

MINUTES  
STATE AIR POLLUTION CONTROL BOARD MEETING  
FRIDAY, DECEMBER 17, 2010  
HOUSE ROOM C  
GENERAL ASSEMBLY BUILDING  
9TH & BROAD STREETS  
RICHMOND, VIRGINIA

**Board Members Present:**

Hullihen Williams Moore, Chair  
Sterling E. Rives III, Vice-Chair  
Richard Langford

Roger Chaffe  
Manning "Chip" Gasch, Jr  
Jo Anne Scott Webb

**Board Members Absent:**

Randolph L. Gordon, MD, MPH

**Department of Environmental Quality:**

David K. Paylor  
Cindy M. Berndt

**Attorney General's Office:**

Kerri L. Nicholas, Assistant Attorney General

The Meeting Convened at 10:30am; recessed at 11:40 am for lunch; reconvened at 12:30 pm; and adjourned at 1:57pm.

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**Minute No. 1 - Review and Approval of Agenda:** The agenda was approved with the addition of a presentation on the ozone standard.

**Minute No. 2 - Minutes:** The Board, on a motion by Mr. Rives, unanimously approved the minutes of the June 4, 2010, meeting.

**Minute No. 3 – State Advisory Board on Air Pollution – Appointments:** The Board, on a motion by Mr. Chaffe, unanimously appointed Dave Coffin and Tom Cormons and reappointed H. Dean Downs, Jr., Charles D. Forbes, Ted D. Handel, Joe Loschiavo, John Roland, William Shobe, Lowell Smith and Cathy Taylor to the State Advisory Board on Air Pollution with terms expiring on December 31, 2012.

**Minute No. 4 – Dominion Virginia Power Warren County Power Station:** Mr. Janardan R. Pandey of the Valley Regional Office presented a draft PSD permit for a gas-fired combined-cycle electric power generating facility to be located in Warren County. Mr. Pandey briefed the Board on the history of the draft permit including the permit application review, the department analysis of the application and the public participation activities on the application and draft permit. In addition, Mr. Pandey reviewed for the Board changes being recommended to the draft permit including the reduction of short-term and annual PM<sub>10</sub> and PM<sub>2.5</sub> emission limits, reduction of annual VOC emission limits, revision of the mitigation plan (source reductions and emissions offsets) and

addition of operational restriction requirements for the duct burners to comply with the PM<sub>2.5</sub> increment.

After the staff presentation the Board received comment from Pamela Faggert with Dominion Resources; Richard Traczyk, Doug Stanley and Mark Bower with Warren County; Dan Holmes with Piedmont Environmental Council and Cale Jaffe with Southern Environmental Law Center.

Based on the Board book material, staff presentation, public comment and Board discussions, the Board, on a motion by Mr. Chaffe, unanimously approved issuance of the permit as presented.

(Note: Mr. Gasch, at the beginning of the discussion of this agenda item, announced for the record that his former employer was representing Dominion Virginia Power; however, he would be participating in any Board discussions and votes on this matter as there is no actual or perceived conflict that prohibits him from doing either.)

**Minute No. 5 – Transportation Conformity (9VAC5 Chapter 151, Rev. E10):** Ms. Mary E. Major presented final exempt amendments to the Transportation Conformity regulation. Ms. Major explained that the federal Clean Air Act requires that federally-funded transportation plans, programs and projects conform to state air quality implementation plans (SIPs). She advised the Board that the federal transportation regulation has been amended necessitating amendments to the Board's regulations and briefly reviewed the substantive amendments being recommended by the Department including the update of the Code of Federal Regulations incorporated by reference and a change in a reference in the consultation section.

The Board, based on the Board book material, staff presentation and Board discussion, on a motion by Mr. Chaffe, unanimously adopted the amendments with an effective date consistent with the Administrative Process Act and affirmed that it would receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision, as provided in § 2.2-4006 B.

**Minute No. 6 - General Conformity (9VAC5-160, Rev. F10):** Ms. Karen G. Sabasteanski presented final exempt amendments to the Board's General Conformity regulations. Ms. Sabasteanski explained that the Clean Air Act requires that federal plans, programs and projects conform to state and federal air quality implementation plans. She advised the Board that the federal general conformity regulation had been amended necessitating amendments to the Board's regulations and briefly reviewed the substantive amendments being recommended by the Department including amendments to address the addition of PM<sub>2.5</sub> de minimis emission levels for general conformity applicability, address a number of implementation issues and improve the program's ability to facilitate federal agency compliance with conforming their activities to the SIPs.

The Board, based on the Board book material, staff presentation and Board discussion, on a motion by Mr. Rives, unanimously adopted the amendments with an effective date consistent with the Administrative Process Act and affirmed that it would receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision, as provided in § 2.2-4006 B.

**Minute No. 7 - Federal Documents Incorporated by Reference (Rev. G10):** Ms. Karen G. Sabasteanski presented final exempt amendments to the regulations for the control and abatement of air pollution concerning federal documents incorporated by reference. Ms. Sabasteanski



explained that the purpose of the amendments is to incorporate newly promulgated federal New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and national emission standards for hazardous air pollutants for source categories (Maximum Achievable Control Technology, or MACT) into the Board's regulations. Ms. Sabasteanski briefly reviewed the substantive amendments including updating the Code of Regulations incorporated by reference, for NSPS adding provisions to the current standard for Coal Preparation and Processing Plants (Subpart Y) and modifying the title, and incorporating five new MACTS [Chemical Manufacturing Area Sources (Subpart VVVVVV), Asphalt Processing and Asphalt Roofing Manufacturing Area Sources (Subpart AAAAAA), Paints and Allied Products Manufacturing Area Sources (Subpart CCCCCC), Chemical Preparations Industry Area Sources (Subpart BBBB), and Prepared Feeds Manufacturing Area Sources (Subpart DDDDD)].

The Board, based on the Board book material, staff presentation and Board discussion, on a motion by Mr. Chaffe, unanimously adopted the amendments with an effective date consistent with the Administrative Process Act and affirmed that it would receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision, as provided in § 2.2-4006 B.

**Minute No. 8 - Major Source Permits (9VAC5 Chapter 80, Rev. L07):** Ms. Karen G. Sabasteanski presented final exempt amendments to the regulations for the control and abatement of air pollution. Ms. Sabasteanski advised the Board that EPA new source review and federal operating permit regulations had been revised such that the definitions of "major stationary source" and the lists of exempted facilities excluded chemical processing plants that are ethanol production facilities that produce ethanol by natural fermentation. The result of that action changed the applicability level from 100 tons per year to 250 tons per year for the ethanol production facilities.

Ms. Sabasteanski advised the Board that an analysis, prepared by the department, on the potential practical impact the amended regulation would have on air quality had determined that adoption of the rule would have no effect on air quality, and bring little change to the way public participation, site suitability, or air quality analysis requirements are addressed under the existing rules. In addition, Ms. Sabasteanski advised the Board that an informal public comment period was held and that no comment was received.

The Board, based on the Board book material, staff presentation and Board discussion, on a motion by Mr. Chaffe, unanimously adopted the amendments with an effective date consistent with the Administrative Process Act and affirmed that it would receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision, as provided in § 2.2-4006 B.

**Minute No. 9 - General Permit concerning Electric Generator Voluntary Demand Response (9VAC5 Chapter 530, Rev. Dg):** Ms. Mary E. Major presented a proposed general permit for electric generator voluntary demand response for the Board's consideration. Ms. Major briefed the Board on the legislation behind the general permit as well as the department's regulatory activity in developing the general permit. Ms. Major then briefly summarized the provisions of the general permit including presenting replacement applicability language for 9VAC5-530-40 A for the Board's consideration.

The Board, based on the Board book material, staff presentation and Board discussions, on a motion by Ms. Webb, promulgated the proposed regulation as presented for public comment with a

specific request for comment on the hours of operation for emissions units using hours of operation for compliance demonstration operating in either attainment or nonattainment areas as the board may consider revising, either higher or lower, the number of hours of operation authorized by the general permit when final action is taken on the regulatory action.


**Minute No. 10 - General Permit concerning Emergency Generators (9VAC5 Chapter 540, Rev. Eg):** Ms. Mary E. Major presented a proposed general permit for emergency generators. Ms. Major briefed the Board on the legislation behind the general permit as well as the department's regulatory activity in developing the general permit regulation. Ms. Major then briefly summarized the provisions of the general permit including presenting replacement applicability language for 9VAC5-540 A for the Board's consideration.

The Board, based on the Board book material, staff presentation and Board discussions, on a motion by Mr. Langford, promulgated the proposed regulation as presented for public comment with a specific request for comment on the hours of operation for emergency energy generation sources operating in either attainment or nonattainment areas as the board may consider revising, either higher or lower, the number of hours of operation authorized by the general permit when final action is taken on the regulatory action.

**Minute No. 11: Division Director's Report:** The Board received a report from Mr. Michael Dowd updating the Board on EPA action on the ozone standard and the boiler MACT and greenhouse gas permitting.

**Minute No. 12 - High Priority Violators (HPV's) for the Fourth Quarter, 2010:** The Board received a report on high priority violators from Mr. Craig Nicol of the Division of Enforcement.

**Minute No. 13 – Future Meetings:** The Board set the following dates for meetings in 2011: March 18, June 10, September 9 and December 2.



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Cindy M. Berndt