

MINUTES
STATE AIR POLLUTION CONTROL BOARD MEETING

WEDNESDAY, AUGUST 31, 2022

COMMUNITY COLLEGE WORKFORCE ALLIANCE
1651 EAST PARHAM ROAD, RICHMOND, VA 23228

Board Members Present:

Hope F. Cupit	Russell B. Mait
James Guy II	Dr. Lornel Tompkins
Jay Holloway	Staci H. Rijal
Colie D. Hudgins	

Board Members Absent: None

Department of Environmental Quality:

Michael S. Rolband, Director	Rachael Harrell, Board Coordinator
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Attorney General's Office:

Michael A. Jagels, Senior Assistant Attorney General

These minutes summarize activities that took place at this Board meeting. The Vice Chair convened the meeting at 10:00a.m. The meeting was recessed at 11:51a.m and resumed at 12:10p.m. The meeting was adjourned at 12:37p.m.

Minute No. 1 – Review and Approval of Agenda: The Board, on a motion by Ms. Rijal and seconded by Ms. Cupit, unanimously approved the agenda with the addition of board member introductions.

Minute No. 2- Election of Officers: Mr. Holloway motioned to nominate Mr. Guy as Chair and the motion was seconded by Mr. Mait. Dr. Tompkins motioned to nominate Ms. Rijal as Chair and the motion was seconded by Ms. Cupit. The motion to elect Ms. Rijal as Chair failed 4 to 2 with Mr. Holloway, Mr. Hudgins, Mr. Guy and Mr. Mait voting no. The motion to elect Mr. Guy as Chair passed 4 to 2 with Ms. Cupit and Dr. Tompkins voting no. Ms. Cupit nominated Ms. Rijal as Vice Chair and the motion was seconded by Dr. Tompkins. The motion to elect Ms. Rijal as Vice Chair failed 4 to 3 with Mr. Holloway, Mr. Hudgins, Mr. Guy and Mr. Mait voting no. Mr. Mait motioned to elect Mr. Holloway as Vice Chair and the motion was seconded by Mr. Hudgins. The motion passed 4 to 2 with Ms. Cupit and Dr. Tompkins voting no.

Minute No. 3 – April 20, 2022 Minutes: The Board, on a motion by Ms. Cupit and a second by Ms. Rijal, unanimously approved the minutes from the Board's meeting on April 20, 2022.

Minute No. 4 – Regulations for Control of Greenhouse Gases- 9VAC5-145: Ms. Karen G. Sabasteanski presented final exempt amendments to the Regulations for Control of Greenhouse Gases (9VAC5-145.) Ms. Sabasteanski explained that the amendments are necessary to conform to the 2022 Acts of Assembly, Virginia State Budget. Item 379 #1c D specifies that the State Air Pollution Control Board shall make modifications to its final regulation prohibiting the use of certain hydrofluorocarbons such that these regulations shall not prohibit the use of hydrofluorocarbons in the manufacturing process by aviation and aerospace businesses located in Virginia to produce products for sale and distribution. Additionally, Ms. Sabasteanski explained that the definition of "new" was originally improperly drafted; this definition is now being corrected in order that the cross-references are accurate, which in turn will enable the regulation to operate correctly. Ms. Sabasteanski stated that this correction is exempt from the state administrative procedures for adoption of regulations contained in the Administrative Process Act by § 2.2-4006 because it is only the correction of a technical error. Ms. Sabasteanski then made the following recommendation:

1. That the board adopt the proposal with an effective date consistent with the Administrative Process Act.
2. In adopting this proposal, the board affirms 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.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Ms. Rijal and seconded by Mr. Mait, unanimously (i) adopted the amendments with an effective date consistent with the Administrative Process Act and (ii) affirmed that it would 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.

Minute No. 5 – Regulations for the Control and Abatement of Air Pollution; Permits for Stationary Sources of Pollutants Subject to Regulation; Regulation for General

Administration 9VAC5-80; 9VAC5-85; 9VAC5-170: Ms. Karen G. Sabasteanski presented final exempt amendments to the Regulations for Permits for Stationary Sources (9VAC5-80, -85 and -170). Ms. Sabasteanski stated that the department is required to meet a directive of the General Assembly: Chapter 356 of the 2022 Acts of Assembly, by modifying the Virginia Air Pollution Control Law (§ 10.1-1300 et seq.). Ms. Sabasteanski stated that a number of technical corrections are also being made and that the approval of the amendments will ensure that the Commonwealth will be able to meet its obligations under state law.

Ms. Sabasteanski reviewed the following amendments for the Board:

1. Part I of 9VAC5-80 is amended to reflect the transfer of the board's existing authority to issue permits and orders to DEQ in accordance with Chapter 356, including replacing "board" with "department," and adding new procedures for "controversial" permits.
2. Articles 1 and 3 through 10 of Part II of 9VAC5-80) are amended such they comport with the requirements of Chapter 356, including new language under "action on permit application" sections in order to address the requirement that department provide a clear and concise statement of the legal basis, scientific rationale, and justification for the decision reached.

3. Permits for Stationary Sources of Pollutants Subject to Regulation (9VAC5-85) is amended in order to comport with the requirements of Chapter 356, primarily the replacement of "board" with "department."

4. The Regulation for General Administration (9VAC5-170) is amended to reflect the transfer of the board's existing authority to issue permits and orders to DEQ in accordance with Chapter 356.

Ms. Sabasteanski then made the following recommendation:

1. That the board adopt the proposal with an effective date consistent with the Administrative Process Act.
2. In adopting this proposal, the board affirms 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.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Mr. Hudgins and seconded by Mr. Mait, unanimously (i) adopted the amendments with an effective date consistent with the Administrative Process Act and (ii) affirmed that it would 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.

Minute No. 6- Division Director Report: The Board received updates from Michael Dowd, Air Division Director. Mr. Dowd provided updates on Virginia air pollution emissions trends and briefed the Board on air quality trends and planning issues.

Minute No. 7- Report from the Acting Secretary of Natural and Historic Resources: Acting Secretary of Natural and Historic Resources Travis Voyles presented plans to withdraw Virginia from the Regional Greenhouse Gas Initiative. Mr. Voyles stated that the Administration will not renew the contract with RGGI, Inc. in 2023 and also initiate the repeal of the regulations that govern the state's participation in the market through the standard rulemaking process (a process set out in the Administrative Process Act) by beginning with the issuance of a Notice of Intended Regulatory Action.

Minute No. 9- Public Comment Forum: The following persons addressed the Board during the public comment forum: Mr. Nate Benforado, Mr. Peter Anderson, Mr. Glen Besa, Ms. Kidest Gebre, Ms. Leah Jones, Mr. Brett Vassey and Ms. Tyla Matteson.

Minute No. 8 – Future Meetings: Staff will work with the Board to confirm the next meetings' dates.