

**TENTATIVE AGENDA
STATE AIR POLLUTION CONTROL BOARD MEETING
MONDAY, APRIL 7, 2003
(Includes FEBRUARY 28, 2003 cancelled due to weather)
DEPARTMENT OF ENVIRONMENTAL QUALITY
PIEDMONT REGIONAL OFFICE
4949-A COX ROAD
GLEN ALLEN, VIRGINIA**

Convene - 9:30 A.M.

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Adjourn

NOTE: The Board reserves the right to revise this agenda without notice unless prohibited by law. Revisions to the agenda include, but are not limited to, scheduling changes, additions or deletions. Questions arising as to the latest status of the agenda should be directed to Cindy M. Berndt at (804) 698-4378.

REPORT TO THE STATE POLLUTION CONTROL BOARD CONCERNING HIGH PRIORITY VIOLATORS (HPVs) FOR THE SECOND, THIRD AND FOURTH QUARTERS, 2002

ACTIVE CASES — Table A *			
DEQ Region	Facility Name and location	Brief Description	Status
NRO	Covanta Alexandria Arlington, Inc., Arlington	Alleged emission exceedances in violation of PSD requirements	NOV issued 4/18/02; pending
SCRO	Kyanite Mining Corp., Buckingham County	Alleged operation of a major source in violation of PSD, NSPS, and NSR requirements	NOV issued 3/10/98; Consent Order dated 10/13/00 imposed civil fine of \$51,335 w/approx. \$30,000 to be offset by a SEP, and required installation of various pollution control equipment and performance of emissions and control efficiency tests
SWRO	Webb Furniture Enterprises, Inc. – Plant #2, Galax	Alleged presence of 2 unpermitted spray booths, 2 spray booths w/o pollution control equipment, 1 spray booth w/damaged pollution control equipment; failure to follow MACT work practice implementation plan; failure to conduct VE checks in required manner	NOV issued 1/8/03; currently in negotiations

* **Table A includes the following categories of HPV cases:**
 1) Those initiated by Notice of Violation (NOV) prior to or during the last three quarters of 2002 that have not been resolved by Consent Order or are otherwise active, and;

2) Those settled by Consent Order prior to or during the last three quarters of 2002 but which have outstanding compliance issues.

RESOLVED CASES — Table B **			
DEQ Region	Facility Name and location	Brief Description	Status
NRO	Motiva, Fairfax Terminal	Alleged failure to have TOC emissions monitoring device	NOV issued 4/18/02; Consent Order dated 12/9/02 imposed civil fine of \$14,333
NRO	Motiva, Springfield Terminal	Alleged failure to have TOC emissions monitoring device	NOV issued 4/18/02; Consent Order dated 12/9/02 imposed civil fine of \$6,296
NRO	Old Dominion Terminal LLC, Fairfax	Alleged failure to have TOC emissions monitoring device	NOV issued 4/18/02; Consent Order dated 12/2/02 imposed civil fine of \$2,279
NRO	Transcontinental Gas Pipeline – Station 185, Manassas	Alleged CO and VOC emission increases in violation of PSD and NSR requirements	NOV issued 3/6/00; Consent Order dated 5/8/02 imposed civil fine of \$39,690 and installation of pollution control equipment, and required source to undertake a SEP worth approximately \$119,000 (equip a natural gas fired compressor engine w/high pressure fuel injection)
PRO	Honeywell International, Inc., Hopewell	Alleged exceedances of NOx and PM-10 emission limits	NOV issued 12/3/01; Consent Order dated 8/26/02 imposed civil fine of \$69,705 w/approx. \$50,000 to be offset by a SEP
PRO	Quebecor World San Jose, Inc., Richmond	Several alleged violations of Va. air regulations and MACT requirements, including failure to maintain proper pressure drop across the composite mesh pad system, failure to make timely compliance status reports and various notifications, inability to demonstrate required control efficiencies of VOC control systems, and numerous recordkeeping deficiencies	NOV issued 11/5/02; Consent Order dated 1/9/03 imposed civil fine of \$11,200
PRO	Westvaco Corp., Richmond	Alleged failure to use proper test methodologies and failure to meet required capture efficiencies for VOCs	NOV issued 7/29/98; Consent Orders dated 9/3/98 and 3/15/02 imposed civil fine of \$39,000, required source to retest VOC capture efficiencies and directed source to request a permit modification reducing allowable VOC emissions

SCRO	Owens-Brockway Glass Container, Inc., Ringgold	Alleged modification to furnace (addition of electric boost) in violation of PSD and NSR requirements	NOV issued 9/19/01; Consent Order dated 5/21/02 imposed civil fine of \$76,079 w/approx. \$30,000 to be offset by a SEP
SCRO	Virginia Dept. of Corrections, Buckingham	Alleged various emissions violations	NOV issued 12/11/01; Letter of Agreement signed 12/9/02
SWRO	Integrated Solid Waste Management Facility, City of Bristol	Alleged failure to install gas collection and control system on Landfill #498 in violation of NSPS Subpart WWW, 40 CFR §60.750, et seq.	NOV issued 11/5/02; Consent Order dated 10/17/02 imposed civil fine of \$12,600 w/over \$12,000 to be offset by a SEP (construction of wetlands)
TRO	Owens-Brockway Glass Container, Inc., Toano	Alleged modification to furnace B (upgrading/addition of electric boosting) in violation of PSD and NSR requirements	Consent Order dated 11/22/02 imposed civil fine of \$216,456
WCRO	Bassett Mirror, Bassett	Alleged excess VEEs	Consent Order dated 1/9/03 imposed controls and process changes
WCRO	Dutailier Virginia, Inc., Martinsville	Alleged failure to submit Title V certification for 2001 and failure to submit MACT continuous compliance report for the second half of 2001	NOV issued 7/15/02; Consent Order dated 8/27/02 imposed a civil fine of \$980
WCRO	Georgia Pacific, Big Island	Alleged excess VEEs	NOV issued 6/5/02; Consent Order dated 7/15/02 required source to cease burning the specific material causing the excess VEEs and imposed a civil fine of \$1,300
WCRO	Global Stone James River, Inc., Buchanan	Alleged fugitive dust violations	NOV issued 4/25/02; Consent Order dated 8/2/02 imposed a civil fine of \$5,880 w/approx. \$4,410 to be offset by a SEP (paving activities)
WCRO	Sisson and Ryan Quarry, Shawsville	Alleged violation of permit condition related to SIP requirements	NOV issued 9/30/02; resolved by issuance of amended permit on 10/16/02

**** Table B includes HPV cases resolved by Consent Order or otherwise during the last three quarters of 2002**

SUBJECT: Planning Activities Related to Attainment and Maintenance of the 1-Hour and 8-Hour Ozone Air Quality Standards - Status Report

The Department will brief the Board on the status of planning activities concerning the attainment and maintenance of the 1-hour and 8-hour ozone air quality standards. The information in the briefing will relate the planning activities to the regulatory actions on the

agenda for this Board meeting.

SUBJECT: 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

The Northern Virginia Ozone Nonattainment area was reclassified ("bumped up") from serious to severe. This necessitates a change in Virginia's regulations with regard to the regulation of major stationary sources. The first regulatory requirement is 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 will 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 requirement is to change the major stationary source threshold in the control technology regulation.

§ 2.2-4006 A 4 c of the Virginia Administrative Process Act applies to the proposed amendments because they are necessary to meet the requirements of federal law (see below) and the regulation would not differ materially from the requirements of federal law. Because the state regulations are necessary to conform to federal statutory law, the state regulations are exempt from all state public participation requirements under the provisions of § 2.2-4006 A 4 a of the Administrative Process Act. However, in order to meet federal requirements for public participation, the public participation activities described below were conducted.

SUBJECT: VOC Emission Standards (9 VAC 5 Chapter 40, Rev. C02) - Regulation Development Report and Request to Publish Proposal for Public Comment

The Clean Air Act mandates that states include in their State Implementation Plans (SIPs) certain control measures. If it is determined that these federally mandated measures will not fill the gap between air quality goals and actual air quality, the SIP must then incorporate additional measures as needed to meet the air quality goals. These additional measures are determined in consultation with locally affected officials, who provide input on control strategy development and associated control measures. In the Northern Virginia area, the pertinent body of locally affected officials is the Metropolitan Washington Air Quality Committee (MWAQC). MWAQC has recommended that Maryland, Virginia, and Washington, D.C., adopt regulations for portable fuel container spillage control, solvent cleaning, mobile equipment repair and refinishing, and architectural and industrial maintenance coatings in order to achieve the necessary reductions of VOC emissions in the Northern Virginia area.

SUBJECT: Hampton Roads VOC Emission Control Area (9 VAC 5 Chapter 20, Rev. G02) - Regulation Development Report and Request to Publish Proposal for Public Comment

From 1999 to 2001, the Hampton Roads area experienced four exceedances, resulting in a violation of the 1-hour ozone standard. (More than three exceedances in a three-year period result in a violation.) Consequently, EPA Region III notified Virginia that the Commonwealth is now obligated to implement the contingency measures of the 1-hour maintenance plan established for the Hampton Roads area.

Since the initial regulatory promulgation of the volatile organic compounds emissions

control areas in 1979, James City County, York County, Poquoson City, and Williamsburg City have been exempt from the emission standards for VOCs in 9 VAC 5 Chapter 40. These standards apply to existing sources conducting activities such as asphalt application, solvent metal cleaning, metal can coating, and graphic arts operations. 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. In light of the Hampton Roads area's violation of the 1-hour ozone standard, the exemption of these jurisdictions from the VOC emission standards must be now rescinded.

SUBJECT: Regulation for Emissions Trading (9 VAC 5 Chapter 140, Rev. HO2) - Regulation Development Report and Request to Publish Proposal for Public Comment

On May 21, 2002, the board adopted the final regulation concerning Emissions Trading, Virginia NOx Budget Trading Program (9 VAC 5 Chapter 140). The final regulation was published in the Virginia Register on June 17, 2002 and became effective on July 17, 2002. The regulation was submitted to EPA as a revision to the Virginia State Implementation Plan on June 25, 2002.

The purpose of the regulation is to establish general provisions addressing applicability, permitting, allowance allocation, excess emissions, monitoring, and opt-in provisions to create a Virginia NOx Budget Trading Program as a means of mitigating the interstate transport of ozone and nitrogen oxides in order to protect public health and welfare.

Provisions in the current NOx 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 NOx SIP Call regulation. The Department is recommending an amendment to the Virginia regulation that will change the date for start of flow control to 2005 as mandated by EPA.

SUBJECT: VOC Early Reduction Credit (9 VAC 5 Chapters 20 and 40, Rev. C03) - Regulation Development Report and Request to Publish Proposal for Public Comment

EPA has 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. To afford these areas the opportunity to participate in the program, the applicability of VOC and NO_x control standards is being expanded to include these areas.

By avoiding the nonattainment designation, these areas will avoid new source review for major sources, including the requirement to make offsets, and conformity review. These areas will also experience a reduction in ozone air pollution, and thus experience improved public health and welfare.

In order to participate, state and local governments and EPA must develop and sign an intergovernmental agreement known as a memorandum of agreement (MOA). The MOA describes the local control measures the state or local community intends to adopt and implement to reduce emissions of ozone-forming air pollutants in advance of air quality violations. In the MOA, the state or local community agrees to prepare emission inventories and conduct air quality modeling and monitoring, if necessary, to support its

selection of emission controls.

Areas that participate in the program have the flexibility to institute their own approach in maintaining clean air and providing public health protection. Participants receive positive public reaction for voluntarily addressing air pollution problems ahead of federal requirements. Early, local controls can improve air quality in advance of EPA's designating areas as attainment or nonattainment for the 8-hour ground-level ozone standard. For a period of time (generally not to exceed 5 years), participating areas can avoid a nonattainment designation. 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 regulation must be revised to include these affected localities. To this end, the list of VOC and NO_x emissions control areas 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.

SUBJECT: Planning Activities Related to the Development of § 111(d)/129 Plans - Status Report

The Department will brief the Board on the status of planning activities concerning § 111(d)/129 plans. The information in the briefing will relate the planning activities to the regulatory actions on the agenda for this Board meeting.

SUBJECT: Commercial/Industrial Solid Waste Incinerators (9 VAC 5 Chapter 40, Rev. J00) - Public Participation Report and Request for Board Action

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). Failure to develop an adequate program to control emissions from commercial/industrial solid waste incinerators will have adverse impacts on public health and welfare. Failure to develop an adequate regulation will also result in imposition of a federal program. Meeting the basic requirements of the law and its associated regulations will ensure that Virginia retains its rights to govern Virginia sources.

Below is a brief summary of the substantive provisions that were originally proposed for public comment.

1. The regulation identifies the sources and geographic areas to which the regulation applies, as well as exemptions.
2. Terms unique to the article are defined.
3. Emission limits for particulate matter, carbon monoxide, dioxins/furans, hydrogen chloride, sulfur dioxide, nitrogen oxides, lead, cadmium, and mercury are established.
4. Limitations for and cross references to existing state requirements for visible emissions, fugitive dust/emissions, odor, and toxic pollutants are provided.

5. CISWI operator training and qualification requirements are specified.
6. Waste management plans are required. The regulation includes required elements of such plans, which are intended for sources to separate certain components from the waste stream in order to reduce the amount of toxic emissions from the incinerated waste.
7. A compliance schedule with specific increments of progress is provided.
8. Operating limits for operating parameters such as maximum charge rates, minimum pressure drop, and minimum scrubber liquor flow rate are prescribed.
9. In the event of facility and control equipment maintenance or malfunction, certain procedures must be followed.
10. Test methods to be used in determining compliance with the emission limits are specified.
11. Compliance requirements, including testing schedules, are specified.
12. Equipment necessary to monitor compliance with the site-specific operating limits are to be installed, calibrated, maintained, and operated. [9 VAC 5-40-6470]
13. Records of monitoring and test results are to be maintained and reported.
14. Air curtain incinerators must meet separate requirements for increments of progress, opacity limits, compliance monitoring and testing, recordkeeping, and reporting.
15. Cross references are provided for state requirements for facility and control equipment maintenance or malfunction; test methods and procedures; compliance, monitoring; recordkeeping and reporting; registration; and permits.

Below is a brief summary of the substantive changes the Department is recommending be made to the original proposal.

1. Provisions intended to clarify the distinction between state and federal requirements have been added or revised.
2. The compliance schedule has been revised to reflect EPA's proposed federal plan.
3. Compliance schedule extension and shutdown/restart requirements, as provided in the proposed federal plan, have been added.
4. Minor corrections and clarifications have been made.
5. Revisions reflecting proposed federal plan requirements for air curtain incinerators have been made.
6. Section titles have been changed from "Limit for ..." to "Standard for ..." in order to maintain consistency with other provisions of the regulations.

SUBJECT: Small Municipal Waste Combustors (9 VAC 5 Chapter 40, Rev. K00) - Public Participation Report and Request for Board Action

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, a similar program needs to be developed for small municipal waste combustors (SMWCs). Failure to develop an adequate program to control emissions from small municipal waste combustors will have adverse impacts on public health and welfare. Failure to develop an adequate regulation will also result in imposition of a federal program. Meeting the basic requirements of the law and its associated regulations will ensure that Virginia retains its rights to govern Virginia sources.

Below is a brief summary of the regulation that was originally proposed for public comment.

1. The regulation identifies the sources and geographic areas to which the regulation applies, as well as exemptions.
2. Terms unique to the article are defined.
3. Emission limits for particulate matter, carbon monoxide, dioxins/furans, hydrogen chloride, sulfur dioxide, nitrogen oxides, lead, cadmium, and mercury are established.
4. Limitations for and cross references to existing state requirements for visible emissions, fugitive dust/emissions, odor, and toxic pollutants are provided.
5. Operator training and qualification requirements are specified.
6. A compliance schedule with specific increments of progress is provided.
7. Operating limits for operating parameters such as maximum charge rates, temperature limits, and carbon feed rates and usage are prescribed.
8. Compliance requirements, including testing schedules, are specified.
9. Test methods and procedures for determining compliance with the emission limits are included.
10. Equipment necessary to monitor compliance with the site-specific operating limits are to be installed, calibrated, maintained, and operated.
11. Records of monitoring and test results are to be gathered and maintained.
12. Monitoring and test results must also be reported at certain intervals.
13. Air curtain incinerators that burn only yard waste must meet separate requirements for increments of progress, opacity limits, compliance monitoring and testing, recordkeeping, and reporting.
14. In the event of facility and control equipment maintenance or malfunction, certain procedures must be followed.
15. Cross references are provided for state requirements for facility and control equipment maintenance or malfunction; test methods and procedures; compliance, monitoring; recordkeeping and reporting; registration; and permits.

Below is a brief summary of the substantive changes the Department is recommending be made to the original proposal.

1. Provisions intended to clarify the distinction between state and federal requirements have been added or revised.
2. The compliance schedule has been revised to reflect final federal plan requirements.
3. Minor corrections and clarifications have been made.
4. Section titles have been changed from "Limit for ..." to "Standard for ..." in order to maintain consistency with other provisions of the regulations.
5. The terms "performance test" and "stack test" have been replaced by the term "emission test" in order to maintain consistency with other provisions of the regulations.

SUBJECT: Hospital/medical/infectious Waste Incinerators (Article 44 of 9 VAC 5 Chapter 40, Revision A03) - Public Participation Report and Request for Board Action

Section 111(d) of the Clean Air Act requires the U.S. Environmental Protection Agency (EPA) to promulgate guidelines for states to use in developing regulations to control pollutants from existing hospital/medical/infectious waste incinerators (HMIWIs). The primary components of emissions from 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. The specific emissions guidelines for existing HMIWIs (which commenced construction,

reconstruction or modification before June 20, 1996) were promulgated in subpart Ce of 40 CFR Part 60 of the Code of Federal Regulations.

At the March 2000 meeting, the State Air Pollution Control Board approved a final regulation implementing the 40 CFR Part 60 requirements, which was then submitted to EPA for review as part of the state's § 111(d)/129 Plan. EPA notified the state that the plan is not approvable due to a number of deficiencies associated with the regulation. Therefore, it is necessary to initiate a new regulatory action in order to amend the regulation in such a way as to address deficiencies identified by EPA.

Below is a brief summary of the proposed amendments.

1. References to state regulations have been replaced with references to federal regulations in order to ensure that the regulation is identical to the federal regulation. Additionally, language has been added or revised in order to clarify the distinctions between federal and state requirements.
2. Minor revisions have been made for clarity
3. Section titles have been changed from "Limit for ..." to "Standard for ..." in order to maintain consistency with other provisions of the regulations.

SUBJECT: Large Municipal Waste Combustors (Article 54 of 9 VAC 5 Chapter 40, Revision B03) - Public Participation Report and Request for Board Action

Section 111(d) of the Clean Air Act requires the U.S. Environmental Protection Agency (EPA) to promulgate guidelines for states to use in developing regulations to control pollutants from existing large municipal waste combustors (MWCs). The primary components of emissions from large 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. The specific emissions guidelines for existing large MWCs (which commenced construction, reconstruction or modification before September 20, 1994) were promulgated in subpart Cc of 40 CFR Part 60 of the Code of Federal Regulations.

At the May 1999 meeting, the State Air Pollution Control Board approved a final regulation implementing the 40 CFR Part 60 requirements, which was then submitted to EPA for review as part of the state's § 111(d)/129 Plan. EPA notified the state that the plan is not approvable due to a number of deficiencies associated with the regulation. Therefore, it is necessary to initiate a new regulatory action in order to amend the regulation in such a way as to address deficiencies identified by EPA.

Below is a brief summary of the proposed amendments.

1. References to state regulations have been replaced with references to federal regulations in order to ensure that the regulation is identical to the federal regulation. Additionally, language has been added or revised in order to clarify the distinctions between federal and state requirements.
2. Proposed EPA revisions have been incorporated.
3. Minor clarifications and corrections have been made
4. The term "performance test" has been replaced by the term "emission test" in order to maintain consistency with other provisions of the regulations. [throughout]

SUBJECT: EPA New Source Review Reform for Major Stationary Sources and Major

Modifications - Informational Briefing

On December 31, 2002 (67 FR 80185), EPA promulgated its 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. The Department will brief the Board on the new regulations using the briefing materials used by EPA at its presentation at the November State Advisory Board meeting.

On January 22, 2003, the U.S. Senate voted in favor of a legislative amendment to H.J. Res. 2 – the Omnibus Appropriations Bill – concerning NSR which called for a study of EPA's recently promulgated NSR regulations, to be conducted by the National Academy of Sciences (NAS). This amendment and the rest of the Senate's Omnibus Appropriations Bill, as passed on Thursday, January 23, 2003, must now be reconciled with the House bill during Conference Committee, which is anticipated to begin imminently.

SUBJECT: 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

By letter of February 3, 2003, the department received a petition from the Virginia Manufacturers Association 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. The petitioner is requesting the board to initiate 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 department is presenting the rulemaking petition for receipt by the board and outlining the plan for deposition of the request. No decisions are required by the board at this time.

SUBJECT: Minor New Source Review Reform (Article 6 of 9 VAC 5 Chapter 80, Rev. F03) - Presentation of Petition for Rulemaking and Plan for Disposition

By letter of February 3, 2003, the department received a petition from the Virginia Manufacturers Association to initiate a rulemaking concerning the minor new source review permit program, Article 6 of 9 VAC 5 Chapter 80. The petitioner is requesting the board to initiate 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 department is presenting the rulemaking petition for receipt by the board and outlining the plan for deposition of the request. No decisions are required by the board at this time.