

MINUTES

STATE AIR POLLUTION CONTROL BOARD MEETING THURSDAY, OCTOBER 23, 2008

House Room C
General Assembly Building
9th & Broad Streets
Richmond, Virginia

Board Members Present:

Richard D. Langford
Vivian E. Thomson
Bernadette W. Reese
Sterling E. Rives, III

Bruce C. Buckheit
Hullihen W. Moore
Randolph L. Gordon

Department of Environmental Quality:

David K. Paylor, Director

Cindy M. Berndt

Attorney General's Office:

Carl Josephson, Senior Assistant Attorney General

The meeting was convened at 9:40 a.m., recessed at 11:55 a.m., reconvened at 1:05 p.m., recessed at 3:45 p.m., reconvened at 4:00 p.m. and adjourned at 4:00 p.m.

Minute No. 1 – Minutes: The Board, on a motion by Mr. Buckheit, unanimously approved the minutes from the Board's meetings on November 30, 2007, January 25, 2008, March 20, 2008, June 24-25, 2008, and July 30, 2008.

Minute No. 2 – Budget: The Board received a report from Mr. David K. Paylor on the budget. Mr. Paylor briefed the Board on the amount of the recent budget reductions and the impact on staffing and programs. Mr. Paylor also advised the Board that among the staff reductions was Mr. Robert A. Mann retiring on December 1st. The Board, on a motion by Mr. Buckheit, unanimously recognized Mr. Mann and Mr. James Sydnor for their service to the Board and the Commonwealth and directed that a Certificate of Appreciation from the Board be provided to each.

Minute No. 3 - Major New Source Review (Article 8 of 9VAC5 Chapter 80, Rev. A08): Ms. Karen G. Sabasteanski of the Office of Regulatory Affairs presented final amendments that would specify that nitrogen oxides (NO_x) are a precursor of ozone in addition to volatile organic compounds (VOCs). Ms. Sabasteanski briefly reviewed the following amendments:

1. The definition of "major modification" has been modified to indicate that any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for NO_x in addition to VOCs is considered significant for ozone. [9 VAC 5-80-1615 C]
2. The definition of "major stationary source" has been modified to indicate that a major stationary source that is significant for VOCs or NO_x is considered significant for ozone. [9 VAC 5-80-1615 C]
3. The definition of "regulated NSR pollutant" has been modified to include NO_x as an example of a precursor of ozone in addition to VOCs. [9 VAC 5-80-1615 C]
4. The definition of "significant" has been modified to include a significant emissions rate of NO_x in addition to VOCs for ozone. [9 VAC 5-80-1615 C]

5. The list of air quality impacts has been modified to include 100 tons per year or more of NO_x in addition to VOCs as a potential trigger for performing an ambient impact analysis. [9 VAC 5-80-1695 E 1]

Based on the Board book material, staff presentation and discussion at the meeting, the Board, on a motion by Ms. Thomson 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 Administrative Process Act.

Minute No. 4 - Definition of Volatile Organic Compound (9VAC5-10, General Definitions, Rev. H07):

Ms. Karen G. Sabasteanski of the Office of Regulatory Affairs presented a revision to exclude a compound known as (1)1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300) from the definition of VOC. Ms. Sabasteanski explained that the amendment was necessary in order to maintain consistency with the federal requirements for reducing VOCs and therefore ozone.

Based on the Board book material, staff presentation and discussion at the meeting, the Board, on a motion by Ms. Thomson, unanimously authorized the Department to promulgate the proposal for public comment; authorized the Department to set an effective date 15 days after close of the 30-day public comment period 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 should the proposal fail to complete the fast-track process as provided in §2.2-4012.1 or changes to the proposal are needed, authorized the Director to make the decision under 9VAC5-170-100 C concerning the use of the participatory approach or alternatives.

Minute No. 5 - Transportation Conformity (9VAC5 Chapter 151, Rev. B07): Ms. Mary E. Major of the Office of Regulatory Affairs presented amendments to the Board's Transportation Conformity Regulations that would reflect the recent revisions made to the federal regulations. The substantive amendments are:

1. The definition section [9 VAC 5-151-10] defines terms unique to the article. Several definitions have been changed to comply with SAFETEA-LU.

2. The applicability section [9 VAC 5-151-20] identifies specific actions and criteria for conformity determinations with regard to federal highway and federal transportation projects and defines the criteria for applicability in nonattainment and maintenance areas. Changes have been made to change the reference to "sulfur oxides" to "sulfur dioxide" and include language that ensures that conformity determinations pertain through the last year of a maintenance area's approved maintenance plan as required under SAFETEA-LU.

3. Authority of board and DEQ section [9 VAC 5-151-30] identifies the specific responsibilities of the Board and the DEQ Director with respect to Virginia state law. The section also identifies the responsibility of the DEQ director regarding enforcement, administrative authority. Federal requirements mandate that the federal requirements and standards be enforceable by the state. There are no changes to this section.

4. The general section [9 VAC 5-51-40] incorporates by reference portions of the EPA Regulation for Transportation Conformity (40 CFR Part 93) into the state regulation. This section also indicates that the specific version of the provisions adopted by reference are those contained in the most currently available CFR in effect as published on July 1, 2006. Changes have been made to update the CFR reference to July 1, 2008, which includes the recent Federal Register notice of January 24, 2008.

5. The list of designated provisions section [9 VAC 5-151-50] lists each transportation conformity provision adopted by EPA and incorporated into the regulation including the section number and title. There are no changes to this section. However, there are changes to the EPA regulations incorporated by reference and amended by the January 24, 2008 FR notice, which are summarized below:

Section	Title
40 CFR 93.104	Frequency of conformity determinations.
40 CFR 93.106	Content of transportation plans and timeframe of conformity

determinations.

- 40 CFR 93.109 Criteria and procedures for determining conformity of transportation plans, programs, and projects: General.
- 40 CFR 93.114 Criteria and procedures: Currently conforming transportation plan and TIP.
- 40 CFR 93.115 Criteria and procedures: Projects from a transportation plan and TIP.
- 40 CFR 93.118 Criteria and procedures: Motor vehicle emissions budget.
- 40 CFR 93.119 Criteria and procedures: Interim emissions in areas without motor vehicle emissions budgets.
- 40 CFR 93.120 Consequences of control strategy implementation plan failures.
- 40 CFR 93.121 Requirements for adoption or approval of projects by other recipients of funds designated under Title 23 USC or the Federal Transit Laws.
- 40 CFR 93.123 Procedures for determining localized CO, PM₁₀, and PM_{2.5} concentrations (hot-spot analysis).
- 40 CFR 93.126 Exempt projects.

- Section 93.104 was changed to require MPOs and USDOT to determine conformity of transportation plans (TPs) and transportation improvement plans (TIPs) every four years as required under SAFETEA-LU instead of every three years. In addition, EPA is adding a one-year grace period before a conformity lapse occurs as required under SAFETEA-LU when an area misses an applicable deadline.
- Section 93.106 was changed to conform to SAFETEA-LU to allow MPOs with an adequate or approved second maintenance plan to shorten the timeframe covered by a conformity determination to extend only through the last year of the implementation plan as is required under SAFETEA-LU.
- Section 93.109 was changed to provide rural nonattainment and maintenance areas the flexibility to shorten the conformity timeframe in the same manner as metropolitan areas. Language is included that stipulates that the entity that would make the election to shorten the timeframe would be the state department of transportation as rural areas don't have MPOs. In addition, provisions which allowed 8-hour ozone areas to use the interim emissions tests for conformity instead of the 1-hour ozone SIP budgets is repealed as these provisions were vacated by the US Court of Appeals for the District of Columbia Circuit and remanded to EPA.
- Section 93.114 was changed by including a reference to §93.104 to address the one-year grace period before a conformity lapse occurs as required under SAFETEA-LU.
- Section 93.115 was changed by including a reference to §93.104 to address the one-year grace period before a conformity lapse occurs as required under SAFETEA-LU.
- Section 93.118 was changed to comply with changes to §93.106 pertaining to the shortening of the conformity timeframe which apply to both rural and urban areas.
- Section 93.119 was changed to comply with changes to §93.106 pertaining to the shortening of the conformity timeframe which apply to both rural and urban areas.
- Section 93.120 was changed to permit projects within the first four years of the conformity transportation plan and TIP, rather than the first three years, to proceed after final EPA disapproval of a control strategy SIP without a protective finding. These changes correspond to the timing changes in §93.104 and provide smooth transition to the planning requirements contained within SAFETEA-LU.
- Section 93.121 was changed by including a reference to § 93.104 to address the one-year grace period before a conformity lapse occurs as required under SAFETEA-LU.
- Section 93.123 was changed to permit USDOT, in consultation with EPA, to make a “categorical hot-spot finding” for project-level conformity determinations in CO nonattainment and maintenance areas where modeling shows that such projects will not cause or contribute to new or worsened air quality violations. This action will negate the necessity to conduct additional analysis. This is currently the case for conformity determinations in PM_{2.5} and PM₁₀ nonattainment and maintenance areas.
- Section 93.126 was changed to update several terms (see below) used in “Table 2, Exempt Projects” under the category of “Safety”.

Old Term: Hazard elimination program. New Term: Projects that correct improve or eliminate a hazardous location or feature.

Old Term: Safety improvement program. New Term: Highway Safety Improvement Program implementation.

Old Term: Pavement marking demonstration. New Term: Pavement marking.

6. Word or phrase substitutions section [9 VAC 5-151-60] sets forth changes to the regulations incorporated by reference, consisting of the identification of: (i) Virginia-specific terms to be used throughout the regulations to meet the requirements of the Virginia Registrar, and (ii) format changes necessary to ensure that the regulation refers to Virginia regulations not federal regulations in order to meet the federal requirement that the regulation be enforceable by the state. There are no changes to this section.

7. Exemptions to the designated provisions incorporated by reference section [9 VAC 5-151-61] identifies specific references in the federal regulations (40 CFR Part 93) that are not included by reference in the Virginia program. At the time of adoption these federal provisions were under litigation in the US Court of Appeals for the District of Columbia Circuit. The Court vacated the federal provisions making the exemptions unnecessary; therefore, this section has been repealed.

8. The consultation section [9 VAC 5-151-70] outlines specifically how the various government agencies, federal, state and local, will interact with and consult with each other and the general public in the development of transportation plans and associated conformity determinations. Changes have been made to remove the reference to the unified work plans since these plans are unique to the individual local governments and should not be included in the larger consultation process.

Based on the Board book material, staff presentation, and discussion at the meeting, the Board, on a motion by Dr. Gordon, 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 Administrative Process Act.

Minute No. 6 - Control of Motor Vehicle Emissions in the Northern Virginia Area (9VAC5 Chapter 91, Rev. MM): Ms. Mary E. Major of the Office of Regulatory Affairs presented amendments to the Board's regulations for the control of motor vehicle emissions in northern Virginia that would exempt hybrid vehicles meeting specific EPA criteria and states. Ms. Major briefed the Board on the following substantive changes to the regulation:

1. Modify definition of "Affected motor vehicle" to exclude any vehicle that qualifies as a hybrid motor vehicle if such vehicle obtains a rating from the U.S. Environmental Protection Agency of at least 50 miles per gallon during city fuel economy tests unless identified by the remote sensing requirements of 9VAC5-91-180 as violating the emissions standards for on-road testing.

2. Add a definition for the term "Qualified hybrid motor vehicle" which means a motor vehicle that (i) meets or exceeds all applicable regulatory requirements, (ii) meets or exceeds the applicable federal motor vehicle emissions standards for gasoline-powered passenger cars, and (iii) can draw propulsion energy both from gasoline or diesel fuel and a rechargeable energy storage system.

Based on the Board book material, staff presentation and discussion, the Board, on a motion by Mr. Buckheit, 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 Administrative Process Act.

Minute No. 7 - NOx SIP Call Budget (Part I of 9VAC5 Chapter 140, Rev. K08): Ms. Mary E. Major of the Office of Regulatory Affairs presented amendments to the Board's regulation on the NOx Sip Call that would continue the budget past the 2008 date. Ms. Major provided background information and briefed the Board on the following substantive amendments to the regulation:

- 9VAC5-140-900 is being amended to extend the state trading budget beyond 2008.
- 9VAC5-140-920 is being amended so that allocations issued to electric generating units extend beyond 2008.
- 9VAC5-140-930 is being amended so that allocations issued to non-electric generating units extend beyond 2008.

Based on the Board book material, staff presentation and discussion at the meeting, the Board, on a motion by Mr. Buckheit, adopted the proposal with an effective date consistent with the APA; 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; and directed that notice be posted on the Virginia Regulatory Town Hall that comment on the amendments would be accepted and a report on comments received made to the Board at the December meeting. The vote was 6 to 1 with Dr. Gordon voting no. (Note: Mr. Langford declared that he was a retiree of Celanese, which may be affected by the regulation and he was able to participate in the transaction fairly, objectively, and in the public interest.)

Minute No 8 - Minor New Source Review Program (Article 6 of 9VAC5 Chapter 80, Rev. J08): Mr. Robert A. Mann of the Office of Regulatory Affairs presented amendments to the Board's minor new source review regulations. The amendments would require when determining whether a physical or operational change at an existing stationary source requires a permit or permit amendment under the minor new source review regulations, any change in emissions to be calculated as the difference between the source's pre-change and post-change annual uncontrolled emission rates. Mr. Mann briefed the Board on the following substantive amendments to the regulation:

1. The provisions related to the applicability test for modifications have been changed from the actual-to-potential emissions test to an uncontrolled-to-uncontrolled emission rate test to comply with Section 2 of the new legislation. This involves (i) deleting the definition of "actual emissions," which contains the actual-to-potential test, and adding a new definition for "uncontrolled emission rate," and (ii) replacement of the text, "actual emissions" with the text, "the uncontrolled emission rate" throughout the regulation.
2. The provisions related to alternative fuels and air emissions have been updated to be consistent with §10.1-1322.4 and provide an exception from the requirement to perform trial burns for certain fuels. These provisions have also been restructured somewhat to ensure no conflict with federal law or regulation.

Based on the Board book material, staff presentation and discussion at the meeting, the Board, on a motion by Mr. Buckheit, 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 Administrative Process Act.

Minute No. 9 - Permit Actions before the Board (9VAC5 Chapter 80 and 9VAC5 Chapter 170, Rev. G08): Mr. Robert A. Mann of the Office of Regulatory Affairs presented amendments to the Board's regulations concerning permits; procedures for public hearings and permits before the board. Mr. Mann briefed the Board on the following substantive amendments to the Board's regulations:

1. Part I of 9VAC5-80: The new procedures set forth in §10.1-1322.01 have been placed into Part I of Chapter 80. As mentioned above, the new legislation addresses two issues: (i) where there is only a public comment period prior to the permit decision, and (ii) where there is a federal or state mandate to hold a hearing prior to the permitting decision. Both of these issues are addressed in a single narrative in §10.1-1322.01. In order to ensure clear and consistent implementation, this provision has been split into separate sections: 9VAC5-80-25 and 9VAC5-80-35.

In the air permit program, a public hearing is required by either federal or state regulation for all major and certain minor new source review permits. On the other hand, operating permits have no mandate for a hearing; however, there is the opportunity to request one during the public comment period.

2. Part II of 9VAC5-80: In each of the articles in Chapter 80 that cover the various permit programs, we have included provisions from the law that tell the public what to do to request a hearing or board consideration, with a cross-reference to the appropriate provisions of Part I. The articles affected are as follows:

- Article 1, Federal Operating Permits for Stationary Sources, has been revised to meet the requirements of §10.1-1322.01, including reference to Part I of 9VAC5-80. [9VAC5-80-150, 9VAC5-80-230, 9VAC5-80-270]
- Article 3, Federal Operating Permits for Acid Rain Sources. [9VAC5-80-510, 9VAC5-80-590, 9VAC5-80-670]

- Article 5, State Operating Permits. [9VAC5-80-860, 9VAC5-80-990, 9VAC5-80-1020]
- Article 6, Permits for New and Modified Stationary Sources. [9VAC5-80-1160, 9VAC5-80-1170, 9VAC5-80-1290]
- Article 7, Permits for New and Reconstructed Major Sources of Hazardous Air Pollutants. [9VAC5-80-1450, 9VAC5-80-1460]
- Article 8, Permits for Major Stationary Sources and Major Modifications Locating in Prevention of Significant Deterioration Areas. [9VAC5-80-1765, 9VAC5-80-1773, 9VAC5-80-1775, 9VAC5-80-1955]
- Article 9, Permits for Major Stationary Sources and Major Modifications Locating in Nonattainment Areas or the Ozone Transport Region. [9VAC5-80-2060, 9VAC5-80-2070, 9VAC5-80-2230]

3. 9VAC5-170: Chapter 170 has been updated to reflect the new legislation and to correct a number of technical errors. [9VAC5-170-30, 9VAC5-170-180, 9VAC5-170-190, 9VAC5-170-200]

Based on the Board book material, staff presentation and discussion at the meeting, the Board, on a motion by Dr. Gordon, 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 Administrative Process Act.

Minute No. 10 - Consumer and Commercial Products (9VAC5 Chapter 45, Rev. D06): Mr. Gary Graham of the Office of Regulatory Affairs presented proposed amendments to the Board's regulations for consumer and commercial products. Mr. Graham explained that the locally affected officials for the Northern Virginia and the Fredericksburg and Spotsylvania County areas have recommended new and amended regulations for consumer products in order to achieve the necessary reductions of VOC emissions. In addition, Mr. Graham briefed the Board on the following substantive amendments to the regulations:

The proposed regulatory action adds a new chapter (9VAC5-45) specifically for regulations pertaining to consumer and commercial products and is applicable to specific product types and the owners that are involved in the manufacture, distribution, retail sales and in some cases, the marketing and use of those products.

In Part I of the new chapter, special provisions specify the general testing, monitoring, compliance, notification, recordkeeping and reporting requirements that are applicable to all articles in the new chapter and specify certain other sections of the regulations that are not generally applicable. Exceptions to the special provisions are addressed in each individual article of the new chapter.

In Part II of the new Chapter 45:

1. The proposed regulatory action establishes standards for Portable Fuel Containers for products manufactured before and after January 1, 2009 as new Articles 1 and 2 in Chapter 45, respectively, and applies to all of the products subject to the current provisions of Chapter 40, Article 42 Portable Fuel Container Spillage. Article 1 clarifies some Article 42 exemptions and definitions, adds another exemption category, removes obsolete standards and their associated administrative requirements, and provides criteria for sell-through of products. Because Article 1 applies to all products manufactured before January 1, 2009 and is designed to replace Chapter 40, Article 42, the compliance schedule proposed for Article 1 is the same as that in Chapter 40, Article 42. Article 2 applies to all portable fuel container products manufactured on or after January 1, 2009 and requires board pre-certification of new portable fuel container products as compliant with new labeling requirements and with new and more stringent design and performance standards. Article 2 also includes applicability to a new category of owner, and adds (i) new and revised exemptions, (ii) new certification procedures, (iii) new testing standards, and (iv) alternative compliance provisions for innovative products over those provisions now applicable under Chapter 40, Article 42. The new Article 2 specifies a compliance deadline no later than January 1, 2009. Chapter 40, Article 42 will be repealed at an appropriate time after the standards in the new Articles 1 and 2 are effective.

2. The proposed regulatory action establishes standards Consumer Products for products manufactured before and after January 1, 2009 as a new Articles 3 and 4 in Chapter 45, respectively and applies to all of the products subject to the current provisions of Chapter 40, Article 50 Consumer Products. Article 3 pertains to consumer products manufactured before January 1, 2009, clarifies some definitions and standards, makes the Alternative

Control Plan procedures more flexible, revises labeling, reporting and other administrative requirements, and clarifies sell-through criteria. Because Article 3 applies to all products manufactured before January 1, 2009 and is designed to replace Chapter 40, Article 50, the compliance schedule proposed for Article 3 is the same as Chapter 40, Article 50. Article 4 applies to all consumer products manufactured after January 1, 2009 and includes all of the changes made in Article 3, adds more definitions and standards for some new product categories and establishes new labeling and other administrative requirements. Article 4 specifies a compliance deadline no later than January 1, 2009. Chapter 40, Article 50 will be repealed at an appropriate time after the standards in the new Articles 3 and 4 are effective.

3. The proposed regulatory action establishes standards for Architectural and Industrial Maintenance Coatings and incorporates all of the provisions of Chapter 40, Article 49 Emission Standards for Architectural and Industrial Maintenance Coatings into a new Article 5 in Chapter 45, except that the new Article 5 removes some obsolete reporting requirements and changes the remaining one to a recordkeeping requirement. Because the standards and other provisions of the new Article 5 are not substantively changed from what is in Chapter 40, Article 49, no new compliance dates are proposed. Chapter 40, Article 49 will be repealed at an appropriate time after the new Article 5 standards are effective.

4. The proposed regulatory action will add a new regulation, Article 6 in the new chapter 45 that establishes new emission standards for Adhesives and Sealants. The provisions of this article apply to owners who sell, supply, offer for sale or manufacture for sale commercial adhesives, sealants, adhesive primers or sealant primers that contain volatile organic compounds within the Northern Virginia and Fredericksburg VOC Emissions Control Areas. The provisions will also apply to owners that use, apply for compensation or solicit the use or application of such products in those areas. Exempted from the regulation is any such product manufactured in the Northern Virginia or Fredericksburg VOC Emissions Control Areas for shipment and use outside of these areas. The provisions of this regulation will not apply to a manufacturer or distributor who sells, supplies, or offers for sale such products that do not comply with the VOC standards as long as the manufacturer or distributor can demonstrate both that the product is intended for shipment and use outside of those areas and that the manufacturer or distributor has taken reasonable prudent precautions to assure that the product is not distributed in those areas. A number of product-specific exemptions are also allowed. VOC content limits are specified for different product categories. Control technology guidelines are offered as an alternate means of achieving compliance with the standards. Test methods, registration requirements and recordkeeping procedures are provided. This article specifies a compliance deadline of January 1, 2009.

5. The proposed regulatory action establishes standards for asphalt paving operations and incorporates all of the provisions of Chapter 40, Article 39 Emission Standards for Asphalt Paving Operations as a new Article 7 in Chapter 45. Applicability provisions in Article 7 apply to owners instead of sources and a new definition of paving operations is added that clarifies the types of operations to which the provisions of the regulation apply. Since the standards and other provisions in this article are not substantively changed, no new compliance date is proposed. Chapter 40, Article 39 will be repealed at an appropriate time after the new Article 7 standards are effective.

Based on the Board book material, staff presentation and discussion at the meeting, the Board, on a motion by Ms. Thomson, unanimously authorized the department to promulgate the proposal for public comment.

Minute No. 11 – High Priority Violators Report: Ms. Melanie Davenport, Director of the Division of Enforcement Coordination, presented a report on high priority violators.

Minute No. 12 – Public Forum: Mr. Ralph L. “Bill” Axselle, representing Virginia Energy Providers Association and with authority for Virginia Independent Power Providers, appeared to discuss the Virginia statute that allows the Board to establish a local pollution control district and committee. He detailed for the Board several concerns with the statute and its implementation and requested that the Board keep those concerns in mind whenever considering the establishment of a local pollution control district and committee. Mr. Joe Croce with the Virginia Manufacturers Association also appeared to discuss the statutory provisions allowing for the establishment of a local pollution control district and committee. He briefed the Board on the Association’s concern over the Board delegating any of its air pollution control responsibilities to a local body.

Minute No. 13 – Ozone Report: The Board received a report from Mr. Tom Ballou of the Air Division’s Air Data Analysis and Planning Office. The report covered the status of ozone nonattainment and the ozone standard in Virginia, including recent air quality improvements in terms of ozone, the new 2008 ozone standard promulgated by the U. S. Environmental Protection Agency and future predictions being performed by the Department and others.

Minute No. 14 – Air Pollution Control District/Committee – City of Alexandria: Mr. Michael Dowd, Director of the Air Division, presented the request from the City of Alexandria for the establishment of an air pollution control district and air pollution control district committee for the City of Alexandria. After some discussion, Mr. John Britton Ignacio Pessoa from the City of Alexandria addressed the Board and responded to questions. The Board then gave Mr. Bill Axselle, representing the Mirant Potomac River Generating Station an opportunity to address the Board. After hearing from the City and Mirant representatives, Board discussion continued.

Based on the discussions at the meeting, a motion by Mr. Buckheit to establish an air pollution control district and committee for the City of Alexandria as requested by the City except that the district and committee would be established for a period of three years, there would be no authority to do on-site inspections and committee membership would have to be balanced failed on a vote of 3 to 4. (Yes: Messrs. Buckheit and Moore and Ms. Thomson. No: Messrs. Langford, Rives and Gordon and Ms. Reese).

**Cindy M. Berndt, Director
Office of Regulatory Affairs**