

**MINUTES
STATE AIR POLLUTION CONTROL BOARD MEETING
WEDNESDAY, MARCH 2, 2005**

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

Board Members Present:

Richard D. Langford, Chairman
Vivian E. Thomson
John N. Hanson

Karlynn W. Bucher, Vice-Chairman
Smita Siddhanti

Department of Environmental Quality:

Robert G. Burnley, Director

Cindy M. Berndt

Attorney General's Office:

Carl Josephson, Assistant Attorney General

- 1) The following minutes summarize activities, which took place at this Board meeting.
- 2) The meeting was convened at 9:45 a.m., recessed at 12:00 p.m., reconvened at 1:03 p.m., recessed at 2:45 p.m., reconvened at 2:58 p.m. and adjourned at 4:00 p.m.

Minute No. 1 - Particulate Matter Nonattainment Areas (Rev. D05): Ms. Karen G. Sabasteanski presented amendments to the regulations for the control and abatement of air pollution concerning particulate matter nonattainment areas. Ms. Sabasteanski explained that on January 5, 2005, EPA amended 40 CFR Part 81 by adding a list of areas that are nonattainment for the PM_{2.5} standard. The new PM_{2.5} nonattainment areas become effective on April 5, 2005. In addition to providing the basis for broad-based non-regulatory plans for attainment and maintenance of the standards, the nonattainment area designations and classifications are also part of the legally enforceable means by which the state implements the new source review program for nonattainment areas. The amendment consists of the addition of the Northern Virginia PM_{2.5} Nonattainment Area to the regulations.

Based on the Board book material, staff presentation and Board discussions, on a motion by Ms. Bucher, the Board unanimously adopted the amendments, with an effective date of May 4, 2005; affirmed that it will receive, consider, and respond to petitions by any person at any time with respect to reconsideration or revision; and directed that the amendments be submitted to EPA as a State Implementation Plan Revision.

Minute No. 2 - Definition of Volatile Organic Compound (Rev. B05): Ms. Karen G. Sabasteanski presented amendments to the regulations for the control and abatement of air pollution concerning

the definition of volatile organic compound. Ms. Sabasteanski explained that on November 29, 2004, EPA revised the definition of volatile organic compound (VOC) in 40 CFR 51.100 to exclude four compounds that have been demonstrated to be less reactive. This exclusion is accomplished by adding the substances to a list of substances not considered to be a VOC. At the same time, EPA revised the definition of VOC to partially exclude t-butyl acetate. EPA's revision established that t-butyl acetate should be considered to be a VOC for recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOCs, and should be uniquely identified in emission reports, but it is not a VOC for purposes of VOC emission standards, emission limitations, or content requirements.

Ms. Sabasteanski detailed the substantive amendments:

1. The definition of VOC was revised to exclude 1,1,1,2,2,3,3-heptafluoro-3-methoxypropane, 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6-dodecafluoro-2-(trifluoromethyl) hexane, 1,1,1,2,3,3,3-heptafluoropropane, and methyl formate. [9 VAC 5-10-20, subdivisions 1 ss, tt, uu, and vv of the definition for VOC]
2. A paragraph was added to indicate that t-butyl acetate is considered to be a VOC for purposes of recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOCs and is to be uniquely identified in emission reports, but is not a VOC for purposes of VOC emission standards, VOC emission limitations, or VOC content requirements. [9 VAC 5-10-20, subdivision 5 of the definition for VOC]
3. Several minor typographical corrections were made. [9 VAC 5-10-20, subdivisions 1 nn, oo, pp, and qq of the definition of VOC]

Based on the Board book material, staff presentation and Board discussions, on a motion by Mr. Hanson, the Board unanimously adopted the amendments, with an effective date of May 4, 2005; affirmed that it will receive, consider, and respond to petitions by any person at any time with respect to reconsideration or revision; and directed that the amendments be submitted to EPA as a State Implementation Plan Revision.

Minute No. 3 - Small Municipal Waste Combustors (Rev. C05). Ms. Karen G. Sabasteanski presented amendments to the regulations for the control and abatement of air pollution concerning small municipal waste combustors. Ms. Sabasteanski explained that Table 3 of 40 CFR Subpart BBBB (Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units) contains nitrogen oxides (NO_x) emission limits that apply only to Class I small municipal waste combustion units (SMWCs). However, the corresponding Virginia regulation, 9 VAC 5-40-6620, does not specify that the NO_x limits apply only to Class I SMWCs.

Ms. Sabasteanski explained that the one substantive amendment to the regulation would revise 9 VAC 5-40-40-6620 to indicate that the standards for NO_x apply only to Class I SMWCs.

Based on the Board book material, staff presentation and Board discussions, on a motion by Ms. Bucher, the Board unanimously adopted the amendments, with an effective date of May 4, 2005; affirmed that it will receive, consider, and respond to petitions by any person at any time with respect to reconsideration or revision; and directed that the amendments be submitted to EPA as a

State Implementation Plan Revision.

Minute No. 4 - Opening Burning (9 VAC 5 Chapter 40, Rev. H03). Ms. Mary E. Major presented proposed amendments to the regulations for the control and abatement of air pollution concerning open burning. Ms. Major explained that the regulation was developed to provide a mechanism to remedy both a public welfare problem and a public health problem.

Ms. Major advised that the open burning regulation limits or in some instances prohibits open burning. It establishes requirements to restrict emissions of nitrogen oxides (NO_x) and volatile organic compounds (VOCs) during the peak ozone season in VOC control areas to the level necessary for the protection of public health and welfare. It also provides guidance to local governments on the adoption of ordinances to regulate open burning.

Ms. Major detailed the significant amendments being proposed to reduce emissions of volatile organic compounds (VOCs) and nitrogen oxides (NO_x) from open burning and special incineration devices in Virginia's emissions control areas in order to attain and maintain the federal health-based air quality standard for ozone and nitrogen oxides:

1. Prohibit the use of special incineration devices during the summer burning ban.
2. Expand the summer burning ban from three months to five.
3. Expand the summer ban into the new volatile emissions control areas.

In addition, technical changes were required to ensure that the regulation is consistent with the Board's regulations for incinerators and to resolve definition conflicts between the regulations of the Board and those of the Waste Management Board.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Ms. Thomson, authorized the Department to promulgate the amendments for public comment.

Minute No. 5 - Major New Source Review Reform (9 VAC 5 Chapter 80, Rev. E03). Mr. Robert A. Mann presented proposed amendments to the regulations for the control and abatement of air pollution concerning major new source review reform. Mr. Mann explained EPA's new major NSR reform rule incorporates five main elements: (i) changes to the method for determining baseline actual emissions; (ii) changes to the method for determining emissions increases due to operational change; (iii) provisions to exclude pollution control projects (PCPs) from NSR; (iv) provisions for determining applicability of NSR requirements for units designated as Clean Units; and (v) provisions to allow for compliance with plantwide applicability limits (PALs). The current NSR regulations must be amended in order to meet these new requirements.

Mr. Mann briefed the Board on the proposed amendments to the regulations, including the following amendments applicable to Articles 8 (PSD areas) and 9 (nonattainment areas):

1. Provisions for electric utility steam generating units (EUSGUs) have been added in order for the baseline state regulations to be consistent with the baseline federal regulations.
2. Sources making physical changes to existing emissions units must determine whether the changes trigger major NSR requirements by establishing their baseline actual emissions. Sources may now use any consecutive 24-month period during the five-year period prior to the change to determine the baseline actual emissions.
3. The method for determining if a physical or operational change will result in an emissions increase has been revised. The previous "actual-to-potential" and "actual-to-representative-actual-annual" emissions applicability tests for existing emissions units have been replaced with an "actual-to-projected-actual" applicability test.
4. New provisions for pollution control projects (PCPs) have been added. A PCP is an activity, set of work practices, or project at an existing emissions unit that reduces air pollution. Obtaining a PCP exclusion relieves the PCP from major NSR review. These new PCP provisions replace the old PCP provisions of Article 6 that have been removed.
5. The "Clean Unit test" is a new type of control technology applicability test. An emissions unit qualifies as a Clean Unit, and qualifies to use the Clean Unit applicability test, if it has gone through major NSR permitting review and is complying with a BACT or LAER determination that has been subject to public participation. When a source undergoes NSR review and installs a BACT or LAER technology that has undergone public comment, it may make changes to a Clean Unit without triggering an additional major NSR review.
6. Provisions for plantwide applicability limits (PALs) have been added. A PAL is a voluntary option that allows a source to manage emissions without triggering major new source review. The PAL program is based on plantwide actual emissions. If the emissions are maintained below a plantwide actual emissions cap, then the facility may avoid major NSR permitting process when it makes alterations to the facility or individual emissions units.

The following amendments are limited to specific articles:

7. Article 8 has been revised in order to be consistent with other NSR regulations. This consists of (i) removing federal enforceability of certain provisions that should be enforceable by the state (toxics and odor) in order to prevent state-only terms and conditions from being designated as federally enforceable in a permit; (ii) deleting provisions covered elsewhere regarding circumvention, and reactivation and permanent shutdown; and (iii) adding provisions regarding changes to permits, administrative permit amendments, minor permit amendments, significant amendment procedures, and reopening for cause.
8. Article 4 of 9 VAC 5 Chapter 40, which contains general requirements for new and modified stationary sources, has been revised to be consistent with the control technology provisions of Articles 8 and 9.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Ms. Thomson, authorized the Department to promulgate the amendments for public comment.

(Mr. Langford declared that he is a retiree of a business affected by the amendments, but that he is able to participate in the approval of the amendments for public comment fairly, objectively and in the public interest.)

Minutes No. 6 - Site-Specific Regulation And The Federally Enforceable State Operating Permit For International Paper Located In Franklin Virginia - Description Of The Project And Public Participation Report. Ms. Laura Corl presented background on the International Paper Franklin Paper Mill multi-part Innovations Project and the development of the permit for the facility. Ms. Corl explained that the Site-Specific regulation will allow IP to operate the mill under a SWEC for 10 different pollutants. Once IP accepts the cap limitations, and corresponding monitoring and reporting, major and minor source permitting will no longer be applicable to the facility. This means that they will be allowed to make changes at the facility as long as the overall emissions from the site do not exceed any of the Site-Wide Emission Caps.

The caps were established by allowing a look back period of six representative years. For 7 of the 10 pollutants (SO₂, NO_x, CO, VOC, TRS, Lead, Fluorides) the average of the most recent 24 month period (2003, 2004) of actual emissions was used to generate the past actuals baseline. For the other three pollutants (PM, PM₁₀, H₂SO₄), the average of a different 24 month period (1998, 2000) was used to generate the past actuals baseline.

Once the baseline of past actuals was established for each pollutant, the baseline was adjusted to compensate for any increases or decreases in emissions that will result from complying with the MACT standard. Then the PSD significance level was added to the baseline for each pollutant, with the exception of Lead. The PSD significance level for Lead is so large compared to the current emissions from the facility that only 0.05 ton/year (8% of the significance level) was added to the baseline. These adjustments resulted in the SWEC levels that are in the regulation and the permit.

The facility agreed to add 8 new Continuous Emissions Monitoring Systems (CEMS) to their power boilers to obtain accurate emission levels of SO₂, NO_x and CO. In establishing the caps at the past actual emission levels, IP has agreed to install additional control devices in order to stay under their new caps. Some of the devices they have suggested are a new scrubber on an existing stripper to reduce SO₂ and the installation of low NO_x burners being installed on the power boilers to reduce NO_x emissions.

The Board received the report.

Minute No. 7 - Variance for International Paper (9 VAC 5 Chapter 230). Mr. Robert A. Mann presented a proposed variance to the regulations for the control and abatement of air pollution for International Paper, Inc. Franklin Paper Mill. Mr. Mann explained that International Paper had requested that the Board grant a variance from certain portions of the SAPCB Regulations and authorize the DEQ to issue a FESOP that will act in lieu of those regulations. The draft order and variance and final draft FESOP are being used to implement a portion of the International Paper Innovations Project. Mr. Mann advised the Board that a site-specific variance is needed for the IP Franklin Paper Mill in order to provide relief from the state regulations governing new source review and to establish site-wide emission caps for particulate matter (PM and PM₁₀), sulfur dioxide, oxides of nitrogen, carbon monoxide, volatile organic compounds, total reduced

sulfur, lead, sulfuric acid mist and fluorides. The site-wide emission caps would be used as alternative means of compliance with state regulations governing new source review (Article 4 of Chapter 50, and Articles 6, 8 and 9 of Chapter 80).

Mr. Mann detailed the provisions of the new regulation:

9 VAC 5-230-10 specifies the International Paper Franklin Paper Mill as the facility to which the provisions of the variance apply.

9 VAC 5-230-20 defines words and phrases used in the variance.

9 VAC 5-230-30 specifies the authority of International Paper to operate under the variance and the FESOP. International Paper may operate under the variance provided no administrative appeals are filed and once it provides written notice to the department.

9 VAC 5-230-40 establishes the site-wide emissions caps for particulate matter (PM and PM₁₀), sulfur dioxide, oxides of nitrogen, carbon monoxide, volatile organic compounds, total reduced sulfur, lead, sulfuric acid mist and fluorides. Compliance is based on a 12-month rolling sum. The regulation establishes compliance caps that may be used to determine compliance with the emissions caps. The initial compliance caps are equal to the emissions caps but may be adjusted by the Department based on the applicability of future regulations and revised site-specific emission factors or other quantification methods. Public participation is required prior to the decision to adjust the compliance caps.

9 VAC 5-230-50 grants relief from the New Source Review program for all pollutants for which an emissions cap has been established. In addition, there is no exemption for pollutants covered by the state toxic program. However, the company must comply with major new source control technology requirements for the addition of a new emissions unit. Previous NSR program permits issued to the affected facility are rescinded if certain criteria are met.

9 VAC 5-230-60 covers other regulatory requirements. International Paper must comply with all other regulations except for the MACT for the Pulp and Paper Industry (40 CFR Part 63, subpart S). As an alternative to the MACT standard, Intentional Paper must comply with alternative requirements reflected in a permit issued by the department. International Paper may not use emissions trading to comply with the emissions caps.

9 VAC 5-230-70 specifies the relationship between the FESOP and variance and the federal operating permit (Title V) program. International paper will be required to obtain a Title V operating permit, pursuant to the applicable Title V program, and be subject to the Title V fees.

9 VAC 5-230-80 sets out the authority for FESOP issuance and amendments. The FESOP is to contain the terms and conditions for determining compliance, monitoring, recordkeeping, and reporting. Additionally, the variance sets out the procedures for issuing and modifying the FESOP.

9 VAC 5-230-90 specifies provisions for transfer of ownership of the facility.

9 VAC 5-230-100 specifies that future amendments to the regulations covered by the variance shall not apply to the facility unless the board amends this variance to specifically address the applicability of the regulatory amendments to the facility.

9 VAC 5-230-110 specifies the requirements covering the termination of the authority of International Paper to operate under the variance and FESOP.

9 VAC 5-230-120 specifies the procedures for periodic review and confirmation of the variance by board.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Ms. Bucher, authorized the Department to promulgate the proposal for public comment with a vote of 4 to 1 (Ms. Thomson voted no.)

Minute No. 8 – Public Forum. No one appeared during the public forum.

Minute No. 9 – Division Director's Report on Activities. In addition to the report included in the Board book material, Mr. John M. Daniel, Jr., briefed the Board on a January 20, 2005 report from the Public Interest Research Group. The report concerned local trends in power plant pollution from 1995 to 2003.

Minute No. 10 - High Priority Violators (HPVs). The Board received a report from Mr. Michael Down on high priority violators for the fourth quarter 2004.

Minute No. 11 – Minutes. The Board, on a motion made by Mr. Hanson, approved the minutes from the November 3, 2004 meeting. The Board, on a motion made by Ms. Thomson, approved the minutes from the January 5, 2005 meeting.

Minute No. 12 – Health Effects of Air Pollution: New Research Results. The Board received a report from Mr. Ron Wyzga with EPRI on new research results on the health effects of air pollution.


Minute No. 13 – State Advisory Board on Air Pollution – Charter. Mr. Richard D. Langford briefed the Board on the activities that led to the development of a charter for the SAB. Mr. Sanat Bhavsar, current Chairman of the State Advisory Board on Air Pollution (SAB), presented the proposed charter for the Board's consideration.

Based on the Board book material, staff presentation and Board discussion, the Board, on a motion by Mr. Hanson, unanimously approved the Charter.

Minute No. 14 – Future Briefings. The Board requested that the Department present reports at the next regular meeting on how Virginia compares to other states on various issues, such as SIP call status and sulphur dioxide and the NOx and North Carolina lawsuits.

Minute No. 15 – 2005 Legislation. Ms. Melissa Porterfield briefed the Board on legislation passed by the General Assembly during the 2005 session.

Minute No. 16 – Future Meetings. A date for the next regular meeting was not set.


Cindy M. Berndt