

## MINUTES

### STATE AIR POLLUTION CONTROL BOARD MEETING

MONDAY, DECEMBER 5, 2016  
HOUSE ROOM C  
GENERAL ASSEMBLY BUILDING  
9TH & BROAD STREETS  
RICHMOND, VIRGINIA

**Board Members Present:**

Richard D. Langford, Chair  
Nicole M. Rovner  
William H. Ferguson

Anne Flandermeyer Kirwin  
Ignacia S. Moreno

**Board Members Absent:**

Samuel A. Bleicher

Rebecca R. Rubin

**Department of Environmental Quality:**

David K. Paylor, Director  
Cindy M. Berndt, Office of Regulatory Affairs Director

**Attorney General's Office:**

Matthew L. Gooch, Attorney General's Office

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These minutes summarize activities that took place at this Board Meeting. The meeting convened at 10:02 a.m. and adjourned at 10:31 a.m.

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**Minute No. 1 - Review and Approval of Agenda:** The Board approved the agenda.

**Minute No. 2 - Minutes:** The Board, on a motion by Ms. Rovner, unanimously approved the minutes of the Board's meeting on September 9, 2016.

**Minute No. 3 - Municipal Solid Waste Landfills (9VAC5-40, Revision H16):** Ms. Karen G. Sabasteanski, Office of Regulatory Affairs, presented amendments to the Regulations for the Control and Abatement of Air Pollution in response to new emission guidelines for municipal solid waste landfills promulgated by the U.S. Environmental Protection Agency (EPA) on August 29, 2016 (81 FR 59276).

Ms. Sabasteanski explained that air pollution from landfills is currently regulated in Virginia under Article 43, Emission Standards for Municipal Solid Waste Landfills (9VAC5-40-5800 et seq.) and was originally designed to control two separate pollutants: (i) ozone in the northern Virginia ozone nonattainment area as required by § 110 of the Clean Air Act and

implemented by 40 CFR Part 51, and (ii) nonmethane organic compounds as required by § 111 of the federal Clean Air Act and implemented by Subpart Cc of 40 CFR Part 60, which is applicable statewide. In order to adopt the new EPA requirements of Subpart Cf while maintaining the state-only requirements specific to the northern Virginia ozone nonattainment area, a new Article 43.1 is being promulgated.

Ms. Sabasteanski reviewed the following proposed amendments:

1. 9VAC5-20-21 is amended to update reference to the most recent (2016) version of the Code of Federal Regulations, and create a transition between the 2016 and 2017 federal code books.
2. Article 43 of 9VAC5-40 is amended to specify facilities that are subject to Article 43.1 of 9VAC5-40.
3. Article 43.1 of 9VAC5-40 is promulgated. It adopts the provisions of Subpart Cf of 40 CFR 60 by reference, as well as a number of state-specific provisions to enable the article to operate on its own as a state regulation under 9VAC5-40, Existing Stationary Sources.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Ms. Kirwin, unanimously adopted the proposal with an effective date consistent with the APA 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 APA.

**Minute No. 4 - Federal Documents Incorporated by Reference (Rev. J16):** Ms. Karen G. Sabasteanski, Office of Regulatory Affairs, presented amendments to the Regulations for the Control and Abatement of Air Pollution to incorporate newly promulgated federal New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and national emission standards for hazardous air pollutants for source categories (Maximum Achievable Control Technology, or MACT), Rules 5-5, 6-1, and Rule 6-2, respectively, of the board's regulations.

Ms. Sabasteanski reviewed the following proposed amendments:

1. One new (Subpart OOOOa, Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification, or Reconstruction Commenced after September 18, 2015) NSPS is not being incorporated at this time; this standard is listed with a note that enforcement of the standard rests with EPA. In addition, Subparts T, U, V, W, X, CCCC, and OOOO were amended. The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.
2. No new NESHAPs are being incorporated; however, a number of typographical errors have been corrected under Subpart M. The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.
3. Three new MACTs are being added: Subpart NN, Wool Fiberglass Manufacturing at Area Sources (40 CFR 63.880 through 40 CFR 63.899); Subpart JJJJJ, Brick and Structural Clay Products Manufacturing (40 CFR 63.8380 through 40 CFR 63.8515); and Subpart KKKKK, Ceramics Manufacturing (40 CFR 63.8530 through 40 CFR 63.8665). In addition, Subparts AA, BB, CC, and GG were amended. The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Ms. Kirwin, unanimously adopted the proposal with an effective date consistent with the APA 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 APA.

**Minute No. 5 - Definition of Volatile Organic Compound (9VAC5-10, Rev. 116):** Ms. Karen G. Sabasteanski, Office of Regulation Affairs, presented amendments to the Regulations for the Control and Abatement of Air Pollution to revise the definition of volatile organic compound to exclude 1,1,2,2-Tetrafluoro-1-(2,2,2-trifluoroethoxy) ethane (also known as HFE-347pcf2). Ms. Sabasteanski explained that EPA revised the definition of volatile organic compounds on August 1, 2016 (81 FR 50330), by excluding 1,1,2,2-Tetrafluoro-1-(2,2,2-trifluoroethoxy) ethane (also known as HFE-347pcf2). The revision became effective on September 30, 2016.

Based on the Board book material, staff presentation and Board discussion at the meeting, the Board, on a motion by Ms. Moreno, unanimously (1) authorized the Department to promulgate the proposal for public comment using the fast-track process with the understanding that the authorization constitutes board adoption of the amendments provided (i) the proposal completes the fast-track process as provided in § 2.2-4012.1 of the APA and (ii) the Department does not find it necessary to make any changes to the proposal; and (2) set an effective date 15 days after close of the 30-day public comment.

**Minute No. 6 - High Priority Violations (HPVs) For the Fourth Quarter 2016:** The Board received a report from Ms. Kerri Nicholas, Division of Enforcement, on high priority violations for the fourth quarter of 2016.

**Minute No. 7 – Public Forum:** No one appeared during the public forum.

**Minute No. 8 – Certificate of Recognition:** Mr. David K. Paylor read the following Resolution:

By virtue of the authority vested by the Constitution in the Governor of the Commonwealth of Virginia, there is hereby officially recognized the 50<sup>th</sup> Anniversary of the Air Pollution Control Board

Whereas, the Air Pollution Control Law was enacted on July 1, 1966, by an act of the Virginia General Assembly forming the Air Pollution Control Board; and

Whereas, the Air Pollution Control Board consists of seven Virginia citizens demonstrating excellent knowledge in air quality control and regulation; and

Whereas, the Air Pollution Control Board is responsible for the achievement of air quality standards, formulation of regulations, adoption of emissions control standards for motor vehicles, and development of programs for research and education; and

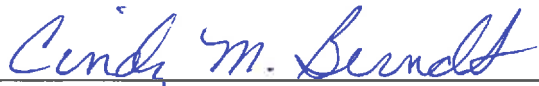
Whereas, the founding policies weigh the economic and social impacts of regulatory actions with desired environmental benefits, and this prudent approach continues to guide policies; and

Whereas, the staff of the Department of Environmental Quality and the former Department of Air Pollution Control, under the Board's guidance, have performed diligently and with commendable expertise to accomplish the Board's goals; and

Whereas, air quality has improved dramatically in the Commonwealth through the efforts and expertise of the Air Pollution Control Board;

Now, Therefore, I, Terence McAuliffe, Governor, do hereby recognize July 1, 2016, as the 50<sup>TH</sup> Anniversary of the Air Pollution Control Board, and I call this observance to the attention of all our grateful citizens.

**Minute No. 9 - Future Meetings:** The Board confirmed the following dates for 2017: March 16, June 22, September 21 and December 7.

  
Cindy M. Berndt

*Approved Minute No. 3  
March 16, 2017*