

MINUTES
STATE AIR POLLUTION CONTROL BOARD MEETING

MONDAY, APRIL 7, 2003

DEPARTMENT OF ENVIRONMENTAL QUALITY
PIEDMONT REGIONAL OFFICE
4949-A COX ROAD
GLEN ALLEN, VIRGINIA

Board Members Present: Karlynn W. Bucher - Vice-Chairman
Richard D. Langford
Vivian Thomson
Smita Siddhanti

Board Members Absent: Gary Baise - Chairman

Department of Environmental Quality
Staff: Robert G. Burnley, Director
Richard F. Weeks, Deputy Director
Cindy M. Berndt
John M. Daniel, Jr.
Robert A. Mann
Mary E. Major
Kathleen Sands
Karen Sabasteanski
Michael Dowd

Attorney General's Office: Carl Josephson

- 1) The following minutes summarize activities, which took place at this Board meeting.
- 2) The meeting was convened at 9:45 a.m. on Monday, April 7, 2003, recessed at 12:30 p.m. and reconvened at 1:05 p.m. The meeting was adjourned at 3:00 p.m.

Minute No. 1 - High Priority Violators (HPVS) Report

The Board received a report, as contained in the briefing material, from Mr. Michael Dowd on high priority violators for the second, third and fourth quarters of 2002. Board members also requested staff provide, at a future meeting, a presentation on how high priority violators are determined.

Minute No. 2 - Planning Activities Related to Attainment and Maintenance of the 1-Hour and 8-Hour Ozone Air Quality Standards

Mr. John Daniel briefed the Board on the status of planning activities concerning the attainment and maintenance of the 1-hour and 8-hour ozone air quality standards.

Minute No. 3 - Northern Virginia Ozone Nonattainment Area Classification Bump-up (9 VAC 5 Chapters 20 and 40, Rev. D03) - Public Participation Report and Request for Board Action

Ms. Karen Sabasteanski presented amendments to the regulations for the control and abatement of air pollution for final adoption. Ms. Sabasteanski explained that the Northern Virginia Ozone Nonattainment area was reclassified ("bumped up") from serious to severe by the U.S. Environmental Protection Agency, necessitating a change in Virginia's regulations with regard to the regulation of major stationary sources.

Ms. Sabasteanski advised that the first action necessary was to change the area's classification in the state regulations from serious to severe. Due to the structure of the nonattainment new source review regulations, changing the classification would automatically lower the major stationary source threshold for VOCs and NO_x from 50 tons per year to 25, as well as change offset requirements from 1.2 to one to 1.3 to one. The second action needed was to change the major stationary source threshold in the control technology regulation.

Based on the briefing material, staff presentation and discussion, the Board, on a motion made by Ms. Thomson, (1) adopted the amendments, with an effective date consistent with the Administrative Process Act; (2) affirmed that it will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision and (3) directed that the amendments be submitted to EPA as a State Implementation Plan revision.

Minute No. 4 - VOC Emission Standards (9 VAC 5 Chapter 40, Rev. C02) - Regulation Development Report and Request to Publish Proposal for Public Comment

Dr. Kathleen Sands presented amendments to the regulations for the control and abatement of air pollution for Board authorization to publish for public comment. Dr. Sands explained the proposed amendments to the VOC emission standards concerning portable fuel container spillage control, solvent cleaning, mobile equipment repair and refinishing, and architectural and industrial maintenance coatings. She advised that the amendments were determined in consultation with the Metropolitan Washington Air Quality Committee (MWAQC), a body of locally affected officials, who provide input on control strategy development and associated control measures.

Based on the briefing material, staff presentation and discussion, the Board, on a motion made by Mr. Langford, authorized the Department to promulgate the proposal for public comment.

Minute No. 5 - Hampton Roads VOC Emission Control Area (9 VAC 5 Chapter 20, Rev. G02) - Regulation Development Report and Request to Publish Proposal for Public Comment

Dr. Kathleen Sands presented proposed amendments to the regulations for the control and abatement of air pollution concerning the Hampton Roads VOC Emission Control Area. Dr. Sands explained that from 1999 to 2001, the Hampton Roads area experienced four exceedances, resulting in a violation of the 1-hour ozone standard. Consequently, the Commonwealth is now obligated to implement the contingency measures of the 1-hour maintenance plan established for the Hampton Roads area.

Dr. Sands explained that one measure was rescinding the exemption for the VOC emission

standards for James City County, York County, Poquoson City and Williamsburg City. This would result in the standards applying to existing sources conducting activities such as asphalt application, solvent metal cleaning, metal can coating, and graphic arts operations in these localities. Originally, these four jurisdictions were determined to be too rural to make a significant contribution to air pollution in the area. Two decades later, however, they have undergone significant development and are no longer rural.

Based on the briefing material, staff presentation and discussion, the Board, on a motion made by Mr. Langford, authorized the Department to promulgate the proposal for public comment.

Minute No. 6 - Regulation for Emissions Trading (9 VAC 5 Chapter 140, Rev. HO2) - Regulation Development Report and Request to Publish Proposal for Public Comment

Ms. Mary E. Major presented proposed amendments to the Regulation for Emissions Trading. Ms. Major explained that provisions in the current NO_x Budget Trading Program mandate that flow control begin in 2006. EPA has made a preliminary finding that the flow control date does not meet federal requirements and must be changed to 2005 or Virginia may face federal disapproval of its NO_x SIP Call regulation.

Based on the briefing material, staff presentation and discussion, the Board, on a motion made by Ms. Siddhanti, authorized the Department to promulgate the proposed amendment for public comment. (Mr. Langford declared that he is an employee of Celanese Acetate LLC which could be affected by the adoption of the amendments, and that he was able to participate in the transaction fairly, objectively and in the public interest.)

Minute No. 7 - VOC Early Reduction Credit (9 VAC 5 Chapters 20 and 40, Rev. C03) - Regulation Development Report and Request to Publish Proposal for Public Comment

Ms. Karen Sabasteanski presented proposed amendments to the regulations for the control and abatement of air pollution. Ms. Sabasteanski explained that EPA had implemented a policy whereby areas that currently meet the 1-hour ozone standard but do not meet the new 8-hour ozone standard may reduce their emissions and thus avoid designation as nonattainment. In order to participate, state and local governments and EPA must develop and sign an intergovernmental agreement known as a memorandum of agreement (MOA). Currently, two areas - the Roanoke Metropolitan Statistical Area (consisting of Botetourt County, Roanoke County, Roanoke City, and Salem City), and the Northern Shenandoah Valley Region (consisting of Frederick County and Winchester City) - qualify for and have made formal commitments to participate in the early reduction program.

Virginia's strategy for participating in the early reduction program and avoiding future violations of the standard is to have the proposed nonattainment areas be subject to volatile organic compound (VOC) and nitrogen oxides (NO_x) control strategies from which they had hitherto been exempt. In order to enable the affected localities to implement these VOC and NO_x controls, the list of VOC and NO_x emissions control areas in the regulation is being expanded to include two new VOC and NO_x emissions control areas. By doing so, the VOC and NO_x control rules of Chapter 40 will become applicable in these areas.

Based on the briefing material, staff presentation and discussion, on a motion made by Mr. Langford, the Board authorized the Department to promulgate the proposal for public comment.

(Additional information on the early action plans developed by the localities is to be presented at a future meeting in response to some members concerns about the early reduction program.)

Minute No. 8 - Planning Activities Related to the Development of § 111(d)/129 Plans - Status Report

Ms. Karen Sabasteanski briefed the Board on the status of planning activities concerning § 111(d)/129 plans.

Minute No. 9 - Commercial/Industrial Solid Waste Incinerators (9 VAC 5 Chapter 40, Rev. J00) - Public Participation Report and Request for Board Action

Ms. Karen Sabasteanski presented amendments to the regulations for the control and abatement of air pollution for final action. Ms. Sabasteanski explained that many substances of concern are emitted to the atmosphere as a result of the incineration of commercial and industrial waste: organics (including dioxins and furans), metals (including mercury), particulate matter, and acid gases (including sulfur dioxide and hydrogen chloride). Ms. Sabasteanski detailed for the Board the substantive provisions of the amendments that were originally proposed for public comment, the public comments received and changes being recommended for final adoption.

Based on the briefing material, staff presentation and discussion, the Board, on a motion by Mr. Langford, adopted the amendments with an effective date as provided in the Administrative Process Act and directed that the amendments be submitted to EPA as part of the §111(d)/129 plan.

Minute No. 10 - Small Municipal Waste Combustors (9 VAC 5 Chapter 40, Rev. K00) - Public Participation Report and Request for Board Action

Ms. Karen Sabasteanski presented amendments to the regulations for the control and abatement of air pollution for final adoption. She explained that many substances of concern are emitted to the atmosphere as a result of the incineration of municipal solid waste: organics (including dioxins and furans), metals (including particulate matter), and acid gases (including sulfur dioxide and hydrogen chloride). While pollution from large municipal waste combustors is currently controlled by federal and state regulation, this action would provide a similar program for small municipal waste combustors (SMWCs).

Ms. Sabasteanski detailed for the Board the substantive provisions of the amendments that were originally proposed for public comment, the public comments received and changes being recommended for final adoption.

Based on the briefing material, staff presentation and discussion, the Board, on a motion made by Mr. Langford, adopted the amendments with an effective date as provided in the Administrative Process Act and directed that the amendments be submitted to EPA as part of the §111(d)/129 plan.

Minute No. 11 - Hospital/medical/infectious Waste Incinerators (Article 44 of 9 VAC 5 Chapter 40, Revision A03) - Public Participation Report and Request for Board Action

Ms. Sabasteanski briefed the Board on final amendments to the regulations for the control and abatement of air pollution. She explained that the primary components of emissions from existing hospital/medical/infectious waste incinerators (HMIWIs) are particulate matter, carbon monoxide,

dioxins/furans, hydrogen chloride, sulfur dioxide, nitrogen oxides, lead, cadmium, and mercury, all of which are capable of causing serious adverse health and welfare effects.

Ms. Sabasteanski advised the Board that the amendments were necessary to address deficiencies in the plan that were identified by EPA and detailed the substantive amendments being proposed.

Based on the briefing material, staff presentation and discussion, the Board, on a motion made by Mr. Lanford, (1) adopted the proposed amendments with an effective date of July 1, 2003; (2) affirmed that it would receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision; and (3) directed that the amendments be submitted to EPA to be part of the §111(d)/129 plan. (Ms. Thomson filed a transactional disclosure statement.)

Minute No. 12 - Large Municipal Waste Combustors (Article 54 of 9 VAC 5 Chapter 40, Revision B03) - Public Participation Report and Request for Board Action

Ms. Karen Sabasteanski presented amendments to the regulations for the control and abatement of air pollution for final adoption. She explained that the primary components of emissions from large municipal waste combustors (MWCs) are particulate matter, carbon monoxide, dioxins/furans, hydrogen chloride, sulfur dioxide, nitrogen oxides, lead, cadmium, and mercury, all of which are capable of causing serious adverse health and welfare effects.

Ms. Sabasteanski advised the Board that the amendments were necessary in order to address deficiencies in the plan that were identified by EPA and detailed the substantive amendments being proposed.

Based on the briefing material, staff presentation and discussion, the Board, on a motion made by Mr. Langford, (1) adopted the proposed amendments with the additional amendment to 9 VAC 5-40-8140 A 2a presented at the meeting, with an effective date of July 1, 2003; (2) affirmed that it would receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision; and (3) directed that the amendments be submitted to EPA to be part of the §111(d)/129 plan.

Minute No. 13 - EPA New Source Review Reform for Major Stationary Sources and Major Modifications - Informational Briefing

Mr. Robert A. Mann provided a briefing on EPA's final rule revising the federal New Source Review (NSR) permitting program for major stationary sources and major modifications locating in prevention of significant deterioration (PSD) areas and nonattainment (NA) areas.

Minute No. 14 - Major New Source Review Reform (Articles 8 and 9 of 9 VAC 5 Chapter 80, Rev. E03) - Presentation of Petition for Rulemaking and Plan for Disposition

Mr. Robert A. Mann presented a letter of February 3, 2003 from the Virginia Manufacturers Association petitioning the Board to initiate a rulemaking concerning the new source review permit program for major stationary sources and major modifications locating in prevention of significant deterioration (PSD) areas and nonattainment (NA) areas, Articles 8 and 9 of 9 VAC 5 Chapter 80. Mr. Mann advised the Board that the petitioner was requesting an expedited rulemaking pursuant to § 2.2-4006 A 4 c of the Code of Virginia to incorporate recent federal new source review reforms into Virginia's major new source review regulations.

The Board received the petition.

Minute No. 15 - Minor New Source Review Reform (Article 6 of 9 VAC 5 Chapter 80, Rev. F03) - Presentation of Petition for Rulemaking and Plan for Disposition

Mr. Robert A. Mann presented a letter of February 3, 2003 from the Virginia Manufacturers Association petitioning the Board to initiate a rulemaking concerning the minor new source review permit program, Article 6 of 9 VAC 5 Chapter 80. Mr. Mann advised the Board that the petitioner was requesting the Board to undertake and swiftly conclude a rulemaking to incorporate recent federal new source review reforms and other innovations previously proposed by the Board into Virginia's minor new source review regulations.

The Board received the petition.

Minute No. 16 - Public Forum

There were no speakers during the public forum.

Minute No. 17 - Appointments to the State Advisory Board on Air Pollution

The Board, on a motion made by Mr. Langford, approved reappointments for Ted D. Handel, Tedd H. Jett, August Wallmeyer, Naraine Persaud and Daniel R. Holmes to the Board with terms expiring on December 31, 2004; and approved appointments for Cindy Huber and Cathy Taylor with terms expiring on December 31, 2004.

Minute No. 18 - Future Meetings

The Board set September 12 and November 5, 2003 as the dates of the next meetings.

Minute No. 18 - Minutes

The Board, on a motion made by Mr. Langford, approved the minutes from the Board's meetings on September 30 and November 6, 2002.

Cindy M. Berndt