

TENTATIVE AGENDA AND MINIBOOK
STATE AIR POLLUTION CONTROL BOARD MEETING

FRIDAY, JUNE 13, 2014
DEPARTMENT OF ENVIRONMENTAL QUALITY
629 EAST MAIN STREET
TRAINING ROOM
RICHMOND, VIRGINIA

Convene – 10:00 a.m.

			TAB
I.	Review and Approve Agenda		
II.	Minutes (April 4, 2014)		A
III.	Regulations - Fast-Track		
	Regulation for Dispute Resolution (9VAC5-210 - Rev. B14)	Harris	B
	Emission Standards for Volatile Organic Compounds from Petroleum Liquid Storage and Transfer Operations, Stage II Vapor Recovery (9VAC5-20 and 9VAC5-40, Rev. C14)	Sabasteanski	C
	Major New Source Review (9VAC5-80, Rev. D14)	Sabasteanski	D
IV.	High Priority Violators Report	Nicholas	E
V.	State Advisory Board on Air Pollution Report		
	Comparison of Virginia's Minor New Source Review Permit Exemption Provisions with Those of Surrounding States	Dick	F
VII.	Public Forum		
VIII.	Other Business		
	Air Division Director's Report	Dowd	
	Future Meetings (September 5, December 5)		

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 on the latest status of the agenda should be directed to Cindy M. Berndt at (804) 698-4378.

PUBLIC COMMENTS AT STATE AIR POLLUTION CONTROL BOARD MEETINGS: The Board encourages public participation in the performance of its duties and responsibilities. To this end, the Board has adopted public participation procedures for regulatory action and for case decisions. These procedures establish the times for the public to provide appropriate comment to the Board for its consideration. For REGULATORY ACTIONS (adoption, amendment or repeal of regulations), public participation is governed by the Administrative Process Act and the Board's Public Participation Guidelines. Public comment is accepted during the Notice of Intended Regulatory Action phase (minimum 30-day comment period) and during the Notice of Public Comment Period on Proposed Regulatory Action (minimum 60-day comment period). Notice of these comment periods is announced in the Virginia Register, by posting to the Department of Environmental Quality and Virginia Regulatory Town Hall web sites and by mail to those on the Regulatory Development Mailing List. The comments received during the announced public comment periods are summarized for the Board and considered by the Board when making a decision on the regulatory action.

For CASE DECISIONS (issuance and amendment of permits), the Board adopts public participation procedures in the individual regulations which establish the permit programs. As a general rule, public comment is accepted on a draft permit for a period of 30 days. In some cases a public hearing is held at the conclusion of the public comment period on a draft permit. In other cases there may be an additional comment period during which a public hearing is held. In light of these established procedures, the Board accepts public comment on regulatory actions and case decisions, as well as general comments, at Board meetings in accordance with the following:

REGULATORY ACTIONS: Comments on regulatory actions are allowed only when the staff initially presents a regulatory action to the Board for final adoption. At that time, those persons who commented during the public comment period on the proposal are allowed up to 3 minutes to respond to the summary of the comments presented to the Board. Adoption of an emergency regulation is a final adoption for the purposes of this policy. Persons are allowed up to 3 minutes to address the Board on the emergency regulation under consideration.

CASE DECISIONS: Comments on pending case decisions at Board meetings are accepted only when the staff initially presents the pending case decision to the Board for final action. At that time the Board will allow up to 5 minutes for the applicant/owner to make his complete presentation on the pending decision, unless the applicant/owner objects to specific conditions of the decision. In that case, the applicant/owner will be allowed up to 15 minutes to make his complete presentation. The Board will then allow others who commented at the public hearing or during the public comment period up to 3 minutes to exercise their rights to respond to the summary of the prior public comment period presented to the Board. No public comment is allowed on case decisions when a FORMAL HEARING is being held.

POOLING MINUTES: Those persons who commented during the public hearing or public comment period and attend the Board meeting may pool their minutes to allow for a single presentation to the Board that does not exceed the time limitation of 3 minutes times the number of persons pooling minutes, or 15 minutes, whichever is less.

NEW INFORMATION will not be accepted at the meeting. The Board expects comments and information on a regulatory action or pending case decision to be submitted during the established public comment periods. However, the Board recognizes that in rare instances new information may become available after the close of the public comment period. To provide for consideration of and ensure the appropriate review of this new information, persons who commented during the prior public comment period shall submit the new information to the Department of Environmental Quality (Department) staff contact listed below at least 10 days prior to the Board meeting. The Board's decision will be based on the Department-developed official file and discussions at the Board meeting. In the case of a regulatory action, should the Board or Department decide that the new information was not reasonably available during the prior public comment period, is significant to the Board's decision and should be included in the official file, the Department may announce an additional public comment period in order for all interested persons to have an opportunity to participate.

PUBLIC FORUM: The Board schedules a public forum at each regular meeting to provide an opportunity for citizens to address the Board on matters other than those on the agenda, pending regulatory actions or pending case decisions. Those persons wishing to address the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentations to 3 minutes or less.

The Board reserves the right to alter the time limitations set forth in this policy without notice and to ensure comments presented at the meeting conform to this policy.

Department of Environmental Quality Staff Contact: Cindy M. Berndt, Director, Regulatory Affairs, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, Virginia 23218, phone (804) 698-4378; fax (804) 698-4346; e-mail: cindy.berndt@deq.virginia.gov.

Revision B14 – Fast Track Action Regulation for Dispute Resolution, 9VAC5-210: Revision B14 to 9VAC5-210 is presented to the Board for your consideration under the fast track regulatory process. The *Regulation for Dispute Resolution*, 9VAC5-210, was adopted by the Board and became effective on July 1, 2001; however, the authorizing provisions under §10.1-1186.3 of the Code of Virginia make reference to statutory requirements for dispute resolution and mediation under Chapter 20.2 and Chapter 21.2 of Title 8.01 of the Code of Virginia. These chapters have been amended since 9VAC5-210 became effective. Therefore, a regulatory action to amend 9VAC5-210 is necessary to comport to the changes made to the statutory requirements for dispute resolution and mediation in Title 8.01 of the Code of Virginia.

In addition, a periodic review was conducted prior to this regulatory action. No comments were received; however, the agency is undertaking this regulatory action due to the changes made to the statutory requirements for dispute resolution and mediation in Title 8.01 of the Code of Virginia.

Section 2.2-4012.1 of the Code of Virginia provides the Board's authority for the use of the fast-track process. The fast-track process is for regulations that are expected to be noncontroversial. After review by the Governor, a notice of a proposed fast-track regulation will be published in the *Virginia Register* and there will be at least a 30 day comment period. The regulation will become effective 15 days after the close of the comment period provided that (i) no objection to use of the fast-track process is received from 10 or more members of the public, or any member of the applicable standing committee of either house of the General Assembly or the Joint Commission on Administrative Rules, and (ii) the Department does not find it necessary, based on public comments or for any other reason, to make any changes to the proposal.

Emission Standards for Volatile Organic Compounds from Petroleum Liquid Storage and Transfer Operations, Stage II Vapor Recovery (9VAC5-20 and 9VAC5-40, Rev. C14) - Request to Publish Proposal for Public Comment and Use the Fast-Track Process: Section 182 (b)(3) of the federal Clean Air Act required the implementation of Stage II vapor recovery in ozone nonattainment/maintenance areas, including Northern Virginia and Richmond. Since then, in accordance with § 202(a)(6) of the Act, the U.S. Environmental Protection Agency (EPA) has determined that onboard refueling vapor recovery is in widespread use throughout the motor vehicle fleet, thus obviating the need to maintain Stage II vapor recovery programs (see 77 FR 28772). The department has examined whether Stage II is still necessary for ozone control purposes and has determined that Stage II is no longer needed. Removing this control requirement does not interfere with maintenance of any ozone standard. Therefore, on November 12, 2013 and March 19, 2014 the department submitted revisions to the SIP that satisfy all requirements of the federal Clean Air Act and EPA guidance regarding the removal of Stage II requirements from the Richmond and Northern Virginia attainment plans. Virginia's specific Stage II requirements are found in Article 37 of 9VAC5-40, and must now be amended accordingly.

The department is requesting approval of draft final regulation amendments that meet federal statutory and regulatory requirements. Approval of the amendments will ensure that the Commonwealth will be able to meet its obligations under the federal Clean Air Act.

The department did not issue a notice of intended regulatory action nor conduct any associated public participation activities because we are requesting that the board adopt the amendments as final regulations provided they complete the fast-track rulemaking process as provided in the Code of Virginia. Under the provisions of § 2.2-4012.1 of the Administrative Process Act, agencies may use the fast-track rulemaking process for regulations that are expected to be noncontroversial. The reasons for using the fast-track rulemaking process may be found in the agency background document.

Under the fast-track process, the proposal will be subject to a 30-day public comment period. If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, or the Department finds it necessary, based on public comments or for any other reason, to make any changes to the proposal, the Department will (i) file notice with the Registrar of Regulations for publication in the *Virginia Register* and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action. Otherwise, the regulation becomes effective 15 days after the end of the public comment period.

Below is a brief summary of the substantive amendments the department is recommending be made to the regulation.

1. The date of the most current Code of Federal Regulations has been updated (9VAC5-20-21 B) and the Petroleum Equipment Institute guidance document needed to meet the decommissioning requirements of 9VAC5-40-5220 F 8 is incorporated by reference (9VAC5-20-21-E 15). [page 1 and page 20]

2. 9VAC5-5220 F 7 has been added to reflect the fact that the Stage II vapor controls are no longer required in the Northern Virginia VOC Control Area (where widespread use became effective after December 31, 2013) and will cease to be effective as of January 1, 2017 (when widespread use will become effective) for the Richmond VOC Control Area. [page 19]

3. 9VAC5-40-5520 F 8 and 9 have been added to specify requirements for either the decommissioning or continuing implementation of Stage II equipment. [page 19]

5. A citation at 9VAC5-40-5270 has been corrected. [page 23]

Major New Source Review (9VAC5 Chapter 80, Rev. D14) - Request to Publish Proposal for Public Comment and Use the Fast-Track Process: Article 8 of 9VAC5-80 establishes a new source review (NSR) permit program whereby owners of sources locating in prevention of significant deterioration (PSD) areas are required to obtain a permit prior to construction of a new facility or modification of an existing one. Article 9 of 9VAC5-80 establishes an NSR permit program whereby owners of sources locating in nonattainment areas are required to obtain a permit prior to construction of a new facility or modification of an existing one. Part III of 9VAC5-85 establishes an NSR permit program in PSD areas for sources of greenhouse gases (GHGs). EPA's major NSR reform rules incorporated several elements, including changes to the method for determining baseline actual emissions, and provisions to allow for compliance with plantwide applicability limits (PALs).

On April 4, 2014, the State Air Pollution Control Board approved a petition from the Virginia Manufacturers Association to make certain elements of the major NSR program consistent with the U.S. Environmental Protection Agency (EPA) regulations, and directed the Department of Environmental Quality to amend Articles 8 and 9 accordingly. The requested changes are: (1) amend the definition of "baseline actual emissions" to allow the use of a 10-year lookback period; (2) amend the definition of "baseline actual emissions" to allow the use of different lookback periods for different regulated NSR pollutants; (3) amend PAL requirements such that a PAL effective period is for 10 years; and (4) amend the definition of "emissions unit" and add a definition of "replacement unit" to enable the use of the baseline actual emissions of the unit being replaced and the projected actual emissions of the replacement unit.

The department is requesting approval of a proposal for public comment that meets federal statutory and regulatory requirements. Approval of the proposal will ensure that the Commonwealth will be able to meet its obligations under the federal Clean Air Act.

The department did not issue a notice of intended regulatory action nor conduct any associated public participation activities because we are requesting that the board adopt the amendments as final regulations provided they complete the fast-track rulemaking process as provided in the Code of Virginia. Under the provisions of § 2.2-4012.1 of the Administrative Process Act, agencies may use the fast-track rulemaking process for regulations that are expected to be noncontroversial. The reasons for using the fast-track rulemaking process may be found in the agency background document.

Under the fast-track process, the proposal will be subject to a 30-day public comment period. If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, or the Department finds it necessary, based on public comments or for any other reason, to make any changes to the proposal, the Department will (i) file notice with the Registrar of Regulations for publication in the Virginia Register and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action. Otherwise, the regulation becomes effective 15 days after the end of the public comment period.

Below is a brief summary of the substantive amendments the department is recommending be made to the regulation.

1. The definition of "baseline actual emissions" in 9VAC5-80-1615 C and 9VAC5-80-2010 C will be amended to conform the Virginia regulation to the federal requirements of 40 CFR 51.166(b)(47) and 40 CFR 51.165(a)(1)(xxxv). This will extend the lookback period from 5 to 10 years.

2. The definition of "baseline actual emissions" in 9VAC5-80-1615 C and 9VAC5-80-2010 C, and 9VAC5-80-1865 E and 9VAC5-80-2144 E, will be amended to conform the Virginia regulation to the federal requirements of 40 CFR 51.166(b)(47) and 40 CFR 51.166(w), and 40 CFR 51.165(a)(1)(xxxv) and 40 CFR 51.165(f)(6). This will enable different lookback periods for different regulated NSR pollutants.

3. 9VAC5-80-1615 C, 9VAC5-80-1685 C 1 f, 9VAC5-80-2010 C and 9VAC5-80-2144 C 1 will be amended to conform the Virginia regulation to the federal requirements of 40 CFR 51.166(w) and 40 CFR 51.165(f). This will increase the PAL effective period from 5 years to 10.

4. The definitions of "emissions unit" will be amended to conform the Virginia regulation to the federal requirements of 40 CFR 51.166(b)(7) and 40 CFR 51.165(a)(1)(vii), and a definition of "replacement unit" will be added in 9VAC5-80-1615 C and 9VAC5-80-2010 C in accordance with 40 CFR 51.166(b)(32) and 40 CFR 51.165(a)(1)(xxi). This will enable use of the baseline actual emissions of the unit being replaced and the projected actual emissions of the replacement unit.

5. The definitions of "baseline actual emissions for a GHG PAL" and "PAL effective period" in 9VAC5-85-50 will be amended to conform the Virginia regulation to the federal requirements of 40 CFR 52.21(aa)(2)(xiii) and 40 CFR 52.21(aa)(2)(vii). This will extend the lookback period from 5 to 10 years, and remove a requirement that prohibits different lookback periods for different regulated NSR pollutants.

6. The definition of "emissions unit" in 9VAC5-85-550 will be amended to conform the Virginia regulation to the federal requirements of 40 CFR 51.166(b)(7) and 40 CFR 51.165(a)(1)(vii), and a definition of "replacement unit" will be added in 9VAC5-85-50 C in accordance with 40 CFR 51.166(b)(32) and 40 CFR 51.165(a)(1)(xxi). This will enable use of the baseline actual emissions of the unit being replaced and the projected actual emissions of the replacement unit.

7. 9VAC5-85-55 will be amended to conform the Virginia regulation to the federal requirements of 40 CFR 52.21(aa). This will increase the PAL effective period from 5 years to 10.

High Priority Violators (Hpv's) For The Second Quarter, 2014

NOV's Issued from January through March 2014

<p>BRRO</p>	<p>New River Energetics Radford, Virginia Registration No. 21258 SIC 2892 Explosives NAICS 325920 Chemical Manufacturing</p>	<p>Discovery Date: 1/28/2014 Alleged violation: Exceeded VOC permit limit</p>	<p>NOV – Issued 1/30/2014</p>
<p>VRO</p>	<p>Miller-Coors Elkton, Virginia Registration No. 81012 SIC 2082 Malt Beverages NAICS 312120 Beverage Manufacturing</p>	<p>Discovery Date: 1/30/2014 Alleged violations: Failure to conduct performance test on GE Jenbacher SI internal combustion engine.</p>	<p>NOV – Issued 3/7/2014</p>

CO's Issued from January through March 2014

BRRO	New River Energetics Radford, Virginia Registration No. 21258 SIC 2892 Explosives NAICS 325920 Chemical Manufacturing	Discovery Date: 1/28/2014 Alleged violation: Exceeded VOC permit limit	NOV – Issued 1/30/2014 Order effective 3/18/2014, including \$14,812 civil charge
NRO	Kinder Morgan Newington Terminal #1 Newington, Virginia Registration No. 70087 SIC 5171 Petroleum Bulk Stations and Terminals NAICS 424710 Petroleum Bulk Stations	Discovery Date: 7/24/2013 Alleged Violations: Failure to submit performance evaluation testing report and failure to certify Continuous Emissions Monitoring System (CEMS) for Vapor Recovery Unit.	NOVs – Issued 8/15/2013, 10/25/2013 Order effective 2/10/2014, including \$10,000 civil charge.
PRO	James River Genco Hopewell, Virginia Registration No. 50950 SIC 4911 Electric Services NAICS 221112 Fossil Fuel Electric Power Generation	Discovery Date: 5/22/2013	NOV issued 8/13/2013 Order effective 1/27/2014, including \$13,926 civil charge.
VRO	O-N Minerals (Chemstone) Corporation Strasburg, Virginia Registration No. 80252 SIC 3274 Lime Manufacturing NAICS 327410 Nonmetallic Mineral Product Manufacturing	Discovery Date: 8/6/2013 Alleged Violations: Failed stack test for PM emissions limit.	NOV – Issued 10/22/2013 Order Effective 2/18/2014, including \$22,833 civil charge.

CO's In Development – Previously Reported NOV's

SWRO	Saltville Gas Storage Company LLC	Discovery Date: 10/3/2013	NOV – Issued 12/9/2013
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	<p>Saltville, Virginia</p> <p>Registration No. 11237</p> <p>SIC 4922 Natural Gas Transmission NAICS 486210 Pipeline Transportation of Natural Gas</p>	<p>Alleged Violations:</p> <p>Failed stack test, exceeded VOC limit for natural gas dehydration unit and glycol regenerators.</p>	
SWRO	<p>Virginia City Hybrid Energy Center</p> <p>Wise County, Virginia</p> <p>Registration No. 11526</p> <p>SIC 4911 Electric Services NAICS 221119 Electric Power Generation</p>	<p>Discovery date: 4/8/2013</p> <p>Alleged violations:</p> <p>Exceeded CO limit for 30 day rolling average variable permit limit for CFB Units 1 and 2.</p>	<p>NOV – Issued 4/10/2013</p> <p>EPA issued a letter approving Dominion’s request for carbon dioxide diluent cap on 1/28/2014. Dominion recently submitted recalculated data, DEQ staff are reviewing this information</p>

EPA CD’s In Development – Previously Reported NOV’s

<p><i>**The inspections at the Hopewell facilities were conducted as part of EPA Region III’s Hopewell Geographic Initiative, which is an enforcement strategy created, in part to better understand the transfer of volatile organic compounds and hazardous air pollutants between facilities in the Hopewell geographic air shed.</i></p>			
**EPA	<p>Hopewell Regional Wastewater Treatment Facility (WWTP)</p> <p>Hopewell, Virginia Hopewell City</p> <p>Registration No. 50735</p> <p>SIC 4952 Sewage Systems NAICS 221320 Utilities, Water, Sewage and Other Systems</p>	<p>Discovery dates – 11/07/2007</p> <p>Alleged violations: Violations of 40 CFR 63 Subpart VVV (Publically Owned Treatment Works - POTW) and Reasonably Available Control Technology (RACT) that include failure to provide appropriate notification, meet control requirements, conduct inspections and monitoring, properly calculate emission values.</p>	<p>EPA 1st NOV - Issued 07/06/2009 EPA 2nd NOV - Issued 12/17/2010</p> <p>Additional Information: NOV meetings were held with EPA, DEQ, and the Responsible Party on 9/23/2009, 03/09/2011 and 8/7/2012. Draft Consent Decree provided to DEQ 7/12/2013. Response received from WWTP on 5/7/2014, negotiations continue.</p>
DEQ - PRO		<p>Discovery dates: 02/04/2011</p> <p>Alleged violations: Failure to meet 92% HAP mass removal present in wastewater.</p>	<p>NOV - Issued 05/25/2011</p> <p>Additional Information: This NOV cites the same violations as the EPA NOV issued on 12/17/2010.</p>
**EPA	<p>Smurfit-Stone Container Corp. /</p>	<p>Discovery dates – 07/27/2010</p>	<p>NOV - Issued 09/27/2010</p>

	<p>Hopewell Mill (RockTenn)</p> <p>Hopewell, Virginia</p> <p>Registration No. 50370</p> <p>SIC 2631 Pulp Mills NAICS 322130 Pulp, Paper, and Paperboard Products</p>	<p>Alleged violations:</p> <p>Failure to operate in a manner to demonstrate compliance with HAP reduction requirements.</p> <p>Failure to submit periodic startup, shutdown and malfunction reports.</p>	<p>Additional Information:</p> <p>NOV meetings were held with EPA, DEQ, and the Responsible Party on 01/31/2011 and 8/7/2012. Negotiations continue between DOJ/EPA, DEQ and RockTenn.</p>
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