

MINUTES

STATE AIR POLLUTION CONTROL BOARD MEETING

FRIDAY, JUNE 19, 2015
HOUSE ROOM C
GENERAL ASSEMBLY BUILDING
9TH & BROAD STREETS
RICHMOND, VIRGINIA

Board Members Present:

Richard D. Langford, Chair
Ann F. Kirwin
Rebecca R. Rubin

Tedd H. Jett, Vice-Chair
Samuel A. Bleicher
Michael D. Overstreet

Board Members Absent:

Manning "Chip" Gasch, Jr.

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

These minutes summarize activities that took place at this Board Meeting. The meeting convened at 10:30 a.m. and adjourned at 11:28 a.m.

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

Minute No. 2 - Minutes: The Board, on a motion by Mr. Jett, unanimously approved the minutes of the Board's meeting on December 8, 2014.

Minute No. 3 - Control of Motor Vehicle Emissions in the Northern Virginia Area (9VAC5 Chapter 91, Rev. MP) - Request for Board Action: Ms. Mary E. Major of the Office of Regulatory Affairs presented amendments to the regulation for the control of motor vehicle emissions in the Northern Virginia Area. Ms. Major explained that two changes are being made to the Regulation for the Control of Motor Vehicle Emissions in the Northern Virginia Area in response to Chapter 95 of the 2015 Acts of the Assembly and Chapter 729 of the 2006 Acts of the Assembly; Chapter 95 provided an exemption for autocycles and Chapter 729 provided for amendments to §§ 46.2-1177 and 46.2-1180 B which would change the length of a valid enhanced emissions inspection from two to four years for vehicles titled for the first time.

Ms Major explained that the amendments would:

1. Modify definition of “Affected motor vehicle” to exclude any autocycle unless such autocycle has been emissions certified with an on-board diagnostic system by the U.S. Environmental Protection Agency.
2. Modify definition of “Affected motor vehicle” to exclude any vehicle that is manufactured for the current model year or any of the three immediately preceding model years unless identified by the remote sensing program as violating the emissions standards established for that program.
3. Modify 9VAC5-91-30 D so that vehicles titled for the first time shall be considered to have an enhanced emissions inspection valid for four years and clarify that a vehicle manufactured for the current model year or any of the three immediately preceding model years shall be considered to have a valid emissions inspection unless identified by the remote sensing program as violating the emissions standards established for that program.

Based on the Board book material, staff presentation and Board discussion, on a motion by Mr. Overstreet, the Board unanimously adopted the amendments and affirmed that the Board will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision, as provided by § 2.2-4006 B of the Administrative Process Act.

Minute No. 4 - Federal Documents Incorporated by Reference, Wood Heaters (Rev. A15) - Request for Board Action on Exempt Final Regulation: Ms. Karen G. Sabasteanski of the Office of Regulatory Affairs presented proposed amendments to the regulations for the control and abatement of air pollution concerning wood heaters. Ms. Sabasteanski explained that Chapter 471 of the 2015 Acts of Assembly amended §§ 10.1-1300 and 10.1-1307 of the Code of Virginia to prohibit the State Air Pollution Control Board from adopting regulations that limit emissions from certain smaller wood heaters and prohibited the Board from enforcing any federal regulation limiting emissions from wood heaters that was adopted after May 1, 2014.

Ms. Sabasteanski advised the Board that although the Board has entered into a delegation agreement to adopt NSPSs by reference in order to implement them at the state level, this is at the state's discretion, and the General Assembly has opted to leave implementation of Subparts AAA and QQQQ at the federal level. The Board therefore needs to amend Rule 5-5 in order to indicate that the wood heater regulations of 40 CFR Part 60 will be implemented by EPA and not the Board.

Ms. Sabasteanski explained the following amendments:

1. Under 9VAC5-50-400, the date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.
2. Under 9VAC5-50-410, the listings for Subpart AAA, Standards of Performance for New Residential Wood Heaters (40 CFR 60.530 through 40 CFR 60.539b), and Subpart QQQQ, New Residential Hydronic Heaters and Forced-Air Furnaces (40 CFR 60.5472 through 40 CFR 60.5483) are amended to indicate that authority to enforce the standards is being retained by EPA.
3. New reserved sections have been added in order to accommodate future amendments.

Based on the Board book material, staff presentation and Board discussion, on a motion by Ms. Kirwin, unanimously adopted the amendments and affirmed that the Board will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision, as provided by § 2.2-4006 B of the Administrative Process Act.

Minute No. 5 - VOC Emission Standards, Miscellaneous (9VAC5 Chapter 40, Rev. D09) - Public Participation Report and Request for Board Action: Ms. Sabasteanski of the Office of Regulatory Affairs presented amendments to the regulations for the control and abatement of air pollution concerning control techniques guidelines.

Ms. Sabasteanski advised the Board that Section 172(c)(1) of the federal Clean Air Act provides that state implementation plans (SIPs) for nonattainment areas must include reasonably available control techniques (RACT) for sources of emissions. Section 182(b)(2) provides that states must revise their SIPs to include RACT for sources of VOC emissions covered by a control techniques guidelines document (CTG) issued after November 15, 1990 and prior to the area's date of attainment. Section 183(e) directs the U.S. Environmental Protection Agency (EPA) to list for regulation those categories of products that account for at least 80% of the VOC emissions from commercial products in ozone nonattainment areas. RACT controls for listed source categories controlled by a CTG are known as CTG RACTs. CTG RACTs have been issued for industrial solvent cleaning operations (October 5, 2006, 71 FR 58745) and miscellaneous industrial adhesive application processes (July 14, 2008, 73 FR 40230). Therefore, states with moderate ozone nonattainment areas must implement these CTG RACTs as part of their attainment SIPs. These requirements therefore apply to sources within the Northern Virginia volatile organic compound (VOC) emissions control area (counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford; cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park).

The regulations developed in order to implement the CTGs require owners to limit emissions of air pollution from industrial solvent cleaning operations (Article 57), and miscellaneous industrial adhesive application processes (Article 58). They establish standards, control techniques, and provisions for determining compliance. The regulations also include provisions for visible emissions, fugitive dust, odor, toxic pollutants, compliance, test methods and procedures, monitoring, notification, registration, malfunctions, and permits.

Ms. Sabasteanski reviewed the following amendments proposed for each new article:

1. An applicability section is established which specifies the affected source population.
2. Definitions of terms used in the rule are provided.
3. A standard for VOC emissions is established, along with provisions for achieving the standard.
4. Standard provisions are provided for visible emissions; fugitive dust/emissions; odor; toxic pollutants; compliance; a compliance schedule; test methods and procedures; monitoring; notification, records and reporting; registration; facility and control equipment maintenance or malfunction; and permits.

Ms. Sabasteanski then reviewed the public comments received and the agency response to comments and reviewed changes to the proposed amendments regarding exemptions that were made to the proposal in order to make the regulations operate more efficiently.

Based on the Board book material, staff presentation and Board discussion, on a motion by Mr. Jett, the Board unanimously adopted the proposal, with an effective date as provided in the Administrative Process Act.

Minute No. 6 - VOC Emission Standards, Miscellaneous Metal and Plastic Parts Coating Operations (9VAC5 Chapter 40, Rev. E09) - Public Participation Report and Request for Board Action: Ms. Mary E. Major of the Office of Regulatory Affairs presented final amendments to the regulations for the control and abatement of air pollution concerning control techniques guidelines.

Ms. Major explained that Section 172(c)(1) of the federal Clean Air Act provides that state implementation plans (SIPs) for nonattainment areas must include reasonably available control techniques (RACT) for sources of emissions. Section 182(b)(2) provides that states must revise their SIPs to include RACT for sources of VOC emissions covered by a control techniques guidelines document (CTG) issued after November 15, 1990 and prior to the area's date of attainment. Section 183(e) directs EPA to list for regulation those categories of products that account for at least 80% of the VOC emissions from commercial products in ozone nonattainment areas. RACT controls for listed source categories controlled by a CTG are known as CTG RACTs. Therefore, states with moderate ozone nonattainment areas must implement this CTG RACT as part of their attainment SIP. These requirements, therefore, apply to sources within the Northern Virginia volatile organic compound (VOC) emissions control area (counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford; cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park).

The regulation developed in order to implement the CTG requires owners to limit emissions of air pollution from miscellaneous metal and plastic parts coating operations (Article 59). They establish standards, control techniques, and provisions for determining compliance. The regulation also includes provisions for visible emissions, fugitive dust, odor, toxic pollutants, compliance, test methods and procedures, monitoring, notification, registration, malfunctions, and permits.

Ms. Major review the following proposed amendments to the Board's regulations:

1. An applicability section is established which specifies the affected source population.
2. Definitions of terms used in the rule are provided.
3. A standard for VOC emissions is established, along with provisions for achieving the standard.
4. Standard provisions are provided for visible emissions; fugitive dust/emissions; odor; toxic pollutants; compliance; a compliance schedule; test methods and procedures; monitoring; notification, records and reporting; registration; facility and control equipment maintenance or malfunction; and permits.

Ms. Major then reviewed the public comments and agency response to comments and briefed the Board on the following substantive changes to the original proposal:

1. Include additional exemptions:
aerosol products and powder coatings (9VAC5-40-8810 D 5),
specific metal coatings (9VAVC5-40-8810 E),
specific plastic coatings (9VAC5-40-8810 F),
automotive/transportation and business machine plastic part coatings (9VAC5-40-8810 G), and
recommended application methods for pleasure craft surface coatings (9VAC5-40-8810 H).
2. Add definitions for "Antifouling Sealer/Tie Coat", "Biocide", "EMF/RIF shielding"
3. Modify definition for Business machines.

4. Modify VOC content limit and per volume solid for high performance architectural coating.
5. Modify VOC content limit and per volume solid for extreme high gloss topcoat for pleasure craft surface coating.
6. Added a new coating category for pleasure craft industry: Antifouling Sealer/Tie Coat and corresponding limits for VOC limit and per volume solid.

Based on the Board book material, staff presentation and Board discussion, on a motion by Mr. Bleicher, the Board unanimously adopted the proposal, with an effective date as provided in the Administrative Process Act.

Minute No. 7 - VOC Emissions Standards, Printing (9VAC5 Chapter 40, Rev. C09) - Public Participation Report and Request for Board Action: Mr. Gary E. Graham of the Office of Regulatory Affairs presented final amendments to the regulations for the control and abatement of air pollution concerning control techniques guidelines.

Mr. Graham advised the Board that Section 172(c)(1) of the federal Clean Air Act provides that state implementation plans (SIPs) for nonattainment areas must include reasonably available control techniques (RACT) for sources of emissions. Section 182(b)(2) provides that states must revise their SIPs to include RACT for sources of VOC emissions covered by a control techniques guidelines document (CTG) issued after November 15, 1990 and prior to the area's date of attainment. Section 183(e) directs EPA to list for regulation those categories of products that account for at least 80% of the VOC emissions from commercial products in ozone nonattainment areas. RACT controls for listed source categories controlled by a CTG are known as CTG RACTs. CTG RACTs have been issued for offset lithographic printing operations and letterpress printing operations (October 5, 2006, 71 FR 58745). Therefore, states with moderate ozone nonattainment areas must implement these CTG RACTs as part of their attainment SIPs. These requirements therefore apply to sources within the Northern Virginia volatile organic compound (VOC) emissions control area (counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford; cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park).

The regulations developed in order to implement the CTGs require owners to limit emissions of air pollution from letterpress printing operations (Article 56) and offset lithographic printing operations (Article 56.1). They establish standards, control techniques, and provisions for determining compliance. The regulations also include provisions for visible emissions, fugitive dust, odor, toxic pollutants, compliance, test methods and procedures, monitoring, notification, registration, malfunctions, and permits.

Mr. Graham reviewed the following summary of the proposed amendments. For existing Article 53 pertaining to earlier standards for lithographic operations in all VOC emissions control areas, applicability provisions for facilities located in the Northern Virginia VOC emissions control area are deleted. Provisions of Article 53 applicable to sources in the Northern Virginia VOC emissions control area are preserved in Article 56.1, most notably (i) offset lithographic printing process dryer control provisions for sources with a facility potential to emit between 10 tons of VOC per year and having individual presses with a theoretical potential to emit 25 tons of VOC per year, and (ii) limits on the VOC content of cleaning materials (30% instead of 70%).

For each new article (Article 56 pertaining to emission standards for letterpress printing operations in the Northern Virginia Volatile Organic Compound Emissions Control Area, and

Article 56.1 pertaining to offset lithographic printing operations in the Northern Virginia Volatile Organic Compound Emissions Control Area):

1. An applicability section is established which specifies that facilities in the Northern Virginia VOC emissions control area are affected.
2. Definitions of terms used in the rule are provided.
3. A standard for VOC emissions is established, along with provisions for achieving the standard.
4. Compliance provisions are provided detailing how compliance is determined with the standards.
5. Test methods are provided by which compliance may be determined.
6. Monitoring provisions are provided to ensure that the owner is able to stay in compliance with the standards.
7. Standard provisions are provided for visible emissions; fugitive dust/emissions; odor; toxic pollutants; a compliance schedule; notification, records and reporting; registration; facility and control equipment maintenance or malfunction; and permits.

Mr. Graham then reviewed the summary of public comments and agency response and summarized the following substantive changes to the proposal: conditions under which performance testing would be conducted were revised, default retention factors and capture efficiencies were added, terms were updated, an additional provision allowing an exemption of a certain amount of cleaning materials was added, and corrections to definitions and standards were made to conform to the new control techniques guidelines.

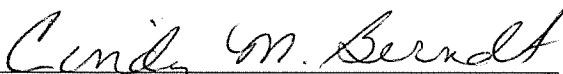
Based on the Board book material, staff presentation and Board discussion, on a motion by Mr. Jett, the Board unanimously adopted the proposal, with an effective date as provided in the Administrative Process Act.

Minute No. 8 - High Priority Violators (HPV's) For the Fourth Quarter, 2014: Ms. Kerri Nicholas with the Division of Enforcement presented a combined report on high priority violators for the first and second quarter of 2015.

Minute No. 9 - Public Forum: No one appeared during the public forum.

Minute No. 10 - Division Director's Report: Mr. Michael Dowd of the Air Division briefed the Board on the schedule for the development of the Commonwealth's Clean Power Plan.

Minute No. 11 - Future Meetings: The Board confirmed September 11 and December 4 as the dates of their future meetings.


Cindy M. Berndt, Office of Regulatory Affairs
Approved Minute No. 2
September 11, 2015