



# COMMONWEALTH of VIRGINIA

James S. Gilmore, III  
Governor

## DEPARTMENT OF ENVIRONMENTAL QUALITY

*Street address:* 629 East Main Street, Richmond, Virginia 23219

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Dennis H. Treacy  
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John Paul Woodley, Jr.  
Secretary of Natural Resources

### MINUTES STATE AIR POLLUTION CONTROL BOARD THURSDAY, SEPTEMBER 20, 2001 MEETING

House Room C, General Assembly Building  
Richmond, Virginia

**Board Members Present:**

Karlynn W. Bucher - Vice-Chairman  
JoAnne Scott Webb  
Paul G. Anderson  
Frederick O. Walker  
Gary H. Baise

**Staff:**

Dennis H. Treacy, Director  
Department of Environmental Quality

Cindy M. Berndt  
Department of Environmental Quality

**Attorney General's Office:**

Carl Josephson

- 1) The attached minutes summarize activities, which took place at this Board meeting.
- 2) The meeting was convened at 10:05 a.m. on Thursday, September 20, 2001. The meeting was adjourned at 10:50 a.m.



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### EXCERPT FROM THE PROCEEDINGS OF THE STATE AIR POLLUTION CONTROL BOARD AT ITS MEETING ON SEPTEMBER 20, 2001

#### MINUTE NO. 1 - Control of Nitrogen Oxides from Stationary Sources (9 VAC 5 Chapter 40, Article 4 (Rule 4-4) and Article 8 (Rule 4-8) Rev. A99) - Public Participation Report and Request for Board Action

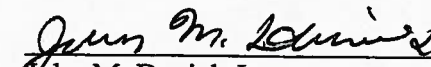
Ms. Mary E. Major, Office of Air Regulatory Development, introduced proposed amendments to make the state version of the non-CTG NO<sub>x</sub> RACT rule (Rule 4-4) consistent with the federally approved version and to adopt NO<sub>x</sub> controls (Rule 4-8) as may be necessary to address air quality violations.

The purpose of the regulation is to require the owners of large stationary NO<sub>x</sub> sources to limit air emissions to a specified level necessary to protect public health and welfare. Rule 4-4 provides a legal mechanism whereby the Board is required to make source specific Reasonable Available Control Technology (RACT) determinations for all currently known major sources subject to source specific NO<sub>x</sub> RACT requirements under the federal Clean Air Act. Amendments are being proposed to delete the provisions that address seasonal applicability, certain exemptions and the emission allocation system. The Department is recommending that Rule 4-4 be adopted as proposed, without change.

Rule 4-8 establishes emission limits along with compliance testing, monitoring, recordkeeping and reporting requirements for fuel burning equipment. Amendments are being proposed to establish an emissions rate limit for nitrogen oxides for electric generating units and non-electric generating units and create a compliance averaging plan to provide flexibility for the sources subject to the regulation. The Department is recommending that the proposed changes to Rule 4-8 be withdrawn and not adopted in order to avoid any confusion between this regulation and the Virginia NO<sub>x</sub> Emissions Trading Regulation, (i.e. NO<sub>x</sub> SIP Call) currently under development.

#### Decision

Based on the briefing material and staff presentation, the Board unanimously adopted the proposal, with an effective date of January 1, 2002.

  
John M. Daniel, Jr.



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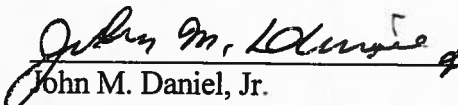
#### MINUTE NO. 2 – Commercial/Industrial Solid Waste Incinerators (9 VAC 5 Chapter 40, Rev. J00) - Regulation Development Report and Request to Publish Proposal for Public Comment

Ms. Karen G. Sabasteanski, Office of Air Regulatory Development, introduced proposed amendments to 9 VAC 5 Chapter 40 concerning commercial/industrial solid waste incinerators. Ms. Sabasteanski explained that the proposal would ensure an adequate program to control emissions from commercial/industrial solid waste incinerators. In addition, Ms. Sabasteanski explained that the state regulation for CISWIs is "not materially different" from the federal regulation and should qualify for use of the expedited adoption process under § 9-6.14:4.1 C 4 of the Administrative Process Act. Before doing so, however, we must consult with the Office of the Attorney General, and confirm that our opinion is correct. The Registrar of Regulations must also concur with our opinion.

Ms. Sabasteanski explained that should we obtain confirmation from the Attorney General's office and the Registrar, we would process the regulation using the expedited procedure, withdraw this regulatory action and, after complying with federal public participation requirements, initiate adoption of the same proposal as an exempt final action.

#### Decision

Based on the briefing material and staff presentation, the Board unanimously (1) authorized the Department to promulgate the proposal, with amendments presented at the meeting, for public comment and (2) authorized the Department to withdraw this regulatory action and proceed to process the proposal under the expedited process, should this approach be confirmed as legally acceptable by the Office of the Attorney General and the Registrar of Regulations.

  
John M. Daniel, Jr.



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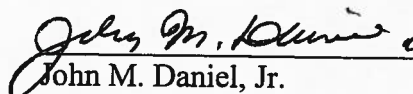
#### MINUTE NO. 3 – Small Municipal Waste Combustors (9 VAC 5 Chapter 40, Rev. K00) - Regulation Development Report and Request to Publish Proposal for Public Comment

Ms. Karen G. Sabasteanski, Office of Air Regulatory Development, presented proposed amendments to 9 VAC 5 Chapter 40 concerning small municipal waste combustors. Ms. Sabasteanski explained that while pollution from large municipal waste combustors is currently controlled by federal and state regulation, a similar program needs to be developed for small municipal waste combustors (SMWCs). She advised the Board that the proposed amendments would ensure an adequate program to control emissions from small municipal waste combustors. In addition, Ms. Sabasteanski explained that the state regulation for CISWIs is "not materially different" from the federal regulation and should qualify for use of the expedited adoption process under § 9-6.14:4.1 C 4 of the Administrative Process Act. Before doing so, however, we must consult with the Office of the Attorney General, and confirm that our opinion is correct. The Registrar of Regulations must also concur with our opinion.

Ms. Sabasteanski explained that should we obtain confirmation from the Attorney General's office and the Registrar, we would process the regulation using the expedited procedure, withdraw this regulatory action and, after complying with federal public participation requirements, initiate adoption of the same proposal as an exempt final action.

#### Decision

Based on the briefing material and staff presentation, the Board unanimously (1) authorized the Department to promulgate the proposal, with amendments presented at the meeting, for public comment and (2) authorized the Department to withdraw this regulatory action and proceed to process the proposal under the expedited process, should this approach be confirmed as legally acceptable by the Office of the Attorney General and the Registrar of Regulations.

  
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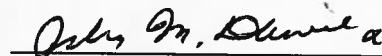
### EXCERPT FROM THE PROCEEDINGS OF THE STATE AIR POLLUTION CONTROL BOARD AT ITS MEETING ON SEPTEMBER 20, 2001

#### MINUTE NO. 4 – Regulation for Mobile Sources (9 VAC 5 Chapter 180, Rev I00) – Request to Withdraw Proposal

Dr. Kathleen Sands, Office of Air Regulatory Development, presented the request to withdraw Revision I00. She explained that the State Air Pollution Control Board approved a proposal to replace Rule 4-41, the regulation governing emission standards for mobile sources at the May meeting. Included in the proposal was the repeal of the current regulation and its replacement by a new regulation that focuses on the control of visible emissions from motor vehicles, which are the major concern of the general public. During executive review of the proposal, issues arose which have necessitated the reevaluation of the proposal. Because this reevaluation will take some time, the department recommends that the board withdraw this regulatory action. Once the reevaluation has been completed and the preferable course of action determined, the department will initiate the necessary rulemaking.

#### Decision

Based on the briefing material and staff presentation, the Board unanimously authorized the withdrawal of the proposal.

  
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John M. Daniel, Jr.



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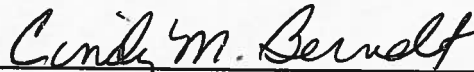
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### EXCERPT FROM THE PROCEEDINGS OF THE STATE AIR POLLUTION CONTROL BOARD AT ITS MEETING ON SEPTEMBER 20, 2001

#### MINUTE NO. 5 - Public Forum

Mr. Bob Robinson, American Electric Power, appeared and presented the Board with a copy of the company's annual report.

  
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Cindy M. Berndt



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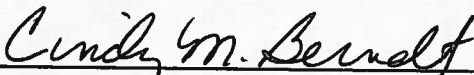
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### EXCERPT FROM THE PROCEEDINGS OF THE STATE AIR POLLUTION CONTROL BOARD AT ITS MEETING ON SEPTEMBER 20, 2001

#### MINUTE NO. 6 – Report on Air Program Activities

The Board received a report from Mr. John M. Daniel, Jr. on air program activities.

  
Cindy M. Berndt  
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#### **MINUTE NO. 7 – Appointments to the State Advisory Board on Air Pollution**

The Board unanimously appointed Mr. Daniel R. Holmes, Special Projects Coordinator for Piedmont Environmental Council, to the Advisory Board with a term expiring on December 31, 2002.

  
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Cindy M. Berndt





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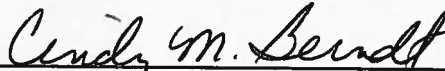
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### EXCERPT FROM THE PROCEEDINGS OF THE STATE AIR POLLUTION CONTROL BOARD AT ITS MEETING ON SEPTEMBER 20, 2001

#### MINUTE NO. 8 – Future Meetings

The Board confirmed November 7, 2001 as the date of their next meeting and December 12, 2001 as the date of the next joint meeting with the State Water Control Board and Virginia Waste Management Board.

  
Cindy M. Berndt



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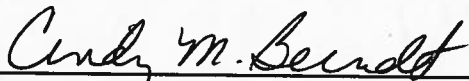
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### EXCERPT FROM THE PROCEEDINGS OF THE STATE AIR POLLUTION CONTROL BOARD AT ITS MEETING ON SEPTEMBER 20, 2001

#### MINUTE NO. 9 – Minutes

The Board unanimously approved the minutes of their meeting on May 24, 2001.

  
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Cindy M. Berndt