No. 1 - Review and Approve Agenda:** The agenda was approved.

**Minute No. 2 - Minutes:** The Board, on a motion by Mr. Gasch, unanimously approved the minutes from the Board's March 13, 2013, meeting, as contained in the Board book.

**Minute No. 3 - Regulation for the Control of Motor Vehicle Emissions in Northern Virginia, Program Coordinator (9VAC5 Chapter 91, Rev. MO) - Request for Board Action on Exempt Final Regulation:** Ms. Mary E. Major of the Office of Regulatory Affairs presented amendments to the regulation for the control of motor vehicle emissions in northern Virginia regarding the use of a program coordinator, the definition of "mail" and a testing exemption for certain hybrid vehicles. Ms. Major explained that Chapters 216 and 824 of the 2012 Acts of Assembly authorized the Director of DEQ to enter into an agreement to designate a program coordinator to implement all inspection programs, except those utilizing remote sensing. It also stipulated that the Director shall determine the services to be provided by the program coordinator and the amount to be paid to the program coordinator for such services. In addition, Chapter 348 of the 2013 Acts of Assembly provides for the electronic transmittal of certain documents and Chapter 634 of the 2013 Acts of the Assembly provides for the exemption from testing for certain hybrid vehicles. Ms. Major advised the Board that there was a public comment period on the amendments, but no comment was received. Also, Ms. Major reviewed the following substantive amendments to the regulation:

1. Modify definition of "Affected motor vehicle" to clarify that 2008 or 2009 hybrid vehicles with a 48 miles per gallon EPA rating shall be exempt from testing (9VAC-5-91-20).

2. Delete the definitions no longer used in the regulation (9VAC5-91-20): "Basic test and repair program", "Bi-fuel", "Canister", "Dedicated alternative fuel vehicle", "Dedicated fuel vehicle", "Dual fuel", "Evaporative system pressure test", "Flexible fuel vehicle", "Fuel filler cap pressure test", "Original condition", "Standard conditions", "Standardized instruments", "True concentration" and "Zero gas".

3. Add regulatory language to incorporate provisions for a program coordinator. This also includes modifying the definition of "Authorized personnel" and adding the definition "Program coordinator".

Modified sections include: 9VAC-5-91-30 A 7, 9VAC-5-91-330, 9VAC5-91-660, and 9VAC5-91-670.

New sections include: 9VAC5-91-665, 9VAC5-91-675.

4. Repeal 9VAC5-91- 450, Evaporative system pressure test and gas cap pressure test procedure, and all references to the tests throughout the regulation as the tests are obsolete.

Sections affected include the following: 9VAC 5-91-200, 9VAC5-91-390 F 11, 9VAC5-91-410 A 7, 9VAC5-91-420 D 4, 9VAC5-91-420 K through N, 9VAC5-91-430 A 2 a and b, 9VAC5-91-440 A 7 a and b, 9VAC5-91-650 A, 9VAC5-91-650 A, 9VAC5-91-650 C, 9VAC5-91-710 B.

5. Add provision to utilize electronic delivery of information.

Provisions affected include: 9VAC-5-91-70 A, 9VAC5-91-570 G 2, 9VAC5-91-720.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Mr. Jett, unanimously adopted the amendments and affirmed that the Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Minute No. 4 - Repeal of Standards for Regulated Medical Waste Incinerators (Article 6 of 9VAC5 Chapter 50, Rev. C13) - Request for Board Action on Exempt Final Regulation:** Ms. Karen G. Sabasteanski of the Office of Regulatory Affairs presented the repeal of the standards for regulated medical waste incinerators set forth in Rule 5-6, Standards Of Performance For Regulated Medical Waste Incinerators (Article 6 of 9VAC5-50). Ms. Sabasteanski explained that since Article 6 was adopted, a more restrictive U.S. Environmental Protection Agency (EPA) new source performance standard (NSPS) covering the same type of sources was promulgated and adopted by Virginia and the 2013 General Assembly enacted Chapter 632, which removes the provisions relevant to air quality from Chapters 773, 774, and 751. As a result, Rule 5-6 may be now be repealed because its underlying state requirement has been removed.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Mr. Langford, unanimously repealed Article 6 of 9VAC5-50 and affirmed that the Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Minute No. 5 - Commercial/Industrial Solid Waste Incinerators (9VAC5 Chapter 40, Rev. E13) - Request for Board Action on Exempt Final Regulation:** Ms. Karen G. Sabasteanski of the Office of Regulatory Affairs presented amendments to the regulations for the control and abatement of air pollution regarding commercial/industrial solid waste incinerators. Ms. Sabasteanski explained that the U.S. Environmental Protection Agency (EPA) amended its emission guidelines for commercial/industrial solid waste incinerators (CISWIs) on February 7, 2013 (78 FR 9112). In order to implement the emission guidelines, it is necessary for Virginia to adopt these amendments. These standards are needed in order to control the emissions generated by CISWIs-- particulate matter, hydrogen chloride, carbon monoxide, dioxin/furan, mercury, nitrogen oxides,



sulfur dioxide, cadmium, and lead--to a level needed to protect public health and welfare. Additionally, in the interest of making the state regulation operate more efficiently, it is being revised to adopt the federal requirements by reference.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Mr. Jett, unanimously adopted the amendments and affirmed that the Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Minute No. 6 - Electronic Transmittals (Rev. F13) - Request for Board Action on Exempt Final Regulation:** Mr. Gary E. Graham of the Office of Regulatory Affairs presented amendments to the regulations for the control and abatement of air pollution and the general administration regulation to conform to statutory changes to the definition of "mail" and "certified mail" required by Chapter 348 of the 2013 Acts of Assembly. Specifically, the general definitions in the regulations for the control and abatement of air pollution were amended to add definitions for "mail" and "certified mail" that conform to the statutory definitions and the appeal procedures in the Regulation for General Administration were amended to provide a deadline for filing petitions for a formal hearing based upon a date of notification of board action that was provided by electronic mail.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Mr. Moore, unanimously adopted the amendments and affirmed that the Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Minute No. 7 - Definition of Volatile Organic Compound (9VAC5 Chapter 10, Rev. D13) - Request to Publish Proposal for Public Comment and Use the Fast-Track Process:** Ms. Karen G. Sabasteanski with the Office of Regulatory Affairs presented fast-track amendments to the definition of volatile organic compound. Ms. Sabasteanski explained that on February 12, 2013 (78 FR 9823) the U.S. Environmental Protection Agency (EPA) revised the definition of VOC in 40 CFR 51.100 to exclude  $\text{HCF}_2\text{OCF}_2\text{H}$  (HFE-134);  $\text{HCF}_2\text{OCF}_2\text{OCF}_2\text{H}$  (HFE-236cal2);  $\text{HCF}_2\text{OCF}_2\text{CF}_2\text{OCF}_2\text{H}$  (HFE-338pcc13); and  $\text{HCF}_2\text{OCF}_2\text{OCF}_2\text{CF}_2\text{OCF}_2\text{H}$  (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180)) from the definition of VOC. Additionally, EPA corrected the citation for 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300). These changes to the exemption list became effective on March 14, 2013. The proposed amendments are being made to ensure that the definition of VOC, which is crucial to many of the regulations, is up-to-date and scientifically accurate, as well as consistent with the overall EPA requirements.

Ms. Sabasteanski advised the Board that the general definitions (9VAC5-10-20) were being revised to include  $\text{HCF}_2\text{OCF}_2\text{H}$  (HFE-134);  $\text{HCF}_2\text{OCF}_2\text{OCF}_2\text{H}$  (HFE-236cal2);  $\text{HCF}_2\text{OCF}_2\text{CF}_2\text{OCF}_2\text{H}$  (HFE-338pcc13); and  $\text{HCF}_2\text{OCF}_2\text{OCF}_2\text{CF}_2\text{OCF}_2\text{H}$  (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180)). In addition, the listing for 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300) is being corrected.

The Board, based on the Board book material, staff presentation and Board discussion, on a motion by Mr. Langford, unanimously:

1. Promulgated the proposal for public comment using the fast-track process established in § 2.2-4012.1 of the Administrative Process Act for regulations expected to be non-controversial. The board's authorization constituted its adoption of the regulation at the end of the public comment period provided that (i) no objection to use of the fast-track process is received from 10 or more

persons, or any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, and (ii) the department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal.

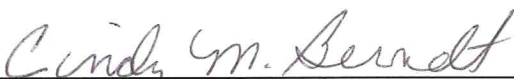
2. Set an effective date 15 days after close of the 30-day public comment period provided (i) the proposal completes the fast-track rulemaking process as provided in § 2.2-4012.1 of the Administrative Process Act and (ii) the department does not find it necessary to make any changes to the proposal.

**Minute No. 8 - High Priority Violators Report:** Ms. Kerri Nicholas, Division of Enforcement, advised the Board that there was no high priority violators report for the quarter.

**Minute No. 9 - Public Forum:** No one appeared during the public forum.

**Minute No. 10 - Division Director's Report:** Mr. Michael Dowd, Air Division Director, updated the Board on the PM<sub>2.5</sub> redesignation request and advised the Board that so far during this ozone season there had been no exceedances.

**Minute No. 11 - Future Meetings:** The Board confirmed September 20 and December 6, 2013, as the dates of their next meetings.

  
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Cindy M. Berndt

Approved Minute No. 2  
Sept. 20, 2013