

TENTATIVE AGENDA
STATE AIR POLLUTION CONTROL BOARD MEETING

MONDAY, DECEMBER 5, 2016
HOUSE ROOM C
GENERAL ASSEMBLY BUILDING
9TH & BROAD STREETS
RICHMOND, VIRGINIA

Convene – 10:00 a.m.

		TAB
I. Review and Approve Agenda		
II. Minutes (September 9, 2016)		A
III. Regulations - Final Exempt		
Municipal Solid Waste Landfills (9VAC5-40, Rev. H16)	Sabasteanski	B
Federal Documents Incorporated by Reference (9VAC5-10, Rev. J16)	Sabasteanski	C
IV. Regulations – Fast-Track		
Definition of Volatile Organic Compound (9VAC5-10, Rev. I16)	Sabasteanski	D
V. High Priority Violations Report	Nicholas	E
VI. Public Forum		
VII. Other Business		
Future Meetings		

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.

Municipal Solid Waste Landfills (9VAC5-40, Revision H16) - Request for Board Action on Exempt Final Regulation: Currently, air pollution from landfills is regulated in Virginia under Article 43, Emission Standards for Municipal Solid Waste Landfills (9VAC5-40-5800 et seq. of 9VAC5-40, Existing Stationary Sources). Article 43 was originally designed to control two separate pollutants: (i) ozone in the northern Virginia ozone nonattainment area as required by § 110 of the Clean Air Act and implemented by 40 CFR Part 51, and (ii) nonmethane organic compounds

as required by § 111 of the federal Clean Air Act and implemented by Subpart Cc of 40 CFR Part 60, which is applicable statewide.

On August 29, 2016 (81 FR 59276), the U.S. Environmental Protection Agency (EPA) promulgated new emissions guidelines for municipal solid waste landfills, Subpart Cf of 40 CFR Part 60. The amendments were made in order to reduce emissions of landfill gas, which contains both nonmethane organic compounds and methane. In order to adopt the requirements of Subpart Cf while maintaining the state-only requirements specific to the northern Virginia ozone nonattainment area, a new Article 43.1 is being promulgated. This will enable the adoption of the new statewide standards without affecting the more restrictive requirements applicable to the nonattainment area.

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.

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. 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 summary of the proposed amendments:

1. 9VAC5-20-21 is amended to update reference to the most recent (2016) version of the Code of Federal Regulations, and create a transition between the 2016 and 2017 federal code books.
2. Article 43 of 9VAC5-40 is amended to specify facilities that are subject to Article 43.1 of 9VAC5-40.
3. Article 43.1 of 9VAC5-40 is promulgated. It adopts the provisions of Subpart Cf of 40 CFR 60 by reference, as well as a number of state-specific provisions to enable the article to operate on its own as a state regulation under 9VAC5-40, Existing Stationary Sources.

Federal Documents Incorporated by Reference (Rev. J16) - Request for Board Action on Exempt Final Regulation : 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 Rule 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.

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The regulation amendments update state regulations that incorporate by reference certain federal regulations to reflect the Code of Federal Regulations as published on July 1, 2016. Below is a list of the new standards the department is recommending be incorporated into the state regulations by reference:

1. One new (Subpart OOOOa, Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification, or Reconstruction Commenced after September 18, 2015) NSPS is not being incorporated at this time; this standard is listed with a note that enforcement of the standard rests with EPA. In addition, Subparts T, U, V, W, X, CCCC, and OOOO were amended. The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.
2. No new NESHAPs are being incorporated; however, a number of typographical errors have been corrected under Subpart M. The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.
3. Three new MACTs are being added: Subpart NN, Wool Fiberglass Manufacturing at Area Sources (40 CFR 63.880 through 40 CFR 63.899); Subpart JJJJ, Brick and Structural Clay Products Manufacturing (40 CFR 63.8380 through 40 CFR 63.8515); and Subpart KKKK, Ceramics Manufacturing (40 CFR 63.8530 through 40 CFR 63.8665). In addition, Subparts AA, BB, CC, and GG were amended. The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.

Definition of Volatile Organic Compound (9VAC5-10, Rev. I16) - Request to Publish Proposal for Public Comment and Use the Fast-Track Process: Section 109 (a) of the federal Clean Air Act requires the U.S. Environmental Protection Agency (EPA) to prescribe national ambient air quality standards (NAAQS) to protect public health. Section 110 mandates that each state adopt and submit to EPA a state implementation plan (SIP) which provides for the implementation, maintenance, and enforcement of the NAAQS. Ozone, one of the pollutants for which there is a NAAQS, is in part created by emissions of volatile organic compounds (VOCs). Therefore, in order to control ozone, VOCs must be addressed in Virginia's SIP.

40 CFR Part 51 sets out requirements for the preparation, adoption, and submittal of SIPs. Subpart F of Part 51, Procedural Requirements, includes § 51.100, which consists of a list of definitions. 40 CFR 51.100 contains a definition of VOC. This definition is revised by EPA in order to add or remove VOCs as necessary. If it can be demonstrated that a particular VOC is "negligibly reactive"--that is, if it can be shown that a VOC is not as reactive and therefore does not have a significant effect on tropospheric ozone (ground-level smog)--then EPA may remove that substance from the definition of VOC. On August 1, 2016 (81 FR 50330), EPA revised the definition of VOC to exclude 1,1,2,2-Tetrafluoro-1-(2,2,2-trifluoroethoxy) ethane (also known as HFE-347pcf2), which became effective on September 30, 2016.

The purpose of 9VAC5-10 (general definitions) is not to impose any regulatory requirements in and of itself, but to provide a basis for and support to other provisions of the Regulations for the Control and Abatement of Air Pollution, which are in place in order to protect public health and welfare. The proposed amendments are being made to ensure that the definition of VOC, which is crucial to many of the regulations, is up-to-date and scientifically accurate, as well as consistent with the overall EPA requirements.

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.

High Priority Violations (HPV's) for the Fourth Quarter, 2016

NOV's Issued from July through September

BRRO	Goodyear Tire and Rubber Company Danville, Virginia Registration No. 30106	Discovery Date: 9/12/2016 Alleged Violations: Failed to monitor differential pressure readings on dust collectors and scrubbers for 31 days during reporting period.	NOV: Issued 9/15/2016
TRO	U.S. Navy Naval Air Station Oceana Portsmouth, Virginia Registration No. 60294	Discovery Date: 3/2/2016 Alleged Violation: Failed to document use of ultra-low sulfur diesel fuel and missing maintenance records.	NOV: Issued 8/10/2016
TRO	Wheelabrator Portsmouth Inc. Portsmouth, Virginia Registration No. 61018	Discovery Date: 8/15/2016 Alleged Violation: Exceeded emissions concentration limit during stack test.	NOV: Issued 8/25/2016

Consent Orders issued from July through September

BRRO	Aquatic Company South Boston, Virginia Registration No. 30794	Discovery Date: 2/5/2016 Alleged Violation: Failed to meet destruction and removal efficiency limit (90%) during stack test.	NOV: Issued 5/17/2016 Consent Order issued 9/22/2016, including a civil charge of \$12,285 and a requirement to re-test and potentially apply for a permit amendment.
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BRRO	Radford Army Ammunitions Plant Radford, Virginia Registration No. 20656	Discovery Date: 11/24/2015 Alleged Violation: Exceeded opacity limits.	NOV: Issued 12/14/2015, 3/17/2016 Consent Order issued 9/20/2016, including a civil charge of \$65,000.
PRO	Ashland Inc. (formerly Hercules Inc. Aqualon Division) Hopewell, Virginia Registration No. 50363	Discovery Date: 9/25/2015 Alleged Violation: Exceeded VOC limit for three consecutive 12 month periods in 2015.	NOV: Issued 10/8/2015 Consent Order issued 7/20/2016, including a civil charge of \$5,106 and a supplemental environmental project to purchase new turnout firefighting gear for Hopewell Fire Dept. for additional \$15,316. Ashland also must follow a schedule of compliance with additional monitoring requirements.

Consent Orders in Development – Previously Reported NOV’s

NRO	Trae-Fuels LTD Bumpass, Virginia Registration No. 41057	Discovery Date: 6/9/2015 Alleged Violations: Particulate matter emissions from 2 transfer points on conveyor system; ongoing violations of facility’s fugitive dust plan; exceedance of visible emissions limit from Earth Care Dryer exhaust stack; record-keeping; accumulation of dust	NOV: Issued 6/19/2015, 1/28/2016
PRO	Chaparral Virginia Incorporated Petersburg, Virginia Registration No. 51264	Discovery Date: 4/25/2016 Alleged Violation: Failed to provide operational, compliance (including emissions) and maintenance records, substantially interfering with DEQ’s ability to determine compliance with TV permit.	NOV: Issued 6/29/2016
PRO	Honeywell Resins and Chemicals LLC - Hopewell Hopewell, Virginia Registration No. 50232	Discovery Date: 5/13/2015 Alleged Violation: Exceeded PM2.5 and SO2 emissions limits during stack test. Late submittal of test results.	NOV: Issued 12/3/2015
VRO	Merck Sharp & Dohme Corporation	Discovery Date: 10/20/2015	NOV: Issued 11/10/2015

	Elkton, Virginia Registration No. 80524	Alleged Violation: Report indicates exceedance of combined hazardous air pollutant (HAP) limits	
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