

MINUTES

STATE AIR POLLUTION CONTROL BOARD MEETING

TUESDAY, MAY 21, 2002

HOUSE ROOM C, GENERAL ASSEMBLY BUILDING
9TH & BROAD STREETS, RICHMOND, VIRGINIA

Board Members Present: Karlynn W. Bucher - Vice-Chairman
JoAnne Scott Webb
Paul G. Anderson
Frederick O. Walker

Board Members Absent: Gary Baise - Chairman

Staff: Richard F. Weeks, Deputy Director
Department of Environmental Quality

Cindy M. Berndt
Department of Environmental Quality

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 10:05 a.m. on Tuesday, May 21, 2002. The meeting was adjourned at 11:37 a.m.

Minute No. 1 - High Priority Violations Report

The Board received a report from Ms. Kathleen O'Connell, Office of Enforcement Coordination, on high priority violations.

Minute No. 2 - Northern Virginia Vehicle Emission I/M Program (Rev. MG)

Ms. Elizabeth Major, Division of Air Program Coordination, presented final amendments to the Northern Virginia Vehicle Emission I/M Program Regulation (9 VAC 5-91). Ms. Major explained that vehicle emission inspection and maintenance (I/M) programs achieve their objective by identifying vehicles that have high emissions as a result of one or more malfunctions and requiring them to be repaired. Ms. Major explained that the proposed amendments to the current program would make a number of revisions to conform to changes in Virginia law and federal regulations, as well as to conform to current testing procedures and to enhance program enforcement.

Ms. Major briefed the Board on the results of the public participation process and the revisions to the proposal that were being recommended by the staff. In addition Ms. Major advised the Board that the effective date for the regulation revision would be October 1, 2002. She explained that this was being done in order to correct a procedural oversight in the federal public participation activities and that between adoption of the regulation and October 1, 2002, a notice will be placed in the newspaper and a second public hearing conducted. If there are public comments, the effective date will be suspended and the regulation brought back to the Board for reconsideration. If there are no comments, the regulation will be submitted to EPA and allowed to become effective on October 1, 2002.

Based on the Board book material and staff presentation, the Board adopted the proposal, with changes distributed at the meeting, with an effective of October 1, 2002 and directed that the amendments be submitted to EPA as a State Implementation Plan Revision.

Minute No. 3 - Special Provisions (Rev. D97)

Mr. Robert Mann, Office of Air Regulatory Development, presented final amendments dealing with special provisions. Mr. Mann explained that special provisions address such issues such as: applicability, compliance (startup and shutdown), emission testing, monitoring, notification, records and reporting, as well as related provisions covering maintenance and malfunction. Mr. Mann informed the Board that special provisions are contained in several locations throughout the Board's regulations as follows: Existing Sources, Chapter 40, Part I; New and Modified Sources, Chapter 50, Part I; and Hazardous Air Pollutant Sources, Chapter 60, Part I.

He briefed the Board on the past public participation activities for this revision to the regulations including the petitions that had been received for additional comment on the changes to the proposal. Because of the substantive nature of these additional changes and the requests from petitioners, the proposal was reopened for public comment on those changes to the final regulation.

Mr. Mann advised the Board that the issue of concern to the petitioners was the change to the original proposal to incorporate the provisions of EPA policies relating to startup, shutdown and malfunction (SSM). Mr. Mann advised the Board that based on the comments received during the additional comment period, the staff was recommending that the majority of the proposed amendments to the regulation were being withdrawn. He explained that provisions were being added to clarify that 9 VAC 5-20-180 applies to only facility and control equipment maintenance or malfunction and that the violation exemption provided for excess emissions during periods of startup, shutdown, and malfunction applies only during the initial emissions test or initial performance test. In addition, the staff recommended restoring several provisions to the existing

regulatory text.

Based on the Board book material, staff presentation and Board discussions, the Board unanimously adopted the final amendments, with changes distributed at the meeting, with an effective date of August 1, 2002 and directed that the amendments be submitted to EPA as a State Implementation Plan Revision and be part of the designated pollutant plan.

Minute 4 - Emissions Trading (Rev. D98)

Ms. Mary E. Major, Environmental Program Planner, Office of Air Regulatory Development, Department of Environmental Quality, presented a revised final regulation establishing a NOx budget trading program in Virginia. Ms. Major explained the history for the rule, provided a detailed description of the program and the issues raised during the public comment period and the staff's position on the issues.

Ms. Major advised that on February 27, 2002, the Board adopted the final regulation concerning Emissions Trading, Virginia NOx Budget Trading Program, with an effective date consistent with the Administrative Process Act. The final regulation as adopted was published in the Virginia Register on March 25, 2002. Because of the substantive nature of these additional changes, the proposal was reopened for public comment on those changes to the final regulation.

In response to the comment received during the additional comment period, the staff requested an additional change to the final regulation concerning the value of the non-EGU new source set aside. In addition, Ms. Major recommended additional changes to the final regulation based on revised federal compliance deadlines.

Based on the Board book material, staff presentation and Board discussions, the Board unanimously adopted the amendments, with the changes distributed at the meeting, with an effective date consistent with the Administrative Process Act and directed that the regulation be submitted to EPA as a State Implementation Plan Revision.

Minute No. 5 - New & Modified Source Review (Rev. YY)

Mr. Robert Mann, Director, Office of Air Regulatory Development presented the final amendments to the New & Modified Source Review regulations (Rev. YY). Mr. Mann advised the Board that at the January 7, 1999 meeting, the Board had approved a proposed regulation for public comment that would streamline the minor new source review permitting process while still protecting air quality. Accordingly, the proposal package was then submitted to public comment, and the Department reviewed the public comments to determine if changes to the proposal are needed. Based on the information gathered through this process, the Department has determined that a number of significant changes were needed to accommodate the public comments and to ensure that the regulation amendments met federal requirements. In view of the significant nature of the changes, the Department determined that it would be appropriate to have another public comment period on the proposal and proceeded to do so.

Mr. Mann explained that the regulation provides a procedural and legal basis for the issuance of permits for minor new source review (MNSR) and modifications to owners of certain stationary sources of air pollution. The focus of the regulation is changed from that of a technology-based

BACT determination for each emissions unit at a stationary source to that of overall air quality impacts of the modification or minor new source. It allows an owner to submit a permit application for a modification to a stationary source which combines requirements for multiple emissions units into one permit. It provides a means to make control measures federally and state enforceable without federal review through the use of MNSR permits. It provides for general permits which establish source-specific requirements without the need for burdensome case-by-case review.

Based on the Board book material, staff presentation and Board discussion, the Board unanimously approved the final amendments, with changes distributed at the meeting, with an effective date of September 1, 2002 and directed that the amendments be submitted to EPA as a State Implementation Plan revision.

Minute No. 5 - Public Forum

No one appeared during the public forum.

Minute No. 6 - Director's Report

Mr. John Daniel, Director, Division of Air Program Coordination, presented a report on air program activities.

Minute No. 7 - Minutes

The Board unanimously approved the minutes from their meetings on November 7, 2001 and January 14 and February 27, 2002.

Minute No. 8 - Future Meetings

The Board did not set a date for their next meeting.

Cindy M. Berndt