

MINUTES  
STATE AIR POLLUTION CONTROL BOARD MEETING

MONDAY, SEPTEMBER 30, 2002  
HOUSE ROOM D, GENERAL ASSEMBLY BUILDING  
9<sup>TH</sup> & BROAD STREETS  
RICHMOND, VIRGINIA

Board Members Present: Gary Baise - Chairman  
Karlynn W. Bucher - Vice-Chairman  
Vivian Thomson  
Smita Siddhanti  
Richard D. Langford

Staff: Robert G. Burnley, Director  
Department of Environmental Quality

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 9:35 a.m. on Monday, September 30, 2002. The meeting was adjourned at 1:55 p.m.

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**MINUTE NO. 1 - Air Program Briefing**

The Board received a briefing from Mr. John M. Daniel, Director, Division of Air Program Coordination on the different programs of the Air Division.

**MINUTE NO. 2 - General Permit for Nonmetallic Mineral Mining Facilities (Revision BG)**

Mr. Robert Mann, Director of Air Regulatory Development, presented a general permit developed at the request of the Virginia Aggregates Association. The general permit would identify and clarify for the Department and source owner the key air quality program requirements applicable to the permitted facility and minimize the regulatory burden of regulatory programs on the permitted facility. Mr. Mann advised the Board that the regulation would establish a general permit that regulates emissions from new and exiting units in nonmetallic mineral mining facilities and establish procedures for facility owners to request and the Department to grant authorizations to operate under

the general permit. In addition, Mr. Mann detailed the public participation activities on the proposal, the substantive provisions of the general permit that were originally proposed for public comment and the recommended substantive changes to the proposal.

Based on the Board book material, staff presentation and Board discussion, the Board adopted the general permit with an effective date of December 1, 2002.

### **MINUTE NO. 3 - Control Technology Determinations for Major Sources of Hazardous Air Pollutants (Revision E02)**

Dr. Kathleen Sands, Office of Air Regulatory Development, presented amendments to the air regulations that essentially duplicate federal regulatory provisions concerning control technology determinations for major sources of hazardous air pollutants under § 112(j) of the federal Clean Air Act. Dr. Sands explained that the amendments are based on changes to the federal regulations promulgated in 67 FR 16582, April 5, 2002, clarify the applicability requirements and extend the timing of the permit application schedule.

In addition, Dr. Sands advised the Board that because the state regulations are essentially the same as the federal, the state regulations are exempt from all state public participation requirements and they are not subject to federal public participation requirements since they will not be submitted as a SIP revision.

Based on the Board book material, staff presentation and Board discussion, the Board adopted the amendments with an effective date of December 1, 2002 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 Administrative Process Act. (Mr. Langford declared that he is an employee of Celanese Acetate LLC which could be affected by the adoption of the amendments, and that he was able to participate in the transaction fairly, objectively and in the public interest.)

### **MINUTE NO. 4 - Variances for Atlantic Research Corporation (Revision CV)**

Dr. Kathleen Sands, Office of Air Regulatory Development, presented two variances for the Atlantic Research Corporation's (ARC) facilities in Orange County and Gainesville. Dr. Sands explained that ARC conducts periodic tests of solid propellant rocket motors as part of its research, development, and production program for the armed forces. The tests last less than the 6-minute minimum specified for the opacity readings that demonstrate a source's compliance with the standards. Thus, ARC has no appropriate method by which it can demonstrate compliance with the board's opacity standards.

Dr. Sands advised the Board that a variance for each of ARC's facilities would provide that the opacity standards would not be applicable requirements for the rocket motor test operations at the two facilities. In support of the variances a technical support document was prepared by ARC and was reviewed and approved by department regional staff and EPA.

In addition, Dr. Sands briefed the Board on the details of the variance and the public participation activities.

Based on the Board book material, staff presentation and Board discussions, the Board issued

two orders, to be effective upon signature of the chairman, that grant the variances; adopted 9 VAC 5-220-10 et seq. and 9 VAC 5-221-10 et seq. with an effective date of December 1, 2002; and directed that the variances be submitted to EPA as a State Implementation Plan Revision.

#### **MINUTE 5 - Northern Virginia I/M Program (Revision MG)**

Ms. M. Elizabeth Major, Office of Air Regulatory Development, presented proposed amendments to the Northern Virginia Vehicle Emissions I/M Program to conform to changes in Virginia law and federal regulations, as well as to conform to current testing procedures and to enhance program enforcement. She advised the Board that at the May meeting, the Department informed the Board that an additional public comment period on Revision MG would be held to satisfy federal public participation requirements. Ms. Major briefed the Board on the results of the public participation activities, as well as the amendments that the Board adopted in May.

Based on the Board book material, staff presentation and Board discussions, the Board reaffirmed its decision of May 21, 2002 to adopt the proposal with an effective date of October 1, 2002 and directed that the proposal be submitted to EPA as a State Implementation Plan Revision.

#### **MINUTE NO. 6 - Northern Virginia Vehicle Emissions Inspection I/M Program (Revision MI)**

Ms. M. Elizabeth Major, Office of Air Regulatory Development, presented a technical correction to the Northern Virginia Vehicle Emissions I/M Program. Ms. Major explained that during the additional public comment period on Revision MG one of the commenters pointed out a conflict in provisions relating to the release of inspector identification numbers. Specifically, the commenter noted that 9 VAC 5-91-380 F 4 said an inspector is not to provide his identification number to anyone except department personnel, yet in 9 VAC 5-91-300 G stations are required to maintain a file of the name, address and inspector identification numbers of the currently employed inspectors. Ms. Major explained that language inadvertently added to 9 VAC 5-91-380 F 4 that prohibited the release of identification numbers to anyone but department personnel was an error.

Based on the Board book material, staff presentation and Board discussion, the Board adopted the proposal with an effective date of December 1, 2002 and directed that the proposal be submitted to EPA as a SIP revision.

#### **MINUTE NO. 7 - Emission Trading, Virginia NOx Budget Trading Program (Revision H02)**

Mr. Robert A. Mann, Director, Office of Air Regulatory Development, presented a request to proceed with development of a proposed amendment to the NOx Budget Trading Program without the use of the participatory approach and the public meeting during the proposed regulation development stage. Mr. Mann advised the Board that on May 21, 2002, the Board adopted the final regulation concerning Emissions Trading, Virginia NOx Budget Trading Program (9 VAC 5 Chapter 140). He advised the Board that EPA had informally advised the Department that a conditional approval of the submittal would be granted because of a deficiency in the start date for flow control. The state regulation uses a start date of 2006, whereas EPA requires a date of 2005. Further, EPA would likely give a limited time to correct this deficiency; possibly as short as one year. Given that development of the proposal would only involve the changing of a date, Mr. Mann stated that it was unlikely that any worthwhile input would be gained by holding the meeting or using the participatory approach during the development of this proposal and proceeding

without those steps would aid the department in expediting the development of the proposal.

Based on the Board book material, staff presentation and Board discussion, the Board authorized, with Mr. Langford voting nay, the department to proceed with development of the proposal without the use of the participatory approach and the public meeting during the proposed regulation development stage. (Mr. Langford declared that he is an employee of Celanese Acetate LLC which could be affected by the adoption of the amendments, and that he was able to participate in the transaction fairly, objectively and in the public interest.)

**MINUTE NO. 8 - Public Forum**

There were no speakers during the public forum.

**MINUTE NO. 9 - Director's Report**

The Board received a report on air program activities from Mr. John M. Daniel, Director, Division of Air Program Coordination.

**MINUTE NO. 10 - Minutes**

The Board approved the minutes from the Board's meeting on May 22, 2002.

**MINUTE NO. 11 - Future Meetings**

The Board confirmed November 6, 2002 as the date of their next meeting. The first meeting in 2003 was scheduled for March 28, 2003.

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Cindy M. Berndt