

MINUTES  
STATE AIR POLLUTION CONTROL BOARD MEETING

FRIDAY, SEPTEMBER 12, 2003

GENERAL ASSEMBLY BUILDING  
HOUSE ROOM C, 9<sup>TH</sup> AND BROAD STREETS  
RICHMOND, VIRGINIA

Board Members Present: Gary Baise - Chairman  
Richard D. Langford  
Vivian Thomson  
Smita Siddhanti

Board Members Absent: Karlynn W. Bucher - Vice-Chairman

Department of Environmental Quality  
Staff: Robert G. Burnley, Director  
Richard F. Weeks, Deputy Director  
Cindy M. Berndt  
John M. Daniel, Jr.  
Robert A. Mann  
Mary E. Major  
Karen Sabasteanski  
Michael Dowd

Attorney General's Office: Carl Josephson

- 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, September 12, 2003, recessed at 12:05 p.m. and reconvened at 12:15 p.m. The meeting was adjourned at 1:25 p.m.

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**Minute No. 1 - High Priority Violators (HPVS) Report**

The Board received a report, as contained in the briefing material, from Mr. Michael Dowd on high priority violators for the first and second quarters of 2003.

**Minute No. 2 - Major New Source Review Reform (Articles 8 and 9 of 9 VAC 5 Chapter 80, Rev. E03) - Public Participation Report and Request for Board Action**

Mr. Robert A. Mann briefed the Board on the petition received from the Virginia Manufacturers Association. Mr. Mann explained that the Association was requesting initiation of an expedited rulemaking pursuant to § 2.2-4006 A 4 c of the Code of Virginia to incorporate recent federal new source review reforms into Virginia's major new source review regulations. Mr. Mann advised the Board that a written public comment period on the petition had been held and a summary and analysis of the public comments had previously been provided to the Board.

Based on the briefing material, staff presentation and discussion, the Board, on a motion made

by Ms. Thomson, voted to deny the request for an expedited rulemaking and accepted the staff recommendation to initiate a rulemaking to consider amending the major new source review program (Mr. Baise voted no). (Mr. Langford declared that he is an employee of Celanese Acetate LLC which could be affected by the adoption of the amendments, and that he was able to participate in the transaction fairly, objectively and in the public interest.) Some members of the Board requested that the advisory committee that assists staff in developing a proposal for the Board's consideration be asked to try to analyze the air quality impact of any proposal and gather information on what other states are doing in response to the new federal rules.

**Minute No. 3 - Minor New Source Review Reform (Article 6 of 9 VAC 5 Chapter 80, Rev. F03) - Public Participation Report and Request for Board Action**

Mr. Robert A. Mann briefed the Board on the petition received from the Virginia Manufacturers Association to initiate a rulemaking concerning the minor new source review permit program. Mr. Mann advised the Board that a written public comment period had been held and a summary and analysis of the public comments had previously been provided to the Board.

Based on the briefing material, staff presentation and discussion, the Board, on a motion made by Ms. Thomson, voted to deny the request to initiate a rulemaking to consider amending the minor new source review program (Mr. Langford voted no). (Mr. Langford declared that he is an employee of Celanese Acetate LLC which could be affected by the adoption of the amendments, and that he was able to participate in the transaction fairly, objectively and in the public interest.) Some members asked for briefing material or a presentation on the minor new source review program.

**Minute No. 4 - Municipal Solid Waste Landfills (9 VAC 5 Chapter 40, Rev. B02) - Public Participation Report and Request for Board Action**

Ms. Karen Sabasteanski presented final amendments to emission standards from existing solid waste landfills in order to correct deficiencies in the state's § 111(d) plan. Ms. Sabasteanski advised the Board of the comments received on the amendments and the revisions to the proposal being recommended to the Board.

Based on the briefing material, staff presentation and discussion, the Board, on a motion made by Ms. Thomson, voted to adopt the regulation with an effective date consistent with the Administrative Process Act and directed that the regulation be submitted to the U.S. Environmental Protection Agency as a state implementation plan revision and as a 111(d) plan.

**Minute No. 5 - Remote Sensing (9 VAC 5 Chapter 91, Rev. MK) - Request for Board Action on Emergency Regulation**

Ms. Mary E. Major briefed the Board on the emergency regulation revising the provisions of 9 VAC 5 Chapter 91 concerning remote sensing. Ms. Major explained that in order to meet provisions of state law the current regulation needs to be amended to include a definitive requirement for random testing of motor vehicle emissions, procedures to notify owners of test results, assessment of civil charges for noncompliance with emissions standards in the current regulation and to establish standards and criteria.

After briefing the Board on the current program and geographic coverage area, Ms. Major covered the proposed revisions to the regulation including changes in some definitions, in some elements of the remote sensing testing applicability and program procedures and protocol as it pertains to gross polluters and clean car screening, to the remote sensing test standards, and in

some enforcement and compliance procedures.

Based on the briefing material, staff presentation and discussion, the Board, on a motion made by Mr. Langford, voted to adopt the proposal, with an effective date being the date the regulation is confirmed as being filed with the Registrar of Regulations.

**Minute No. 6 - Permitting Status of Recent Electric Generation Unit Projects - Informational Briefing**

The Board received a report, as contained in the board book, on the permitting of proposed Electrical Generating Facilities within the Commonwealth.

**Minute No. 7 - Public Forum**

Mr. John C. Holland, Jr. appeared during the public forum. Mr. Holland requested a variance or waiver to the provisions of the open burning ban. He explained that the ban while required to improve air quality was creating a different environmental problem, i.e. the illegal dumping of tree stumps. He asked that the Board consider granting him a variance or waiver to the regulation.

The staff advised the Board that once a written request had been received, staff would review and report back to the Board with staff recommendations.

**Minute No. 8 - Division Director's Report**

The Board received a report, as contained in the board book, on Air Division activities.

**Minute No. 9 - Petition for Reconsideration of Permit**

The Board asked staff to further investigate issues surrounding a petition from citizens in Wythe County asking the Board to reconsider the W L Construction permit which permits a portable asphalt facility. The Board also asked the staff to report back to the Board on the permit and to ensure the report includes the results of a recent inspection of the facility operation.

**Minute No. 10 - Future Meetings**

The Board confirmed November 5, 2003 as the date of their next meeting and announced that the meeting will be in Harrisonburg.

**Minute No. 11 - Minutes**

The Board approved, on a motion by Ms. Thomson, the minutes from the Board's meeting on April 7, 2003.

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Cindy M. Berndt