

FINAL MINUTES  
STATE AIR POLLUTION CONTROL BOARD MEETING

**THURSDAY, NOVEMBER 21, 2024**

General Assembly Building, 3<sup>rd</sup> floor, Senate Room A,  
201 North 9th Street, Richmond, VA 23219

**Board Members Present:**

Jim Guy, Chair  
Kimberly Beamer  
Emily Domenech  
David Hudgins  
Russell Mait

**Board Members Absent:**

Jay Holloway, Vice-chair  
Daniel Jorjani

**Department of Environmental Quality:**

Michael Rolband, Director  
Melissa Porterfield, Board Coordinator  
Jill Hrynciw, Board Coordinator

**Attorney General's Office:**

Eric Lansing, Assistant Attorney General

These minutes summarize activities that took place at this Board meeting. The meeting was convened at 10:06 a.m. and adjourned at 11:11 a.m.

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

**Minute No. 2- June 4, 2024 Minutes:** The Board unanimously approved the minutes from the Board's meeting on June 4, 2024.

**Minute No. 3- Federal Emissions Guidelines for Existing Crude Oil and Natural Gas Facilities -Rev B24), 9VAC5-40 Final Exempt Action:** Ms. Megan Joyce presented the Board with a final exempt amendment to 9VAC5-40 to implement regulations promulgated by the U.S. Environmental Protection Agency (EPA) establishing Emissions Guidelines (EG) for Greenhouse Gas (GHG) Emissions from Existing Crude Oil and Natural Gas Facilities, Subpart OOOOc of 40 CFR Part 60. This subpart establishes emission guidelines and compliance schedules for the control of GHG emissions from designated facilities in the crude oil and natural gas source category. The pollutants regulated by this subpart are greenhouse gases in the form of a limitation on emissions of methane from designated facilities that commenced construction, modification, or reconstruction on or before December 6, 2022. Because the EG applies to existing stationary sources, the Board must adopt a new article in 9VAC5-40, Existing Stationary Sources, that incorporates the federal rules by reference. Ms. Joyce reported that this amendment meets the federal statutory and regulatory requirements and ensures that the Commonwealth will be able to meet its obligations under the federal Clean Air Act.

After presenting this amendment to the Board, Ms. Joyce then made the following recommendation:  
1. That the Board adopt the proposal with an effective date consistent with the Administrative Process Act; and

2. In adopting this proposal, the Board affirms 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 Administrative Process Act.

Based on the Board book material, staff presentation and Board discussion, the Board unanimously (i) adopted the amendments with an effective date consistent with the Administrative Process Act and (ii) affirmed that it would 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 Administrative Process Act.

**Minute No. 4- Federal Documents Incorporated by Reference (Revision C24), 9VAC5-20, -50, -60 - Final Exempt Action:** Ms. Megan Joyce presented the Board with a final exempt amendment to 9VAC5-50- New and Modified Stationary Sources, 9VAC5-20 General Provisions, and 9VAC5-60 Hazardous Air Pollutant Sources. The purpose of the proposed action is to amend the regulations to incorporate newly promulgated federal New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and national emission standards for hazardous air pollutants for source categories (Maximum Achievable Control Technology, or MACT), Rules 5-5, 6-1, and 6-2, respectively, of the Board's regulations. The Board needs to incorporate newly promulgated NSPS, NESHAP, and MACT standards in order for the department to obtain authority from the U.S. Environmental Protection Agency (EPA) to enforce these standards. If the Board does not do so, authority to enforce the standards remains with the federal government. Further, the standards reflect the most current technical research on the subjects addressed by the standards. To continue to follow the old standards would mean relying on inaccurate and outdated information.

In addition to updating the date of the Code of Federal Regulations books being incorporated by reference, several new NSPSs are being added, and a number of administrative updates to MACT standards are being made.

Ms. Joyce then made the following recommendation:

1. That the Board adopt the proposal with an effective date consistent with the Administrative Process Act; and
2. In adopting this proposal, the Board affirms 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 Administrative Process Act.

Based on the Board book material, staff presentation and Board discussion, the Board unanimously (i) adopted the amendments with an effective date consistent with the Administrative Process Act and (ii) affirmed that it would 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 Administrative Process Act.

**Minute No. 5- Petition - New Regulatory Rulemaking on Ocean-class Passenger Cruise Ships:** Mr. Michael Dowd presented a petition received from Robert Hodson requesting the board to initiate a new regulatory rulemaking on Ocean-class Passenger Cruise Ships as follows: (1) Mandate the use of low-sulphur fuel, (2) Ban the use of Exhaust Gas Cleaning Systems (open-loop scrubbers), (3) Require the use of shore power, (4) Restrict the dumping of graywater, blackwater, and other environmentally detrimental waste products, and (5) Require incident reporting and independent monitoring to ensure compliance. Mr. Dowd presented the Board with the public comment summary and response to comments on a petition from Mr. Hodson. Based on the Board book material, staff presentation, and Board discussion, the Board voted to not initiate a rulemaking in response to the petition. The rationale for denying the petition is as follows:

With respect to petition items one through three and item five:

1. The Board is limited by [statute](#) (§ 10.1-1307 B) to regulating motor vehicles with respect to a Low and Zero Emissions Vehicle (§ 177) program, or an inspection and maintenance (I/M) program governing on-road motor vehicles in the northern Virginia ozone nonattainment area. The Board has no jurisdiction over off-shore mobile sources such as cruise ships.

Even if state law did allow the Board to adopt such regulations, it would be prohibited from doing so by § 209 E 1 of the federal Clean Air Act, which prohibits states from adopting certain standards for controlling emissions from new nonroad vehicles and engines.

2. Cruise ships are subject to international law and treaty, and changes to pollution controls should be pursued through those venues. The U.S. Environmental Protection Agency (EPA) participates on the U.S. delegation to the International Maritime Organization (IMO), which is part of the United Nations. The Marine Environment Protection Committee is a group of member states within IMO that works on the prevention of marine pollution. The global marine environment standards are contained in the International Convention on the Prevention of Pollution from Ships treaty, also known as MARPOL. Annex VI to MARPOL defines engine and ship requirements related to air pollution. The Board has no legal ability to override these existing legal requirements.

3. Even if the Board had the authority to regulate cruise ships, it would not be able to complete the work to develop a regulation until well after various international and federal efforts had been conducted; see, for example, <https://www.epa.gov/regulations-emissions-vehicles-and-engines/epa-collaboration-international-air-pollution-0>.

4. Neither the Board nor the Department have the ability to ensure compliance with any such program.

5. Low-sulfur fuel is already required through the MARPOL treaty. Annex VI to MARPOL allows the use of exhaust gas cleaning systems (scrubbers) as an alternative method of compliance with the marine fuel sulfur limit.

6. Shore power is generally used by vessels with moderate power requirements; typically less than 50 to 100 kW. These vessels are capable of making use of normal grid voltage and frequency, and replace the energy from the generators with the shore power. To serve larger vessels with shore power, dedicated and relatively costly installations are required, both on land and on board the vessels. This may include upgrading the grid capacity, frequency converters and complex high power connectors. Consequently, relatively few vessels and ports are capable of making use of shore power, and any related benefits may not outweigh the costs.

With respect to item four:

The Board does not have the legal authority under the Virginia Air Pollution Control Law to regulate water quality.

**Minute No. 6- Report to the Board Regarding Controversial Permits:** Mr. Michael Dowd, Air and Renewable Energy Division Director, informed the Board that the department is considering two permits that meet the statutory definition of a controversial permit. One permit is for the Chesterfield Energy Reliability Center (CERC) and the other permit is for the Southeastern Public Service Authority (SPSA) Regional Landfill.

**Minute No. 7- Director's Report- Climate Pollution Reduction Grant (CPRG) Program / Comprehensive Climate Action Plan (CCAP) Status Update:** Mr. Tom Ballou, Air Quality Planning Manager, provided the Board with an update on the Climate Pollution Reduction Grant Program and the development of a Comprehensive Climate Action Plan. EPA has placed emphasis on including outreach and engagement activities as the CCAP is developed. DEQ has established a CCAP stakeholder group as part of the development of the CCAP and is planning regional outreach activities concerning content of the CCAP. The CCAP is due to EPA December 1, 2025. The Board congratulated DEQ staff for securing \$200 million in CPRG grants and Tom Ballou recognized DEQ staff Ava Lovain, Julia Wack and Allyson Frantz for their work to secure this funding.

**Minute No. 8- Public Forum:** No individuals addressed the Board during the public forum.