

MINUTES
STATE AIR POLLUTION CONTROL BOARD MEETING

FRIDAY, SEPTEMBER 14, 2012
GENERAL ASSEMBLY BUILDING
HOUSE ROOM C
9TH & BROAD STREETS
RICHMOND, VIRGINIA

Convene – 10:00 a.m.

Board Members Present:

Roger Chaffe, Chair
Hullihen Williams Moore
Manning "Chip" Gasch, Jr.
Tedd Jett

Richard Langford, Vice-Chair
Sterling E. Rives III
Jo Anne Scott Webb

Department of Environmental Quality:

David K. Paylor
Debra Miller

Cindy M. Berndt

Attorney General's Office:

Sarah J. Surber, Attorney General's Office

These minutes summarize activities that took place at this Board Meeting. The meeting convened at 10:02 A.M. and adjourned at 11:42 A.M.

Minute No. 1 - Review and Approval of Agenda: The Board approved the agenda as contained in the Board book.

Minute No. 2 - Minutes: The Board, on a motion by Ms. Webb, unanimously approved the minutes from the June 8, 2012, meeting with two amendments: revise Minute No. 3 to reflect the increased fee, based on adjustment by the Consumer Price Index, is \$57.90, and revise Minute No. 4 to correct the chapter number in item 1 on page 3.

Minute No. 3 - Ozone Classification and Implementation (9VAC5 Chapters 20 and 30, Rev. F12) - Request for Board Action on Exempt Final Regulation: Ms. Karen G. Sabasteanski presented final exempt amendments to 9VAC5-20 and 9VAC5-30 concerning ozone classification and implementation. Ms. Sabasteanski explained that on July 18, 1997 (62 FR 38856), EPA replaced the 1-hour, 0.12 parts per million (ppm) ozone NAAQS with an 8-hour standard at a level of 0.08 ppm. This primary standard is referred to as the 1997 standard. On March 27, 2008 (73 FR 16436), EPA revised the ozone NAAQS by adding an 8-hour standard at a level of 0.075 ppm. This new primary standard is referred to as the 2008 standard.

Ms. Sabasteanski explained that the Northern Virginia ozone nonattainment area was originally classified as "moderate" for the 1997 standard. On May 21, 2012, EPA established air quality designations for the 2008 standard (77 FR 30088), including the classification of Northern Virginia as "marginal" for the 2008 standard. At the same time, EPA provided for the revocation of the 1997 standard for transportation

conformity purposes (77 FR 30160). The list of nonattainment areas in 9VAC5-20-204 and the 1997 standards for ozone specified in 9VAC5-30-55 must now be amended in order to reflect these new federal requirements.

Based on the Board book material; staff presentation, Board discussion and questions, the Board, on a motion by Mr. Moore, unanimously (i) adopted the proposal with an effective date consistent with the APA and (ii) 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 - Definition of Volatile Organic Compound (9VAC5 Chapter 10, Rev. G12) - Request to Publish Proposal for Public Comment and Use the Fast-Track Process: Ms. Karen G. Sabasteanski presented fast-track amendments to 9VAC5-10 concerning the definition of volatile organic compound. Ms. Sabasteanski explained that on June 22, 2012 (77 FR 37610), EPA revised the definition of VOC in 40 CFR 51.100 to exclude trans-1,3,3,3-tetrafluoropropene (also known as HFO-1234ze) from the definition of VOC. This exclusion is accomplished by adding the substances to a list of substances not considered to be a VOC. This change to the exemption list became effective on July 23, 2012.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Mr. Jett, unanimously (i) authorized the Department to promulgate the proposal for public comment and authorized the Department to set an effective date 15 days after close of the 30-day public comment period provided (a) the proposal completes the fast-track process as provided in § 2.2-4012.1 of the APA and (b) DEQ does not find it necessary to make any changes to the proposal.

Minute No. 5 - Regulation for the Control of Motor Vehicle Emissions in Northern Virginia, Clean Screen (9 VAC 5 Chapter 91, Rev. MN) - Regulation Development Report and Request to Publish Proposal for Public Comment: Ms. Mary E. Major presented proposed amendments to 9VAC5-91 concerning the establishment of an on-road clean screen program in the Northern Virginia Vehicle Emissions Inspection and Maintenance (I&M) Program. Ms. Major briefed the Board on the Northern Virginia I&M, the requirements, the coverage area and the current remote sensing program. Ms. Major briefed the Board on the legislation enacted by the 2012 General Assembly including the requirement that the emissions inspection program include an on-road screen program and that:

1. On and after July 1, 2012, and before July 1, 2013, an on-road clean screen program shall be limited to no more than 10 percent of the motor vehicles which are eligible for emissions inspection during the applicable 12-month period.
2. On and after July 1, 2013, and before July 1, 2014, an on-road clean screen program shall be limited to no more than 20 percent of the motor vehicles which are eligible for emissions inspection during the applicable 12-month period.
3. On and after July 1, 2014, an on-road clean screen program shall be limited to no more than 30 percent of the motor vehicles described in this subsection which are eligible for emissions inspection during the applicable 12-month period.

In addition, she briefed the Board on the proposed amendments which reflect new emission standards detected via remote sensing as well as criteria for conducting random testing of motor vehicle emissions, procedures to notify owners of test results, assessment of civil charges for noncompliance with emissions standards in the current regulation and a subsidy to assist in the repair of certain vehicles.

Upon discussion and questions by the Board on the use of remote sensing devices and/or remote onboard diagnostics, the Board expressed a desire to seek public comment on alternate language that would allow either technology to be utilized to implement an on-road clean screen program. Ms. Major provided and reviewed alternate language that would allow either technology to be used.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Mr. Langford authorized the Department to promulgate the proposal as contained in the Board book for public

comment and to include in the notice an announcement that the Board was considering adoption of the alternate language addressing remote onboard diagnostics and requesting comment on the alternate language. (Vote 6 to 1 - Mr. Rives voted no.)

Minute No. 6 - High Priority Violators (Hpv's) for the Third Quarter, 2012: The Board received a report on high priority violators for the third quarter of 2012 from Ms. Kerri Nicholas.

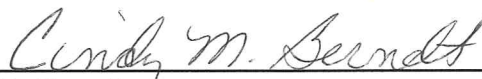
Minute No. 7 - Public Forum: No one appeared during the public forum.

Minute No. 8 - Air Division Director Report: The Board received a report from Mr. Michael Dowd, Air Division Director. His report included information on the 2012 Ozone Season, EPA's proposed annual PM 2.5 National Ambient Air Quality Standard, D.C. Circuit Court decisions in Coalition for Responsible Regulation V. EPA and EME Homer City Generation, L.P. v. EPA and the National Resources Defense Council's Toxic Power Plant Report.

Minute No. 9 - Title V Permit Fees - 4,000 Ton Cap: Ms. JoAnne Webb reminded the Board of the discussion at the previous meeting on the fairness of emissions in excess of 4,000 tons per pollutant being exempt from Title V emissions fees. She informed the Board that since the last Board meeting, staff had provided additional information on the 4,000 ton cap on Title V emissions fees, how it was established, what other states did and how many facilities in Virginia exceeded the cap and by how much. The Board noted that based on the information provided about the current facilities impacted and the facilities' plans for emission reductions in the next few years, no further action was necessary by the Board.

Minute No. 10 - State Advisory Board Charter: Mr. Richard Langford advised the Board that the State Advisory Board on Air Pollution had established a subcommittee to review and make recommendations on the Advisory Board's charter and it was hoped that the Advisory Board's recommendations would be presented to the Board at its next meeting.

Minute No. 11 - Future Meetings: The Board confirmed November 30, 2012 as the date of the next meeting.


Cindy M. Berndt

Approved 11/30/12