

MINUTES

STATE AIR POLLUTION CONTROL BOARD MEETING

FRIDAY, NOVEMBER 30, 2012
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 Miller

Cindy M. Berndt

Attorney General's Office:

Sarah J. Surber, Attorney General's Office

These minutes summarize activities that took place at this Board Meeting. The meeting convened at 10:00 a.m. and adjourned at 12:05 p.m.

Minute No. 1 - Introduction of New Board Member: Mr. Chaffe introduced the new Board member, Mr. Michael D. Overstreet.

Minute No. 2 - Review and Approve Agenda: The Board, on a motion by Mr. Gasch, unanimously approved the agenda with the deletion of the State Advisory Board reports on District Energy and Minor NSR Exemption Levels.

Minute No. 3 - Minutes: The Board, on a motion by Mr. Gasch, unanimously approved the minutes from the Board's September 14, 2012, meeting, as contained in the Board book.

Minute No. 4 - Federal Documents Incorporated by Reference (Rev. I12): Ms. Karen G. Sabasteanski, Office of Regulatory Affairs, presented proposed amendments to the regulations for the control and abatement of air pollution concerning the incorporation of 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); and updating the reference to certain federal regulations to reflect the Code of Federal Regulations as published on July 1, 2012.

Specifically, Ms. Sabasteanski explained that:

1. Two NSPSs are being modified: Subpart D, Fossil Fuel-Fired Steam Generators (40 CFR 60.40 through 40 CFR 60.46), and Subpart Da, Electric Utility Steam Generating Units (40 CFR 60.40Da

through 40 CFR 60.52Da). The date of the Code of Federal Regulations book being incorporated by reference is also being updated to the latest version.

2. No new NESHAPs are being incorporated. The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.

3. One MACT is being modified: Subpart X, Secondary Lead Smelting (40 CFR 63.541 through 40 CFR 63.552). Two new MACTs are being incorporated: Subpart UUUUU, Coal- and Oil-fired Electric Utility Steam Generating Units (40 CFR 63.9980 through 40 CFR 63.10042); and Subpart HHHHHHH, Polyvinyl Chloride and Copolymers Production (40 CFR 63.11860 through 40 CFR 63.12000). The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Mr. Jett, unanimously adopted the proposal with an effective date consistent with the APA and affirmed that it will 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 of the APA.

Minute No. 5 - Regulation for the Control of Motor Vehicle Emissions in Northern Virginia, Clean Screen (9 VAC 5 Chapter 91, Rev. MN): Ms. Mary E. Major, Office of Regulatory Affairs, presented proposed amendments to the Board's regulation for the control of motor vehicle emissions in Northern Virginia concerning the establishment of a clean screen program. Ms. Major reviewed the current emissions program and the geographic coverage of the program. Ms. Major then provided the Board with a brief history of the development of the clean screen program language, the public comments received on the proposal and the Department's recommendation that the program only provide for the use of infrared light technology.

Public comments on the draft final amendments were received from Bill Dell with System International, Michelle Satterlund representing Volkswagen Group, and Alexander Macaulay representing Envirotech regarding the inclusion of regulatory language authorizing the use of both infrared light technology and OBD III technology.

The Board, based on the Board book material, staff presentation, public comment and Board discussion, on a motion by Mr. Moore, unanimously adopted the amendments as presented and requested that the Director (i) ask the administration to consider introducing legislation which would allow the use of OBD-III technology and (ii) delay, at his discretion, release of a request for proposal to implement the clean screen program to allow time for General Assembly action.

Minute No. 6 - Permits for Stationary Sources of Pollutants Subject To Regulation, Greenhouse Gas Plantwide Applicability Limits (GHG PALs), 9VAC5 Chapter 85, Rev. H12: Ms. Karen G. Sabasteanski, Office of Regulatory Affairs, presented proposed amendments to the Board's regulations for the control and abatement of air pollution concerning the establishment of plantwide applicability limits (PALs) for greenhouse gas (GHG) emissions. Ms. Sabasteanski explained that a PAL establishes a site-specific plantwide emission level for a pollutant that allows the source to make changes at the facility without triggering the requirements of the prevention of significant deterioration (PSD) program, provided that emissions do not exceed the PAL level; and because these actions could streamline PSD permitting, it would be beneficial to implement them in Virginia.

In addition, Ms. Sabasteanski provided the Board with a revision to the definition of "minor source".

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

1. Authorized DEQ to promulgate the proposal, as presented, for public comment;
2. Affirmed that 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;
3. Authorized the Department to 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. 7 - Open Burning (9VAC5 Chapter 130, Rev. E12): Ms. Mary E. Major, Office of Regulatory Affairs, presented proposed amendments to the Board's open burning regulation. Ms. Major briefed the Board on the history of the regulation, the purpose of the proposed amendments and then summarized the proposed amendments. Specifically, Ms. Major advised the Board that:

1. The applicability provisions are modified to establish new parts of the regulation (Part II, Volatile Organic Compound Emissions Control Areas, and Part III, Special Statewide Requirements for Forestry, Agricultural and Highway Programs), and to specify that open burning prohibitions and restrictions and permissible open burning provisions apply only in VOC emissions control areas.
2. Definitions for "regular burn site" and "volatile organic compound emissions control area" have been added.
3. The reference to "urban areas" has been deleted from the permissible burning provisions for VOC emissions control areas. Open burning is now predicated according to whether a regularly scheduled collection for leaf/yard trimmings or household waste is available.
4. Part III is created to address special statewide requirements for forestry, agricultural and highway programs.
5. Part IV, Local Ordinances, has been modified to stipulate that any model ordinance in VOC control areas must include all prohibitions and restrictions on burning currently imposed in the state regulation. Model ordinances for areas outside of the VOC emissions control areas must, at a minimum, include the general and statewide provisions of the state-wide regulation.

After questions from the Board, the staff recommended that the Board authorize the Department to promulgate the proposal for public comment.

Mr. Moore moved to reject the staff recommendation. The motion failed due to lack of a second.

The Board, on a motion by Mr. Jett, approved the staff recommendation by a vote of 6 to 1 (Mr. Moore voted no).

Minute No. 8 - High Priority Violators (Hpv's) For The Fourth Quarter, 2012: Ms. Kerri Nicholas, Division of Enforcement, presented a report on high priority violators for the fourth quarter of 2012.

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

Minute No. 10 - State Advisory Board Reports - Advisory Board Role and Charter Revisions: Mr. Langford presented, on behalf of the State Advisory Board on Air Pollution (SAB), a revised SAB Charter for the Board's consideration. Mr. Langford reviewed the significant changes from the current charter for the Board's information.

Based on the presentation and Board discussion, the Board, on a motion by Ms. Webb, unanimously:

1. Approved, as presented, the Charter for the State Advisory Board on Air Pollution (SAB);
2. Terminated the March 2, 2005 Charter for the SAB;
3. Disbanded the current SAB as of March 1, 2013 (this will allow the current Board to complete work on existing projects); and
2. Directed the Department to announce the approval of the new Charter and the opportunity for interested persons to apply for an appointment to the newly constituted SAB.

Minute No. 11 - Air Division Director Report: Mr. Michael G. Dowd, Air Division Director, presented a report to the Board on the Washington D.C. redesignation to attainment for the 1997 annual PM_{2.5} standard.

Minute No. 12 - Future Meetings: The Board confirmed March 13, June 21, September 20 and December 6, 2013, as the dates of their next meetings.



Cindy M. Berndt

Approved Minute 2 - March 13, 2013