

MINUTES
STATE AIR POLLUTION CONTROL BOARD MEETING

FRIDAY, SEPTEMBER 28, 2018

STATE CAPITOL BUILDING
HOUSE ROOM 3
RICHMOND, VIRGINIA 23219

Board Members Present:

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

Samuel A. Bleicher
Roy A. Hoagland
Rebecca R. Rubin

Board Member Absent:

Ignacia S. Moreno

Department of Environmental Quality:

David K. Paylor, Director
Debra A. Harris

Cindy M. Berndt

Attorney General's Office:

Matthew L. Gooch, Assistant Attorney General

These minutes summarize activities that took place at this Board Meeting. The Chair convened the meeting at 10:30 a.m. and adjourned the meeting 11:48 a.m.

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

Minute No. 2 - Minutes. The Board, on a motion by Ms. Rubin and second by Mr. Ferguson, unanimously approved the minutes of the Board's meeting on November 16, 2017.

Minute No. 3 - Regulation for the Control of Motor Vehicle Emissions in Northern Virginia, Military Surplus Motor Vehicle Exemption - 9VAC5-91. Ms. Karen Collins presented amendments to the Regulation for the Control of Motor Vehicle Emissions in Northern Virginia to implement Chapter 555 of the 2018 Acts of Assembly. Ms. Collins explained that the legislation authorizes the Department of Motor Vehicles to issue a registration card and license plates for military surplus motor vehicles. Ms. Collins advised the Board that the legislation limits the use and travel distance of military surplus motor vehicles, and provides that any law-enforcement officer may require any person operating a military surplus motor vehicle to provide the address at which the vehicle is stored for use and the destination of such operation. The bill exempts military surplus motor vehicles from emissions standards.

Ms. Collins advised the Board that to meet the statutory requirements, the Department was recommending revising the definition of "affected motor vehicle" to exclude military surplus motor vehicles. In addition, the Department was proposing the update of the Code of Federal Regulations citation and the correction of numerous technical errors within the regulation.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Mr. Hoagland and second by Mr. Ferguson, unanimously adopted the amendments with an effective date consistent with the Administrative Process Act (Act) and affirmed that it will receive, consider, and

Approved Minute No 2 - June 21, 2019

respond to petitions by any person at any time with respect to reconsideration or revision, as provided in § 2.2-4006 B of the Act.

Minute No. 4 - Variance for Rocket Motor Test Operations at Aerojet Rocketdyne, Inc. Orange County Facility - 9VAC5-220. Mr. Gary Graham presented amendments to the Variance for Rocket Motor Test Operations at Aerojet Rocketdyne, Inc. Orange County Facility to correct the name of the current owner of the facility. Mr. Graham explained that Aerojet Rocketdyne, Inc. operates an industrial facility located near the town of Culpeper in Orange County ("Orange County facility"). The company manufactures and tests solid rocket motors, missile systems and similar products, as well as their associated propellants, for the United States Department of Defense. Aerojet Rocketdyne conducts research and development (R&D) activities for the aforementioned products on-site. The rocket test facility is operated for the static test firing of rocket motors and related items for quality control and R&D purposes.

The Board, acting upon a joint request from Atlantic Research Corporation (ARC), the original owner of the facility, and the Virginia Department of Environmental Quality (DEQ), approved an opacity variance for the facility as 9VAC5, Chapter 220 (9VAC5-220-10 et seq.) in September 2002. Aerojet-General Corporation acquired the Orange County facility from Atlantic Research Corporation in 2003 and subsequently changed its name to Aerojet Rocketdyne, Inc. in 2013. The new owner requested that the Board amend the variance to correct the name of the owner to reflect the name of the current owner.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Mr. Hoagland and second by Mr. Bleicher, unanimously adopted the amendments with an effective date consistent with the Administrative Process Act (Act) 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 Act.

Minute No. 5 - High Priority Violations (HPV's) for the First through Third Quarters, 2018. The Board received a report from Ms. Kerri Nicholas, Division of Enforcement, on high priority violations for the first, second and third quarters of 2018.

Minute No. 6 - Regulation for Emissions Trading (9VAC5 Chapter 140, Rev. C17). Mr. Michael G. Dowd presented a re-proposal of amendments to the Regulation for Emissions Trading concerning a Carbon Dioxide Trading Program. Mr. Dowd reviewed the history of Revision C17 to the regulations that were initiated in response to the Governor's Executive Directive 11 (ED 11), "Reducing Carbon Dioxide Emissions from the Electric Power Sector and Growing Virginia's Clean Energy Economy." Mr. Dowd reminded the Board that the Board approved a proposal for public comment on November 16, 2017, and the public comment period on the proposal ran from January 8, 2018, through April 9, 2018.

He advised the Board that the Department is proposing revisions to the amendments based on revised modeling results. The decision to update the model was based on public comment, possible changed conditions since the previous modeling, the rapid introduction of renewable energy and energy efficiency above that previously anticipated, GTSA, RGGI state additions and better integration into the RGGI program. Mr. Dowd then reviewed the proposed revisions (see Attachment A for a summary of the proposed revisions), and recommended that the Board authorize the Department to promulgate the re-proposal for public comment in accordance with the APA.

The Board, after discussions and expressing the need for additional time to further review the reproposal, scheduled a meeting for October 29, 2018, to consider the reproposal. The Board asked the staff to send links to additional background material available on the Virginia Regulatory Town Hall and Department web sites and advised the staff that members would send questions on the reproposal to staff members in order to facilitate consideration at the October 29, 2018, meeting.

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

Minute No. 8 - Future Meetings. The Board scheduled a special meeting on October 29, 2018, to consider the reproposal of amendments to the Regulation for Emissions Trading (Rev. C17) and confirmed November 8-9, 2018 and December 10, 2018, as meetings dates for the remainder of 2018.



Cindy M. Berndt

**COMMONWEALTH OF VIRGINIA
STATE AIR POLLUTION CONTROL BOARD**

**REGULATION FOR EMISSIONS TRADING, REVISION C17
DETAIL OF RECOMMENDED CHANGES FROM THE PREVIOUS STAGE**

New chapter-section number	New requirement from previous stage	Updated new requirement since previous stage	Need
Article 1	CO ₂ Budget Trading Program General Provisions	--	--
9VAC5-140-6020 C	Definition of "allocate"	Amended to reflect relocation and renumbering of DMME provisions (see 9VAC5-140-6211).	Needed for clarity.
9VAC5-140-6020 C	Definition of "allowance"	Deleted.	Replaced with the new term "CO ₂ allowance." Needed to ensure the proper functioning of the RGGI allowance market.
9VAC5-140-6020 C	Definition of "alternate CO ₂ authorized account representative"	Deleted.	Needed in order to be consistent with new RGGI terminology.
9VAC5-140-6020 C	Definition of "CO ₂ allowance"	Added.	Replacing "allowance." Needed to ensure the proper functioning of the RGGI allowance market
9VAC5-140-6020 C	Definition of "CO ₂ authorized alternate account representative"	Added.	Needed in order to be consistent with new RGGI terminology.
9VAC5-140-6020 C	Definition of "CO ₂ Budget Trading Program"	Amended.	Needed for consistency with the RGGI Model Rule and to ensure Virginia's ability to participate in the program.
9VAC5-140-6020 C	Definition of "CCR allowance"	Amended to indicate that the CCR allowance is conditional.	Needed for clarity.
9VAC5-140-6020 C	Definition of "CO ₂ CCR trigger price"	Amended to include the correct prices.	Needed in order for the program to operate properly.
9VAC5-140-6020 C	Definition of "CO ₂ ECR trigger price"	Amended to include the correct prices.	Needed in order for the program to operate properly.
9VAC5-140-6020 C	Definition of "CO ₂ offset allowance"	Added.	Needed in order for offsets from other states to be recognized.
9VAC5-140-6020 C	Definition of "conditional allowance"	Amended to clarify the relationship between a conditional allowance and a CO ₂ allowance.	Needed in order for the program to operate properly.
9VAC5-	Definition of	Added.	Needed for clarity and in order for the

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140-6020 C	"conditional CCR allowance"		program to operate properly.
9VAC5-140-6020 C	Definition of "consignment auction"	Amended to refer to the correct auction entity.	Needed for clarity.
9VAC5-140-6020 C	Definition of "fossil fuel-fired"	Amended to change the amount of fuel comprised of fossil fuel from 10% to 5%.	Needed for consistency with the RGGI Model Rule and to ensure Virginia's ability to participate in the program.
9VAC5-140-6020 C	Definition of "maximum design heat input"	Deleted.	This term is not used in the proposal and must be removed.
9VAC5-140-6020 C	Definition of "minimum reserve price"	Amended to change the price from \$2.00 to \$2.32.	Needed for consistency with the RGGI Model Rule and to ensure Virginia's ability to participate in the program.
9VAC5-140-6020 C	Definition of "receive"	Amended to be more specific.	Needed for consistency with the RGGI Model Rule and to ensure Virginia's ability to participate in the program.
9VAC5-140-6020 C	Definition of "RGGI, Inc."	Deleted.	Needed for consistency with the RGGI Model Rule and to ensure Virginia's ability to participate in the program.
9VAC5-140-6020 C	Definition of "state"	Deleted.	Needed in order for clarity. "Participating state" replaces this more general term.
9VAC5-140-6020 C	Definition of "total useful energy"	Added.	Needed in order for the industrial exemption (9VAC5-140-6040 B) to operate properly.
9VAC5-140-6020 C	Definition of "useful net thermal energy"	Added.	Needed in order for the industrial exemption (9VAC5-140-6040 B) to operate properly.
9VAC5-140-6030	Measurements, abbreviations and acronyms.	Unused terms removed.	Needed for clarity.
9VAC5-140-6040 B	Applicability.	Amended to clarify industrial facilities exempt from the rule.	Needed to cover third-party industrial suppliers while maintaining consistency with the RGGI Model Rule.
9VAC5-140-6050 C 1	CO ₂ requirements, holding allowances for compliance	Amended to specify that the total CO ₂ emissions related to CO ₂ allowances only includes emissions resulting from the combustion of fossil fuel.	Needed for clarity and for consistency with EO 11.
Article 2	CO ₂ Authorized Account Representative for CO ₂ Budget Sources.	--	--

New chapter-section number	New requirement from previous stage	Updated new requirement since previous stage	Need
9VAC5-140-6090	Alternate CO ₂ authorized account representative.	The term "alternate CO ₂ authorized account representative" is amended to "CO ₂ authorized alternate account representative."	Needed in order to be consistent with new RGGI terminology.
9VAC5-140-6100	Changing the CO ₂ authorized account representatives and the alternate CO ₂ authorized account representative; changes in the owners and operators.	The term "alternate CO ₂ authorized account representative" is amended to "CO ₂ authorized alternate account representative."	Needed in order to be consistent with new RGGI terminology.
9VAC5-140-6110	Account certificate of representation.	The term "alternate CO ₂ authorized account representative" is amended to "CO ₂ authorized alternate account representative."	Needed in order to be consistent with new RGGI terminology.
9VAC5-140-6130	Delegation by CO ₂ authorized account representative and alternate CO ₂ authorized account representative.	The term "alternate CO ₂ authorized account representative" is amended to "CO ₂ authorized alternate account representative." In subsection H, "must" has been changed to "shall."	Needed in order to be consistent with new RGGI terminology, and to reflect correct regulatory style.
Article 5	CO ₂ Allowance Allocations	--	--
9VAC5-140-6190 A	Base budgets. Board originally requested input on whether the cap should be 33 or 34 million tons.	The initial CO ₂ base budget has been set at 28 million tons, declining by 3% per year through 2030.	Needed in order to realize the program goal of reducing carbon pollution at a certain rate through a specified time period.
9VAC5-140-6190 C	Base budgets.	Amended to clarify that the program will continue beyond 2031 and as established by a future program adjustment.	Needed for clarity and to ensure compliance.
9VAC5-140-6200	Undistributed and unsold CO ₂	Amended to correct the term "conditional	Needed for clarity and in order for the program to operate properly.

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	allowances.	allowance" and to replace "may" with "will."	
9VAC5-140-6210 A	CO ₂ allowance allocations.	Amended to clarify the allocation of allowances.	Needed for clarity.
9VAC5-140-6210 B	CO ₂ allowance allocations.	DMME provisions have been moved to a separate new section (9VAC5-140-6211); succeeding sections renumbered accordingly.	Needed for clarity.
9VAC5-140-6210 <u>D</u> <u>C</u>	CO ₂ allowance allocations.	Amended to more clearly explain how the CCR allowances will be allocated, including a new equation for calculating the pro rata distribution of CCR allowances.	Needed for clarity and in order for the program to operate properly.
9VAC5-140-6210 <u>E</u> <u>D</u>	CO ₂ allowance allocations.	Amended to more clearly explain how the ECR allowances will be allocated.	Needed for clarity and in order for the program to operate properly.
9VAC5-140-6210 <u>F</u> <u>E</u>	CO ₂ allowance allocations.	Minor corrections.	Needed for clarity.
9VAC5-140-6210 <u>I</u> <u>H</u>	CO ₂ allowance allocations.	Timing requirements amended in order to provide more detail as to how and when conditional allowances will be allocated.	Needed for clarity.
9VAC5-140-6210 I	None.	New subsection added to clarify that implementation of the CCR, ECR and banking adjustment will depend on the extent of the CO ₂ trading program.	Needed for clarity.
9VAC5-140-6211	None.	Section added for DMME provisions moved from 9VAC5-140-6040 A 2.	Needed for clarity.
Article 6	CO ₂ Allowance Tracking System	--	--

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9VAC5-140-6230	Establishment of accounts.	The term "alternate CO ₂ authorized account representative" is amended to "CO ₂ authorized alternate account representative."	Needed in order to be consistent with new RGGI terminology.
9VAC5-140-6260 A 3	Compliance.	Amended in order for Virginia to recognize offsets generated by other RGGI states.	Needed in order to participate in the RGGI program.
Article 8	Monitoring, Reporting and Recordkeeping	--	--
9VAC5-140-6330 A	General requirements.	Minor correction.	Needed for clarity.
Article 9	Auction of CO ₂ CCR and ECR allowances	--	--
9VAC5-140-6430	Consignment auction.	Amended to indicate that one quarter of the annual conditional allowance allocation will be consigned by the CO ₂ budget source or the holder of a public contract with DMME to each auction. At the completion of the consignment auction, a conditional allowance sold at auction becomes a CO ₂ allowance.	Needed for clarity and in order for the program to operate properly.
9VAC5-140-6435	None.	New section added to enable the use of a direct auction without consignment in accordance with requirements established by the Virginia General Assembly.	Needed in order for the program to operate properly in the event of a legislative requirement.
Article 10	Program Monitoring and Review	--	--
9VAC5-140-6440	None.	Article added.	Specifies that in conjunction with program monitoring and review, impacts specific to Virginia will be evaluated, including economic, energy

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			and environmental impacts, and impacts on vulnerable and environmental justice communities. Needed in order to clarify that these specific impacts will be monitored and evaluated.