

**TENTATIVE AGENDA
STATE AIR POLLUTION CONTROL BOARD MEETING
WEDNESDAY, NOVEMBER 3, 2004**

**VIRGINIA BEACH RESORT HOTEL
AND CONFERENCE CENTER
2800 SHORE DRIVE
VIRGINIA BEACH, VA**

Convene - 1:00 P.M.

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I. Regulations

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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.

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 their 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 one public meeting) and during the Notice of Public Comment Period on Proposed Regulatory Action (minimum 60-day comment period and one public hearing). Notice of these comment periods is

announced in the Virginia Register 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 and consent special orders)**, 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. If a public hearing is held, there is a 45-day comment period and one public hearing.

In light of these established procedures, the Board accepts public comment on regulatory actions, 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 participated in the prior proceeding on the proposal (i.e., those who attended the public hearing or commented during the public comment period) are allowed up to 3 minutes to respond to the summary of the prior proceeding 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 this permit. In that case, the applicant/owner will be allowed up to 15 minutes to make his complete presentation. The Board will then, in accordance with § 2.2-4021, allow others who participated in the prior proceeding (i.e., those who attended the public hearing or commented during the public comment period) up to 3 minutes to exercise their right to respond to the summary of the prior proceeding presented to the Board. Those persons who participated in the prior proceeding 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 Board meeting. No public comment is allowed on case decisions when a **FORMAL HEARING** is being held.

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 participated 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. For 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, an additional public comment period may be announced by the Department 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 pending regulatory actions or pending

case decisions. Anyone wishing to speak to the Board during this time should indicate their desire on the sign-in cards/sheet and limit their presentation to not exceed 3 minutes.

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 10009, Richmond, Virginia 23240, phone (804) 698-4378; fax (804) 698-4346; e-mail: cumberndt@deq.virginia.gov.

Federal Documents Incorporated by Reference (9 VAC 5 Chapter 20, Rev. I04) – Final Action -

Request for Board Action: 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 agency's regulations.

The list of new standards include:

1. No new NSPS are being incorporated; however, the date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.
2. No new NESHAP are being incorporated; however, the date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.
3. Incorporation of national emission standards for hazardous air pollutants for source categories (MACT) as follows:
 - a. Subpart GGGGG - Site Remediation (40 CFR 63.7880 through 63.7957).
 - b. Subpart TTTTT - Primary Magnesium Refining (40 CFR 63.9880 through 63.9942).
 - c. Subpart RRRRR - Taconite Iron Ore Processing (40 CFR 63.9580 through 63.9652).
 - d. Subpart FFFF - Miscellaneous Organic Chemical Manufacturing (40 CFR 63.2430 through 63.2550).
 - e. Subpart KKKK - Surface Coating of Metal Cans (40 CFR 63.3480 through 63.3561).
 - f. Subpart HHHHH - Miscellaneous Coating Manufacturing (40 CFR 63.7980 through 63.8105).
 - g. Subpart IIII - Mercury Cell Chlor-Alkali Plants (40 CFR 63.8180 through 63.8266).
 - h. Subpart MMMM - Surface Coating of Miscellaneous Metal Parts and Products (40 CFR 63.3880 through 63.3981).
 - i. Subpart AAAAA - Lime Manufacturing Plants (40 CFR 63.7080 through 63.7143).
 - j. Subpart EEEE - Organic Liquids Distribution (Non-gasoline) (40 CFR 63.2330 through 63.2406).
 - k. Subpart YYYY - Stationary Combustion Turbines (40 CFR 63.6080 through 63.6175).
 - l. Subpart PPPP - Surface Coating of Plastic Parts and Products (40 CFR 63.4480 through 63.4581).
 - m. Subpart EEEEE - Iron and Steel Foundries (40 CFR 63.7680 through 63.7765).
 - n. Subpart IIII - Surface Coating of Automobiles and Light-Duty Trucks (40 CFR 63.3080 through 63.3176).
 - o. Subpart ZZZZ - Stationary Reciprocating Internal Combustion Engines (40 CFR

63.6580 through 63.6675).

- p. Subpart XX - Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste (40 CFR 63.1080 through 63.0198).
- q. Subpart AAAA - Municipal Solid Waste Landfills (40 CFR 63.1930 through 63.1990).

In addition, 9 VAC 5-60-91 will be repealed in order to locate the provisions of 40 CFR 63.16 (National Performance Track) with the other general provisions of Subpart A. Finally, 40 CFR 63.60 and 63.62 (Subpart C, list of hazardous air pollutants, petitions process, lesser quantity designations, and source category list) is to be added.

Nonattainment Areas (9 VAC 5 Chapter 20), Revision N04 – Final Action: The Clean Air Act authorizes EPA to reclassify certain ozone nonattainment areas shortly after the initial classification for such areas. In the April 30, 2004 Federal Register establishing the 8-hour ozone designations and classifications, EPA described this reclassification process and listed criteria for evaluating reclassification requests. Requests to reclassify ozone nonattainment areas from moderate to marginal were submitted by seven states, including Virginia. On September 22, 2004 (69 FR 56697), EPA reclassified these areas, including the Richmond, Virginia area. The reclassified ozone nonattainment areas become effective on November 22, 2004.

There is one substantive amendment to the regulation: the Richmond Ozone Nonattainment Area has been reclassified from moderate to marginal

Consumer Products (9 VAC 5 Chapter 40, Rev. G03) - Public Participation Report and Request for Final Board Action: 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 consumer products in order to achieve the necessary reductions of VOC emissions in the Northern Virginia area.

The proposed regulatory action will add a new rule, Emission Standards for Consumer Products in the Northern Virginia Volatile Organic Compound Emissions Control Area (Rule 4-50). The provisions of this rule apply to those persons who sell, supply, offer for sale, or manufacture for sale any consumer product that contains volatile organic compounds. Exempted from the regulation is any consumer product manufactured in the Northern Virginia volatile organic compound emissions control area for shipment and use outside of this area. The provisions of this regulation shall not apply to a manufacturer or distributor who sells, supplies, or offers for sale a consumer product that does not comply with the VOC standards as long as the manufacturer or distributor can demonstrate both that the consumer product is intended for shipment and use outside of the Northern Virginia volatile organic compound emissions control area, and that the manufacturer or distributor has taken reasonable prudent precautions to assure that the consumer product is not distributed to the Northern Virginia volatile organic compound emissions control area. A number of product-specific exemptions are also allowed.

The Department is recommending substantive changes to the original proposal.

Regulation for the Control of Motor Vehicle Emissions in Northern Virginia, Remote Sensing (9 VAC 5 Chapter 91, Rev. MJ) - Public Participation Report and Request for Final Board Action: The current program requires that affected vehicles be presented to emissions inspection stations biennially to receive an

emissions inspection. This is accomplished through a network of service stations, repair garages, and other similar facilities that perform the inspections. Vehicles which fail the test are denied motor vehicle registration until inspection has been accomplished. Retests, after failure and repair, are free if accomplished within 14 days of the test and performed by the emissions inspection station which performed the initial test. If a motorist wishes to request a waiver of the test, an expenditure of at least \$450 on emissions-related repairs is required. The cost amount is adjusted each January by applying the Consumer Price Index released the previous fall by the federal government.

The geographic coverage of the program consists of the counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford; and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. Cars and trucks weighing up to 10,000 pounds and are 25 years old and newer are subject to an exhaust emissions inspection using ASM equipment which tests cars under "loaded" conditions using a dynamometer. On- Board Diagnostics Systems (OBD) on vehicles so equipped will also be inspected. In addition, random testing of vehicles is accomplished using either roadside pullovers or a remote sensing device next to the roadway. Failing vehicles are required to report to an inspection for an out-of-cycle test.

The proposed amendments make a number of revisions to conform to changes in Virginia law pertaining to remote sensing. In general, the regulation needs to be amended to reflect new emission standards detected via remote sensing as well as criteria for conduction random testing of motor vehicle emissions, procedures to notify owners of test results, assessment of civil charges for noncompliance with emissions standards in the current regulation and a subsidy to assist in the repair of certain vehicles.

Two specific changes to the regulation as a result of changes to the state code include the change in the model year coverage for vehicles subject to remote sensing (§ 46.2-1178.1) to include model year 1968 and newer model vehicles, and the requirement to establish a program to subsidize repair costs of some vehicles identified by remote sensing (§ 46.2-1178.2).

The Department is recommending substantive changes to the original proposal.

High Priority Violators:

ACTIVE CASES — Table A *			
DEQ Region	Facility Name and location	Brief Description	Status
NRO	Covanta Alexandria Arlington, Inc., Arlington (MSW incinerator)	Alleged emission exceedances and failure to keep certain records in violation of PSD permit	NOV issued 4/18/02; Consent Order dated 3/20/03 imposed a civil fine of \$14,695 (in bankruptcy – fine not paid)
NRO	Potomac River Generating Station/Mirant, Alexandria	Alleged exceedance of ozone season NOx emission limit of 1,019 tons contained in state operating permit by over 1,000 tons	NOV issued 9/10/03; revised NOV issued 10/20/03; NOV issued by EPA 1/22/04; Consent Decree lodged with U.S. District Court in Alexandria 9/27/04 calling for ozone season NOx emission limits on Potomac River; Mirant system-wide ozone season NOx limits; .15 lbs/MMBtu system-wide ozone

			season NOx emission rate starting in 2008; system-wide annual NOx limits; \$1mil in coal yard dust/particulate projects at Potomac River; payment of \$500K civil fine
NRO	Master Print, Inc., Newington, Fairfax County (printer)	Alleged violation of VOC emissions limit; exceedance of ink and cleaning solution throughput limits; various recordkeeping violations	NOV issued 6/25/04; pending
NRO	The Pentagon, Arlington	Alleged failure to submit Title V semi-annual deviation report	NOV issued 7/22/04; pending
PRO	Carry-On Trailer Corporation, Callao, Northumberland County (manufacturer)	Alleged exceedances of emissions limits and throughput limits for ethylbenzene, xylene, and 2-bytoxyethanol in violation of permit requirements; unpermitted modification of paint composition	NOV issued 4/13/04; pending
PRO	Virginia State University, Petersburg	Alleged failure to stack test boiler; failure to install, maintain, and operate continuous opacity monitors; failure to perform visual opacity inspections; various recordkeeping violations	NOV issued 5/28/04; pending
SCRO	Dominion Resources/ODE C Clover Power Station Clover, Halifax County (coal-fired power plant)	Alleged exceedances of PM emissions limits (PM limit = 81.7 lb./hr; .02 lb./MMBTu - stack test result for Unit 1= 112.89lb./hr.; .024 lb./MMBTu; for Unit 2 = 96.84 lb./hr.; .023 lb./MMBTu	NOV issued 6/21/04; pending
SCRO	Goodyear Tire and Rubber Co., Danville	Alleged failure to conduct stack test on banbury mixer w/in 180 days of issuance of Title V permit	NOV issued 7/17/03; pending
SCRO	Goodyear Tire and Rubber Co., Danville	Alleged exceedance of particulate emissions limit from banbury mixer in Title V	NOV issued 12/8/03; pending

		permit	
SCRO	Goodyear Tire and Rubber Co., Danville	Alleged violations of Title V permit's testing, monitoring, recordkeeping, and reporting requirements that substantially interfered with DEQ's ability to determine compliance with emissions limits	NOV issued 4/27/04; pending
SCRO	Huber Engineered Woods, LLC (f/k/a JM Huber Corp.), Halifax County (strandboard manufacturer)	Alleged exceedance of CO and formaldehyde emissions limits contained in Title V permit discovered by stack test (CO limit 8.93 lb./hr. - stack test result 22.6 lb./hr. / formaldehyde limit .14 lb./hr.- stack test result .95 lb./hr.); pervasive exceedances of permit's 59,600 sq. ft. hourly strandboard production limit	NOVs issued 12/31/03, 4/22/04, and 6/23/04; Consent Order dated 9/17/04 imposed a civil fine of \$371,958 and required a SEP including installation of a water treatment centrifuge, upgrade wet ESP, and installation of additional RTO
SWRO	Galax Energy Concepts, LLC Galax, Carroll County (wood burning power plant)	Alleged violation of Title V permit certification and deviation reporting requirements; failure to properly enclose wood waste area	NOV issued 5/24/04; pending
VRO	Harrisonburg Resource Recovery Facility, Harrisonburg (waste burning power plant)	Alleged failure to conduct performance testing within require time period; failure to properly conduct PM testing; exceedance of NOx limits (limit = 160 ppm/10.25 lbs/hr – stack test results for unit 1 = 190 ppm/14.2 lbs/hr; stack test results for unit 2 = 216 ppm/16.8 lbs/hr)	NOV issued 7/12/04; pending
VRO	Merck & Co., Inc., Rockingham County (pharmaceutical manufacturer)	Alleged exceedance of emission limit for methyl chloride in synthetic minor HAP permit by over 4.5 tons; failure to adequately measure wastewater influent for HAPs as required by permit	NOV issued 12/11/03; pending
WCRO	Cinergy	Alleged exceedance of	NOV issued 5/12/04; pending

	Solutions of Narrows, LLC, Narrows, Giles County (power plant)	opacity limits	
WCRO	Magnox Pulaski Inc., Pulaski, Pulaski County (magnetic tape manufacturer)	Numerous alleged violations of Title V permit recordkeeping, monitoring, and operational requirements	NOV issued 5/8/03; Consent Order dated 7/28/04 imposed civil fine of \$20,668 and requires SEP valued at no less than \$14,468 to reduce CO emissions through process changes
WCRO	Southern Finishing Co., Martinsville, Henry County (furniture manufacturer)	Alleged operation of unpermitted spray booths, improperly maintained air pollution control equipment, and numerous MACT and Title V permit violations	NOV issued 5/27/03; Consent Order dated 10/17/03 imposed a civil fine of \$44,738.67 and SEP requiring installation of spray booth filters; Consent Order violated by failure to pay substantial portion of the civil fine by the due date of 11/17/03 and failure to complete SEP
WCRO	Southern Finishing Co., Martinsville, Henry County (furniture manufacturer)	Alleged violations of, among other things, MACT subpart JJ work standards and recordkeeping requirements; installation of wood spray booth w/o permit; defective spray booth filters; failure to conduct periodic monitoring and inspections; failure to submit compliance certification and other required reports; failure to complete SEP required by 11/17/03 Consent Order	Dual NOVs issued 6/3/04; pending
WRCO	Wolverine Gasket Division – Cedar Run Plant, Blacksburg, Montgomery County (automotive parts manufacturer)	Alleged violation of VOC control/destruction efficiency requirement for thermal incinerator controlling emissions from coating line (required destruction efficiency = 98%; tested efficiency = 97.34%)	NOV issued 5/27/04; pending

* Table A includes the following categories of HPV cases:

- 1) Those initiated by a Notice of Violation (NOV) issued prior to or during the third quarter of 2004 that have not been settled by Consent Order, and;
- 2) Those settled by Consent Order prior to or during the third quarter of 2004 where the alleged violator has not complied with substantially all of the terms of the Consent Order.

RESOLVED CASES — Table B **			
DEQ Region	Facility Name and location	Brief Description	Status
TRO	US Navy Little Creek Amphibious Base, Virginia Beach (portion of base related to vehicle and equipment fueling)	Alleged exceedances of Title V Permit annual throughput limit of 5,584,000 gal. (calculated monthly as the sum of each consecutive 12 mo. period) for gasoline, diesel, and kerosene by approx. 4,700 gal. Per mo. for the mos. of March, April, May, July, and August 2003	NOV issued 2/23/04; Consent Order dated 8/12/04 requiring submission of Title V permit revision application by 11/10/04; no civil fine imposed due to the Base's status as a federal facility
WCRO	Norfolk Southern Corp., Roanoke (railroad yard)	Alleged failure to conduct periodic monitoring (including visual emissions evaluations) on certain equipment in violation of Title V permit	NOV issued 4/22/04; Consent Order dated 9/10/04 imposed a civil fine of \$2,583
WCRO	Southern Finishing Co., Martinsville, Henry County (furniture manufacturer)	Alleged failure to comply with 10/17/03 Consent Order by failing to pay \$41,072 of the \$44,738,67 civil fine required by the Consent Order by the due date of 11/17/03	NOV issued 1/5/04; Consent Order dated 8/20/04 requiring payment of past due civil fine and imposing additional civil fine of \$4,200
WCRO	Roanoke Electric Steel Corp., Roanoke (specialty steel manufacturer)	Alleged failure to conduct periodic monitoring (including visual emissions evaluations) on baghouse #5 in violation of Title V permit	NOV issued 5/19/04; Consent Order dated 9/22/04 imposed civil fine of \$2,491.27
WCRO	Wolverine Gasket Division – Cedar Run Plant, Blacksburg, Montgomery County (automotive parts)	Alleged by-passing of pollution control equipment and failure to properly maintain pollution control system	NOV issued 3/19/03; Consent Order dated 12/16/03 imposed a civil fine of \$10,500 and required a pollution prevention SEP that reduces wastewater discharges by 70%

	manufacturer)		
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**** Table B includes HPV cases resolved by Consent Order during the third quarter of 2004 where the alleged violator has complied with substantially all of the terms of the Consent Order.**