

**MINUTES
STATE AIR POLLUTION CONTROL BOARD MEETING**

FRIDAY, APRIL 19, 2019

**VIRGINIA CROSSINGS HOTEL & CONFERENCE CENTER
1000 VIRGINIA CENTER PARKWAY
GLEN ALLEN, VIRGINIA 23059**

Board Members Present:

Richard D. Langford, Chair
Roy A. Hoagland
Ignacia S. Moreno
Kajal B. Kapur

William H. Ferguson
Nicole M. Rovner
Gail M. Bush

Department of Environmental Quality:

David K. Paylor, Director
Debra A. Harris

Cindy M. Berndt

Attorney General's Office:

Matthew L. Gooch, Assistant Attorney General

These minutes summarize activities that took place at this Board Meeting. The meeting was convened at 10:04 a.m. At 12 noon, the Board voted to go into a closed session. At 1:10 p.m., the Board returned to open session and certified the closed session by unanimous vote (see Minute 2). The meeting was adjourned at 2:15 p.m.

Minute No. 1 - Review and Approve Agenda. The Board unanimously, on a motion by Mr. Hoagland, approved modifying the agenda to add a discussion of the environmental justice request for proposal released by the Department and the addition of election of officers to the agenda for the next meeting. The Board unanimously, on a motion by Mr. Hoagland, approved the modified agenda. [Note: due to inclement weather there was no discussion of the request for proposal and staff advised the Board that the election of officers would be added to the agenda for the next meeting.]

Minute No. 2 - Regulation for Emissions Trading (9VAC5-140, Rev. C17). Mr. Michel Dowd presented amendments to the Regulation for Emissions Trading concerning a carbon dioxide trading program for final action by the Board. Mr. Dowd reviewed the history of the regulatory amendments including Executive Directive 11, the Executive Order 57 workgroup recommendations and the regulatory development and public participation process that has taken place since publication of the notice of intent in June 2017.

Mr. Dowd reviewed the regulation as originally proposed and as re-proposed. He briefly reviewed the public comments received on the re-proposal and addressed differences between the State Corporation Commission and Department impact analyses.

He then reviewed for the Board the additional changes to the re-proposal based on the second round of public comments that were included in the material provided in the Board book. In addition, Mr. Dowd presented a recommended change to the regulation that would address implementation of the regulation if the allocation of conditional allowances did not occur by January 1, 2020.

Ms. Moreno moved that the Board go into a closed meeting, pursuant to Section 2.2-3711 A (7) of the Code of Virginia, for consultation with legal counsel and briefings by staff members pertaining to actual or probable litigation, and Section 2.2-3711 A (8), consultation with legal counsel regarding specific legal matters requiring the

Approved Minute No. 7 - June 21, 2019

provision of legal advice by counsel concerning the adoption of amendments to the regulation for emissions trading, concerning a Virginia CO₂ budget trading program. The motion was seconded by Mr. Hoagland and passed 6 to 1 with Mr. Langford voting no.

Ms. Moreno moved that the Board end its closed meeting and certify that, to the best of each member's knowledge, only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification applies; and only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board. Mr. Hoagland seconded the motion. For the vote, Ms. Berndt called the roll and all members voted aye.

The Board then heard from the following persons that had participated during the public participation process: Delegate Poindexter, Nate Benforrad - Southern Environmental Law Center, Kara Klein - American Forest and Paper Association and the American Wood Council, Paul Howe - Virginia Forestry Association, Glen Besa, Walton Shepherd - NRDC, Liz Williamson - Virginia Manufacturers Association, Kyle Gatlin - Virginia Conservation Network, Adam Costanza - National Council for Air and Stream Improvement.

Mr. Hoagland moved that the Board adopt the regulation as proposed by the Department dated April 19, 2019 as contained in the Board book. Ms. Moreno seconded the motion.

Ms. Rovner than moved to amend the motion based on the additional changes to 9VAC5-140-6090 C presented at the meeting. Ms. Moreno seconded the motion. The Board unanimously approved the additional changes to 9VAC5-140-6090 C (see Attachment 1).

Mr. Langford moved another amendment to Mr. Hoagland's motion to adopt that would amend the regulation to add a new section concerning program implementation, 9VAC5-140-6045. Mr. Ferguson seconded the motion. The amendment adding 9VAC5-140-6045 was approved 4 to 3 with Mr. Hoagland, Ms. Rovner and Ms. Bush voting no (see Attachment 1).

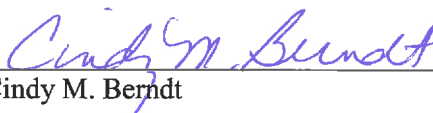
The Board then voted on the motion to adopt the regulation as presented in the Board book with the additional changes to 9VAC5-140-6090 C and the addition of a new section 9VAC5-140-6045. The vote was 5 to 2 with Messrs. Langford and Ferguson voting no.

Minute No. 3 - Public Forum. - No one appeared during the public forum.

Minute No.4 - High Priority Violators Report. The Board received a report on high priority violations for the fourth quarter of 2018 and the first quarter of 2019 from Ms. Kerri Nicholas with the Division of Enforcement.

Minute No. 5 - Northern Virginia Compliance with the 2008 Ozone Standard. Mr. Paylor advised the Board that the U.S. Environmental Protection Agency has just announced that they are re-designating the Northern Virginia area as in attainment for the 2008 ozone standard.

Minute No. 6 - Recognition of Matthew Gooch. The Board recognized and thanked Mr. Gooch, Assistant Attorney General, for his advice and service to the Board.


Cindy M. Berndt

COMMONWEALTH OF VIRGINIA
STATE AIR POLLUTION CONTROL BOARD

AMENDMENTS TO DRAFT FINAL REGULATIONS
CONCERNING
REGULATION FOR EMISSIONS TRADING (REV. C17)

AS PRESENTED AT THE
APRIL 19, BOARD MEETING

Add 9VAC5-140-6045 (page 16) as follows:

9VAC5-140-6045. CO₂ Budget Trading Program Implementation.

In the event the allocation of conditional allowances by the department as required by 9VAC5-140-6190 B has not occurred by January 1, 2020, the program will be considered to be operating and effective as of the calendar year following the date on which the department allocates the conditional allowances as it corresponds to the schedule of 9VAC5-140-6190 A. Permitting and compliance dates, including the due date for a permit as required by 9VAC5-140-6150, shall be adjusted to be in force 6 months after the date the department allocates the conditional allowances. Any excess emissions tonnage identified by the new program implementation date may be addressed through program review and regulatory action as necessary to ensure compliance with the final compliance date. The department will notify the board and each affected CO₂ budget source accordingly.

Replace 9VAC5-140-6190 C (page 29) with the following:

C. For 2031 and each succeeding calendar year, [the Virginia CO₂ Budget Trading Program base budget is 23.10 million tons the department will review the Virginia CO₂ Budget Trading Program base budget and recommend to the board appropriate adjustments in the base budget for such succeeding years. The department will consider the best available science and all relevant information and policies available from any CO₂ multi-state trading program in which Virginia is participating when considering further reductions. Absent any adjustment, the Virginia CO₂ Budget Trading Program base budget for each year of the decade 2031-2040 shall be reduced by 840,000 tons from the preceding year the Virginia CO₂ Budget Trading Program base budget is 19.60 million tons unless modified as a result of a program review and future regulatory action].