

MINUTES

STATE AIR POLLUTION CONTROL BOARD MEETING

FRIDAY, DECEMBER 6, 2013
GENERAL ASSEMBLY BUILDING
HOUSE ROOM C
9TH & BROAD STREETS
RICHMOND, VIRGINIA

Board Members Present:

Roger Chaffe, Chair
Manning "Chip" Gasch, Jr.
Tedd Jett
Hullihen Williams Moore

Richard Langford, Vice-Chair
Jo Anne Scott Webb
Michael D. Overstreet

Department of Environmental Quality:

David K. Paylor
Debra Harris

Cindy M. Berndt

Attorney General's Office:

David Grandis

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.

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

Minute No. 2 - Minutes: The Board, on a motion by Mr. Langford, approved, with one abstention (Mr. Moore) the minutes from the Board's September 20, 2013, meeting.

Minute No. 3 - Federal Documents Incorporated by Reference (Rev. I13) - Request for Board Action on Exempt Final Regulation: Ms. Karen G. Sabasteanski, Office of Regulatory Affairs, presented an amendment to the regulations for the control and abatement of air pollution incorporating 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), Rules 5-5, 6-1, and Rule 6-2, respectively, of the Board's regulations.

Ms. Sabasteanski reviewed the need for the amendment, the statutory provisions for Board action, and the following amendments:

1. Update of state regulations that incorporate by reference certain federal regulations to reflect the Code of Federal Regulations as published on July 1, 2013.
2. Incorporation of the following new standards into the state regulations by reference:

a. Three NSPSs are being modified: Subpart KKK, Equipment Leaks of VOC From Onshore Natural Gas Processing Plants for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011 (40 CFR 60.630 through 40 CFR 60.636); Subpart LLL, SO₂ Emissions From Onshore Natural Gas Processing for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011 (40 CFR 60.640 through 40 CFR 60.648); and Subpart F, Portland Cement Plants (40 CFR 60.60 through 40 CFR 60.66).

Three NSPSs are being added: Subpart Ga, Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011 (40 CFR 60.70a through 40 CFR 60.77a); Subpart OOOO, Crude Oil and Natural Gas Production, Transmission and Distribution (40 CFR 60.5360 through 40 CFR 60.5430); and Subpart Ja, Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007 (40 CFR 60.100a through 40 CFR 60.109a).

Provisions have been added in order to clarify that only non-Title V (federal operating permit) sources are not subject to standards for which the Board has not accepted delegation. The date of the Code of Federal Regulations book being incorporated by reference is also being updated to the latest version.

b. 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.

c. One MACT is being incorporated: Subpart DDDDD, Industrial, Commercial, and Institutional Boilers and Process Heaters--major sources (40 CFR 63.7480 through 40 CFR 63.7575).

3. Provisions have been added in order to clarify the Board has enforcement authority for all federal standards applicable to Title V (federal operating permit) sources. The date of the Code of Federal Regulations book being incorporated by reference is also being updated to the latest version.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Mr. Langford, 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. 4 - Definition of Volatile Organic Compound (9VAC5 Chapter 10, Rev. H13) - Request to Publish Proposal for Public Comment and Use the Fast-Track Process: Ms. Karen G. Sabasteanski, Office of Regulatory Affairs, presented amendments to the regulations for the control and abatement of air pollution concerning the definition of volatile organic compound (VOC). Ms. Sabasteanski explained that on August 28, 2013 (78 FR 53029), EPA revised the definition of VOC in 40 CFR 51.100 to exclude *trans* 1-chloro-3,3,3-trifluoroprop-1-ene (also known as Solstice™ 1233zd(E)). This change to the exemption list became effective on September 27, 2013. On October 22, 2013 (78 FR 62451), EPA further revised the definition of VOC to exclude 2,3,3,3-tetrafluoropropene (also known as HFO-1234yf), which became effective on November 21, 2013.

Further, Ms. Sabasteanski explained that the purpose of 9VAC5 Chapter 10 (general definitions) is to provide a basis for and support to other provisions of the Board's regulation and the proposed amendments were 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.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Mr. Moore, unanimously authorized the Department to promulgate the proposal for public comment and set an effective date 15 days after close of the 30-day public comment period provided (i) the proposal completes the fast-track process as provided in § 2.2-4012.1 of the APA and (ii) DEQ does not find it necessary to make any changes to the proposal.

Minute No. 5 - Major New Source Review (9VAC5 Chapter 80) - Presentation of Petition for Rulemaking and Plan for Disposition: Ms. Karen G. Sabasteanski, Office of Regulatory Affairs, presented a petition from the Virginia Manufacturers Association to initiate a rulemaking concerning major new source review (Articles 8 and 9 of 9VAC5-80, Permits for Stationary Sources). Ms. Sabasteanski reviewed the applicable statutory requirements of petitions and advised the Board that the petition was requesting that the Board amend Article 8, Permits for Major Stationary Sources and Major Modifications Locating in Prevention of Significant Deterioration Areas (9VAC5-80-1605 et seq.) and Article 9, Permits for Major Stationary Sources and Major Modifications Locating in Nonattainment Areas or the Ozone Transport Region (9VAC5-80-2000 et seq.) of Part II of 9VAC5-80 (Permits for Stationary Sources) as follows:

1. Amend the definition of "baseline actual emissions" in 9VAC5-80-1615 C and 9VAC5-80-2010 C and make any other regulatory changes necessary to make the Virginia regulation conform to the federal definition. This would allow VMA members and other facility owners in Virginia to use a 10-year lookback period, thus making the Virginia regulations no more stringent than federally required.
2. Amend subdivision b 4 of the definition of "baseline actual emissions" in 9VAC5-80-1615 C and 9VAC5-80-2010 C, amend 9VAC5-80-1865 E and 9VAC5-80-2144 E, and make any other regulatory changes necessary to make the Virginia regulation conform with the federal definition. This would allow VMA members and other facility owners in Virginia to use different lookback periods for different regulated NSR pollutants, thus making the Virginia regulations no more stringent than federally required.
3. Amend 9VAC5-80-1615 C, 9VAC5-80-1685 C 1 f, 9VAC5-80-2010 C and 9VAC5-80-2144 C 1 f, and make any other regulatory changes necessary to make the Virginia regulation conform to the federal definition. This would allow VMA members and other facility owners in Virginia to obtain PALs for 10 years, rather than only 5 years, thus making the Virginia regulations no more stringent than federally required.
4. Amend the definition of "emissions unit" and add a definition of "replacement unit" in 9VAC5-80-1615 C and 9VAC5-80-2010 C, and make any other regulatory changes necessary to make the Virginia regulation conform to the federal definition. This would allow VMA members and other facility owners in Virginia to use the baseline actual emissions of the unit being replaced and the projected actual emissions of the replacement unit, thus making the Virginia regulations no more stringent than federally required.

The Board received the petition and, on a motion by Mr. Langford, unanimously directed that the public comment period on the petition be extended to 30 days from publication of the petition in the Virginia Register of Regulations.


Minute No. 6 - High Priority Violators (HPVs) for the Fourth Quarter, 2013: Ms. Kerri Nicholas, Division of Enforcement, presented a report on high priority violators report for the fourth quarter of 2013.

Minute No. 7 - Public Forum: No one appeared during the public forum.

Minute No.8 - Division Director's Report: Mr. Michael Dowd, Air Division Director, briefed the Board on the 2013 Ozone Season and advised the Board that EPA would be formally publishing the redesignation of the Northern Virginia PM2.5 area to attainment.

Minute No. 9 - Future Meetings: The Board confirmed April 4, June 20, September 5 and December 5, 2014, as the dates of their future meetings.

Minute No. 10 - Election of Officers: The Board unanimously elected Richard D. Langford as Chair of the Board. Election of a Vice-Chair was deferred to a future meeting.



Cindy M. Berndt

Approved Minute 2
April 4, 2014