

## MINUTES

### STATE AIR POLLUTION CONTROL BOARD MEETING

FRIDAY, MARCH 18, 2016  
HOUSE ROOM C  
GENERAL ASSEMBLY BUILDING  
9TH & BROAD STREETS  
RICHMOND, VIRGINIA

#### **Board Members Present:**

Richard D. Langford, Chair	Ann F. Kirwin
Michael D. Overstreet	Manning "Chip" Gasch, Jr.
Samuel A. Bleicher	Nicole M. Rovner
Rebecca R. Rubin	

#### **Department of Environmental Quality:**

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

#### **Attorney General's Office:**

Paul Kugelman, Attorney General's Office

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These minutes summarize activities that took place at this Board Meeting. The meeting convened at 10:00 a.m. and adjourned at 11:20 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. Kirwin, unanimously approved the minutes of the Board's meeting on December 9, 2015.

**Minute No. 3 - Ambient Air Quality Standards, Ozone (9VAC5-20 and -30, Rev. A16) - Request for Board Action on Exempt Final Regulation:** Ms. Karen Sabasteanski presented final amendments to the Regulations for the Control and Abatement of Air Pollution concerning a revision to the ozone national ambient air quality standard (NAAQS). Ms. Sabasteanski explained that on October 26, 2015 (80 FR 65292), the U.S. Environmental Protection Agency (EPA) issued a regulation revising the ozone NAAQS by adding an 8-hour standard at a level of 0.070 parts per million (ppm) with an effective date of December 28, 2015. She advised the Board that Chapter 30 contains the ambient air quality standards for the specific criteria pollutant standards set out in 40 CFR Part 50 and that it must now be amended to incorporate the new ozone standard. In addition, a new Appendix U has been added. Appendix U explains the data handling conventions and computations necessary for determining whether the NAAQS for ozone are met at an ambient air quality monitoring site; this appendix is incorporated by reference in 9VAC5-20-21 and must now be amended in order to properly

implement new source permitting review and various ozone implementation and planning programs. Ms. Sabasteanski informed the Board that the Department was recommending that:

1. Reference to the new Appendix U to 40 CFR Part 50 be added to the federal documents incorporated by reference list.
2. A new section for the 0.070 ppm 8-hour ozone standard be added.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Mr. Bleicher and seconded by Mr. Gasch, 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 - General Provisions, Malfunctions (9VAC5 Chapter 20, Rev. B16) - Request for Board Action on Exempt Final Regulation:** Ms. Karen Sabasteanski presented final amendments to the Regulations for the Control and Abatement of Air Pollution concerning startup, shutdown or malfunction. Ms. Sabasteanski explained that on June 12, 2015 (80 FR 33840), the U.S. Environmental Protection Agency (EPA) issued a final State Implementation Plan (SIP) call concerning treatment of excess emissions in state rules by sources during periods of startup, shutdown or malfunction (SSM), including Virginia's SSM rules at 9VAC5-20-180 G. As a result the Department was recommending that:

1. The general malfunction requirements of 9VAC5-20-180 C be amended to make minor administrative changes, and to reference the detailed malfunction requirements of subsection G.
2. The specific malfunction requirements of 9VAC5-20-180 G be amended to eliminate an affirmative defense while continuing to require that the facility provide information necessary to monitor resolution of the malfunction.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Mr. Gasch and seconded by Mr. Overstreet, 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 - High Priority Violators (HPV's) For the First Quarter, 2016:** Ms. Kerri Nicholas with the Division of Enforcement presented a report on high priority violators for the first quarter of 2016.

**Minute No. 6 - Public Forum:** Ms. Kendyl Crawford with the Virginia Sierra Club appeared during the public forum to advise the Board of clean air efforts in the southeast community in Newport News. She expressed enthusiasm for continuing to work with the Department and for a response from the Department on a request for an air monitor and cumulative health assessment for the area.

**Minute No. 7 - Division Director's Report:** Mr. Michael Dowd of the Air Division updated the Board on activities surrounding development of the Commonwealth's Clean Power Plan including the U.S. Supreme Court action.

**Minute No. 8 - Future Meetings:** The Board confirmed June 17, September 9 and December 5, 2016, as the dates of their future meetings.

**Minute No. 9 – Standing Rules and Procedures:** Mr. Langford briefed the Board on the history of the Board’s Standing Rules and Procedures. He advised the Board that since it had been just over five years since the rules and procedures had been approved by the Board that a review of the document had been undertaken to determine if the rules and procedures were still necessary or if necessary, needed amendment. He informed the Board that suggested revisions to the rules and procedures had been prepared, but whether the rules and procedures were needed at all should be considered first.

Based on the Board discussion the Board, on a motion by Mr. Bleicher and seconded by Mr. Gasch, unanimously voted to abolish the standing rules and procedures.

**Minute No. 10 – State Advisory Board on Air Pollution:** Mr. Langford briefed the Board on discussions at the December 2015 meeting regarding the need to continue the State Advisory Board on Air Pollution. He informed the Board that notice that consideration would be given to placing the advisory board on inactive status had been provided to members of the advisory board and to the public at large through the Town Hall. Mr. Langford briefly reviewed the official response to the notice as well as anecdotal comments from advisory board members. Based on the Board discussion, the Board, on a motion by Mr. Gasch and seconded by Mr. Overstreet, unanimously voted to place the advisory board in an inactive status. Also, Board members agreed to have the Chairman inform the advisory board of the action and thank them for their service.

  
Cindy M. Berndt, Office of Regulatory Affairs