

MINUTES

STATE AIR POLLUTION CONTROL BOARD MEETING

FRIDAY, SEPTEMBER 11, 2015
HOUSE ROOM C
GENERAL ASSEMBLY BUILDING
9TH & BROAD STREETS
RICHMOND, VIRGINIA

Board Members Present:

Manning "Chip" Gasch, Jr. Samuel A. Bleicher
Rebecca R. Rubin Nicole M. Rovner

Board Members Absent:

Richard D. Langford, Chair Ann F. Kirwin
Michael D. Overstreet

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 10:35 a.m. and adjourned at 11:25 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. Bleicher, unanimously approved the minutes of the Board's meeting on June 19, 2015.

Minute No. 3 - Case-by-case Control Technology Determinations (9VAC5-40, Rev. B15) - Request for Board Action on Exempt Final Regulation: Ms. Karen Sabasteanski of the Office of Regulatory Affairs presented final exemption amendments to the regulations for the control and abatement of air pollution concerning case-by-case control technology determinations. Ms. Sabasteanski explained that the amendments add new requirements for the case-by-case determination of reasonably available control technology (RACT) needed in order to meet the U.S. Environmental Protection Agency (EPA) .075 parts per million (ppm) National Ambient Air Quality Standard (NAAQS) for ozone.

On March 6, 2015 (80 FR 12264), EPA amended subpart X to 40 CFR Part 51, which covers the implementation of the 2008 8-hour ozone standard. The Northern Virginia Ozone Nonattainment Area, which corresponds to the Northern Virginia Volatile Organic Compound

(VOC) and Nitrogen Oxides (NO_x) Emissions Control Areas, and which is part of the Ozone Transport Region (OTR), must meet the RACT requirements of 40 CFR 51.1116. This section of the EPA rule specifies dates by when RACT must be implemented in the OTR. The state regulations must be consistent with the federal regulations in order for the state to implement RACT.

She informed the board that the substantive changes to the regulation were the addition of:

1. New notification and compliance dates to Table 4-51B of 9VAC5-40-7400 for facilities that are located in VOC Emissions Control Areas subject to the 2008 .075 ppm ozone standard.
2. New notification and compliance dates to Table 4-51E of 9VAC5-40-7420 for facilities for which there is no presumptive RACT that are located in NO_x emissions control areas subject to the 2008 .075 ppm ozone standard.
3. New notification, demonstration, and compliance dates to Table 4-51F of 9VAC5-40-7420 for facilities for which presumptive RACT is defined that are located in NO_x emissions control areas subject to the 2008 .075 ppm ozone standard.

Based on the Board book material, staff presentation and Board discussion, the Board on a motion by Mr. Bleicher, 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 - High Priority Violators (HPV's) For the Fourth Quarter, 2014: Ms. Kerri Nicholas with the Division of Enforcement presented a report on high priority violators for the third quarter of 2015.

Minute No. 5 - Public Forum: No one appeared during the public forum.

Minute No. 6 - Division Director's Report: Mr. Michael Dowd of the Air Division briefed the Board on the final Clean Power Plan and what it means for Virginia.

Mr. Bleicher presented seven questions that he asked to explained to the Board in greater depth and early on. Specifically he asked:

1. Does the Department expect to ask for an extension for submitting the state implementation plan, or does the Department hope to meet the September 2016 initial deadline?
2. Will the Board hear direct testimony from interested parties about what they want to see in the state implementation plan, or are the Department listening sessions supposed to serve that purpose? If the latter, are Board members expected to attend some or all of the sessions to hear the testimony directly?
3. Does the Department plan to seriously explore participation in Regional Greenhouse Gas Initiative (RGGI), and if so, will the Governor ask for legislation to confirm our ability to join RGGI? What are the advantages and disadvantages of joining RGGI? Is there any likelihood of joining or creating some other multi-state entity that Virginia might participate in? Would that be more desirable than joining RGGI?
4. Does the Department plan to use a rate-based approach and a mass-based approach? What are the factors behind the choice?

5. Will the state implementation plan be structured to encourage trading of credits or allocations within Virginia and in interstate transactions?
6. How will the state implementation plan address the non-Dominion electric generating units, or will any distinction be necessary?
7. Does the Department expect to include the Clean Energy Incentive Program as part of the state implementation plan, or outside the state implementation plan, or leave that to other agencies? If left to other agencies, which agency or agencies?

Mr. Paylor informed the Board that it may be possible at the December Board meeting to provide responses to the questions based on the Governor's development of the Commonwealth's Clean Power Plan. In addition, Mr. Dowd advised that he would provide information to the best of the Department's knowledge at the time.

Minute No. 7 - Future Meetings: The Board changed the date of the next meeting to December 9, 2015.


Cindy M. Berndt, Office of Regulatory Affairs

*Approved Minute No. 2
December 9, 2015*