

MINUTES
STATE AIR POLLUTION CONTROL BOARD MEETING
FRIDAY, JUNE 10, 2011
HOUSE ROOM C
GENERAL ASSEMBLY BUILDING
9TH & BROAD STREETS
RICHMOND, VIRGINIA

Board Members Present:

Hullihen Williams Moore, Chair
Richard D. Langford
Manning "Chip" Gasch, Jr
Randolph L. Gordon, MD, MPH

Sterling E. Rives III, Vice-Chair
Roger L. Chaffe
Jo Anne Scott Webb

Department of Environmental Quality:

David K. Paylor
Cindy M. Berndt
Debra Miller

Attorney General's Office:

Kerri L. Nicholas, Assistant Attorney General

The meeting convened at 9:02 a.m. and adjourned at 10:38 a.m.

Minute No. 1 - Review and Approval of Agenda: The Board, on a motion by Mr. Langford, approved the agenda without modification.

Minute No. 2 - Minutes: The Board, on a motion by Mr. Chaffe, unanimously approved the minutes of the March 18, 2011, meeting.

Minute No. 3 – Major New Source Review Permits (Rev. A11): Ms. Karen G. Sabasteanski of the Office of Regulatory Affairs presented final exempt amendments to the regulations for the control and abatement of air pollution concerning PM2.5. Ms. Sabasteanski advised the Board that Articles 8 and 9 of 9VAC5 Chapter 80 (Permits for Stationary Sources) apply to the construction or reconstruction of new major stationary sources or major modifications to existing ones in prevention of significant deterioration (PSD) areas and in nonattainment areas. This major new source review (NSR) permitting program requires that the owner obtain a permit prior to the construction or modification of a major source. Ms. Sabasteanski informed the Board that two final EPA rules (72 FR 28321 on May 16, 2008 and 75 FR 64864 on October 20, 2010) revised the new source review programs relative to PM2.5 and the regulation before the Board incorporates the EPA revisions into the Board's regulations. In addition, Ms. Sabasteanski reviewed the substantive amendments to the Board's regulations.

Based on the Board book material, staff presentation and Board discussions, the Board, on a motion by Mr. Chaffe, unanimously adopted the proposal, with an effective date as provided in the Administrative Process Act and affirmed that the Board 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.

Minute No. 4 - Amendments to Air Regulations Revising Citations to Solid Waste Management Regulations (Rev. D11): Ms. Debra Miller of the Office of Regulatory Affairs

presented amendments to the regulations for the control and abatement of air pollution concerning citations to the Solid Waste Management Regulations. Ms. Miller explained that the regulatory amendment would update citations in 9VAC5-40, Existing Stationary Sources; 9VAC5-50, New and Modified Stationary Sources; 9VAC5-130, Regulation for Open Burning due to the recodification of the Solid Waste Management Regulations from 9VAC20-80 to 9VAC20-81.

Based on the Board book material, staff presentation and Board discussions, the Board, on a motion by Mr. Chaffe, unanimously adopted the proposal, with an effective date as provided in the Administrative Process Act and affirmed that the Board 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.

Minute No. 5 - Electric Generator Voluntary Demand Response General Permit (Rev. Dg):

Ms. Mary E. Major of the Office of Regulatory Affairs presented the draft final general permit for electric generator voluntary demand response. Ms. Major explained that the General Assembly adopted legislation (§ 10.1-1307.02 B 4) which mandated that the Board develop a general permit for the construction, installation, and operation of distillate oil, natural gas, liquid propane gas, and bio-diesel fired electric generating facilities that participate in a voluntary demand response program (i.e., load curtailment, demand response, peak shaving or like program) and that qualify as non-major facilities under the federal Clean Air Act. Ms. Major briefed the Board on the public comment received on the proposed general permit, the agency's response to the comments, revisions made to the general permit in response to public comment and summarized the provisions of the draft final general permit.

The Board then received comment from Mr. Don DiCristofaro with Blue Sky Environmental supporting the adoption of the general permit for electric generator voluntary demand response and the emergency generator general permit.

Based on the Board book material, staff presentation and Board discussions, the Board, on a motion by Mr. Chaffe, unanimously adopted the regulation with an effective date as provided in the Administrative Process Act and affirmed that the Board 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.

Minute No. 6 - Emergency Generator General Permit (Rev. Eg): Ms. Mary E. Major of the Office of Regulatory Affairs presented the draft final general permit for emergency generation. Ms. Major explained that the General Assembly adopted legislation (§ 10.1-1307.02 a) which mandated that the Board develop a general permit to authorize the construction, installation, reconstruction, modification, and operation of emergency generation sources during independent service operator (ISO) declared emergencies. Ms. Major briefed the Board on the public comment received on the proposed general permit, the agency's response to the comments, revisions made to the general permit in response to public comment and summarized the provisions of the draft final general permit.

(Note: Mr. Don DiCristofaro's statement during the discussion of Rev. Dg included comments relative to Rev. Eg).

Based on the Board book material, staff presentation and Board discussions, the Board, on a motion by Mr. Rives, unanimously adopted the regulation with an effective date as provided in the Administrative Process Act and affirmed that the Board 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.

Minute No. 7 - Regulation of Fossil Fuel Carbon Dioxide Emissions and Establishments of an Effective Emissions Reduction Strategy: Ms. Karen G. Sabasteanski of the Office of Regulatory Affairs presented a petition from Emma Serrels, and Alec Loorz and Victoria Loorz (Kids vs. Global Warming) to initiate a rulemaking concerning carbon dioxide (CO2) emissions. Ms. Sabasteanski informed the Board that the petitioners were requesting that the Board adopt regulations to:

1. Ensure that carbon dioxide emissions from fossil fuels peak in the year 2012;
2. Adopt a carbon dioxide emissions reduction plan that, consistent with the best available science reduces state-wide fossil fuel carbon dioxide emissions by at least 6% annually until at least 2050, and expands Virginia's capacity for carbon sequestration;
3. Establish a state-wide greenhouse gas emissions accounting, verification and inventory and issues annual progress reports so that the public has access to accurate data regarding the effectiveness of Virginia's efforts to reduce fossil fuel carbon dioxide emissions; and
4. Adopt any necessary policies or regulations to implement the greenhouse gas emissions reduction plan, as detailed in 1 and 2 above.

In addition, Ms. Sabasteanski reviewed for the Board the applicable requirements governing petitions that are set forth in the Board's Public Participation Guidelines and in the Administrative Process Act.

Mr. Rives moved that the Board receive the petition and announce an extended public comment period of 45 days to receive comment on the petition. The motion failed on a vote of 2 to 5 (Messers. Moore and Rives voted aye and Messers. Chaffe, Langford, and Gasch, Dr. Gordon and Ms. Webb voted no).

The Board received the petition in accordance with and subject to the provisions of the Administrative Process Act.

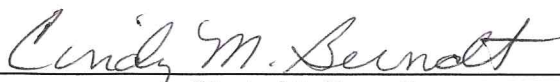
Minute No. 8 – High Priority Violators Report: Mr. Craig Nicol of the Division of Enforcement presented a report on high priority violators.

Minute No. 9 – Public Forum: No one appeared during the public forum.

Minute No. 10 – Air Division Director Report: Mr. Michael Dowd, Air Division Director, briefed the Board on implementation of the Sulfur Dioxide national ambient air quality standard and the guidance document issued on fugitive dust from coal mining activities.

Minute No. 11 – Legislative Update: Ms. Angela Jenkins, Policy Manager, presented a report on legislation enacted by the 2011 General Assembly.

Minute No. 12 – Future Meetings: The Board confirmed September 9 and December 2 as the dates of their meetings for the remainder of 2011.


Cindy M. Berndt

Approved 9/19/11