

TENTATIVE AGENDA AND MINIBOOK  
STATE AIR POLLUTION CONTROL BOARD MEETING

FRIDAY, SEPTEMBER 11, 2015  
HOUSE ROOM C  
GENERAL ASSEMBLY BUILDING  
9TH & BROAD STREETS

Convene – 10:30 a.m.

<b>I.</b>	<b>Review and Approve Agenda</b>		<b>TAB</b>
<b>II.</b>	<b>Minutes</b> (June 19, 2015)		A
<b>III.</b>	<b>Regulations - Final Exempt</b> Case-by-Case Control Technology Determinations (9VAC5-40, Rev. B15)	Sabasteanski	B
<b>IV.</b>	<b>High Priority Violators Report</b>	Nicholas	C
<b>V.</b>	<b>Public Forum</b>		
<b>VI.</b>	<b>Other Business</b> Air Division Director's Report Future Meetings (December 4)	Dowd	

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 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) 698-4019; e-mail: [cindy.berndt@deq.virginia.gov](mailto:cindy.berndt@deq.virginia.gov).

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**Case-by-case Control Technology Determinations (9VAC5-40, Rev. B15) - Request for Board Action on Exempt Final Regulation:** This action adds new requirements for the case-by-case determination of reasonably available control technology (RACT) needed in order to meet the U.S. Environmental Protection Agency (EPA) 0.75 parts per million (ppm) National Ambient Air Quality Standard (NAAQS) for ozone. On March 6, 2015 (80 FR 12264), EPA amended subpart X to 40 CFR Part 51, which covers the implementation of the 2008 8-hour ozone standard. The Northern Virginia Ozone Nonattainment Area, which corresponds to the Northern Virginia Volatile Organic Compound (VOC) and Nitrogen Oxides (NO<sub>x</sub>) Emissions Control Areas, and which is part of the Ozone Transport Region (OTR), must meet the RACT requirements of 40 CFR 51.1116. This section of the EPA rule specifies dates by when RACT must be implemented in the OTR. The state regulations must be consistent with the federal regulations in order for the state to implement RACT.

Because the state regulations are necessary to meet the requirements of the federal Clean Air Act and do not differ materially from the pertinent U.S. Environmental Protection Agency (EPA) regulations, the state regulations are exempt from the standard regulatory adoption process (Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act) by the provisions of § 2.2-4006 A 4 c of the Administrative Process Act. However, notice of the regulation adoption must be forwarded to the Registrar for publication in the Virginia Register 30 days prior to the effective date. Also, the Registrar must agree that the regulations are not materially different from the federal version and are,

therefore, exempt from the standard regulatory adoption process and must notify the agency accordingly. This notification and the notice of adoption will be published in the Virginia Register subsequently. Further, in adopting the regulation amendments under the provisions of § 2.2-4006, the board is required to state that it will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Notice that the regulation would be considered by the board and that public comment would be accepted at the board meeting in accordance with the board's policy on public comment at board meetings was provided to the public by posting of the board's agenda to the Virginia Regulatory Town Hall and DEQ web site. In addition, email notification was provided to those persons signed up to receive notifications of board meetings through the Town Hall website.

Below is a brief summary of the substantive changes the department is recommending be made.

1. Add new notification and compliance dates to Table 4-51B of 9VAC5-40-7400 for facilities that are located in VOC Emissions Control Areas subject to the 2008 0.75 ppm ozone standard.
2. Add new notification and compliance dates to Table 4-51E of 9VAC5-40-7420 for facilities for which there is no presumptive RACT that are located in NO<sub>x</sub> emissions control areas subject to the 2008 0.75 ppm ozone standard.
3. Add new notification, demonstration, and compliance dates to Table 4-51F of 9VAC5-40-7420 for facilities for which presumptive RACT is defined that are located in NO<sub>x</sub> emissions control areas subject to the 2008 0.75 ppm ozone standard.

### High Priority Violators (HPVs) For the Third Quarter, 2015

NOV's Issued from April through June

NRO	<b>Trae-Fuels LTD</b> Bumpass, Virginia Registration No. 41057	<b>Discovery Date:</b> 6/9/2015  <b>Alleged Violations:</b> Ongoing violations of facility's fugitive dust plan and associated recordkeeping; exceedance of visible emissions limit from Earth Care Dryer exhaust stack.	<b>NOV:</b> Issued 6/19/2015
VRO	<b>HP Hood LLC</b> Winchester, Virginia Registration No. 81359	<b>Discovery Date:</b> 4/21/2015  <b>Alleged Violations:</b> Construction and operation of new equipment without a permit; specifically, combustion turbine (CT1) and a digester flare (BB2).	<b>NOV:</b> Issued 4/30/2015

Consent Orders issued from April through June

SWRO	<b>Virginia City Hybrid Energy Center</b> Wise County, Virginia Registration No. 11526	<b>Discovery date:</b> 4/8/2013  <b>Alleged violations:</b> Exceeded CO limit for 30 day rolling average variable permit limit for CFB Units 1 and 2.	<b>NOV's:</b> Issued 4/10/2013, 9/30/2013  <b>Consent Order effective on 4/6/2015, including civil charge of \$47,651.00.</b>
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VRO	<b>O-N Minerals Chemstone Company - Strasburg</b>  Bristol, Virginia  Registration No. 80252	<b>Discovery Date:</b> 8/14 /2014  <b>Alleged violations:</b>  Failed stack tests – exceeded PM emission limit in TV Permit and 2013 Consent Order.	<b>NOV:</b> Issued 8/19/2014, 10/22/2014, 12/3/2014  <b>Consent Order effective on 4/14/2015, including civil charge of \$23,187.00 and requiring additional performance testing for following four six-month periods and submittal of operation and maintenance procedures for the Hydrator.</b>
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Consent Orders In Development – Previously Reported NOV’s

BRRO	<b>South Boston Energy, LC</b>  South Boston, Virginia  Registration No. 21526	<b>Discovery Date:</b> 3/19/2014  <b>Alleged violations:</b>  Late submittal of performance test results, failure to conduct RATA, failure to submit EERs for 3rd and 4th quarters of 2013, improper stack testing.	<b>NOV – Issued 5/29/2014</b>  Regional Enforcement staff negotiating consent order.
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EPA CD’s In Development – Previously Reported NOV’s

<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>			
**EPA	<b>Hopewell Regional Wastewater Treatment Facility (WWTP)</b>  Hopewell, Virginia Hopewell City  Registration No. 50735	<b>Discovery dates – 11/07/2007</b>  <b>Alleged violations:</b> 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.	<b>EPA 1<sup>st</sup> NOV - Issued 07/06/2009</b> <b>EPA 2<sup>nd</sup> NOV - Issued 12/17/2010</b>  <b>Additional Information:</b> Amended draft Consent Decree sent to WWTP October 28, 2014. Met with WWTP, EPA and DOJ on November 3, 2014, for settlement meeting. Settlement conference set for May 28-29, 2015, at EPA Region 3 Headquarters.  <b>Administrative settlement reached June 2015</b>
DEQ - PRO		<b>Discovery dates:</b> 02/04/2011  <b>Alleged violations:</b> Failure to meet 92% HAP mass removal present in wastewater.	<b>NOV - Issued 05/25/2011</b>  <b>Additional Information:</b> This NOV cites the same violations as the EPA NOV issued on 12/17/2010.