

TENTATIVE AGENDA  
STATE AIR POLLUTION CONTROL BOARD MEETING

FRIDAY, DECEMBER 6, 2013  
GENERAL ASSEMBLY BUILDING  
HOUSE ROOM C  
9TH & BROAD STREETS  
RICHMOND, VIRGINIA

Convene – 10:00 a.m.

<b>I.</b>	<b>Review and Approve Agenda</b>		<b>TAB</b>
<b>II.</b>	<b>Minutes</b> (September 20, 2013)		A
<b>III.</b>	<b>Regulations - Final Exempt</b> Federal Documents Incorporated by Reference (Rev. I13)	Sabasteanski	B
<b>IV.</b>	<b>Regulations - Fast-Track</b> Definition of Volatile Organic Compound (9VAC5-10, Rev. H13)	Sabasteanski	C
<b>V.</b>	<b>Petitions</b> Major New Source Review - Presentation of Petition	Sabasteanski	D
<b>VI.</b>	<b>High Priority Violators Report</b>	Nicholas	E
<b>VII.</b>	<b>Public Forum</b>		
<b>VIII.</b>	<b>Other Business</b> Air Division Director's Report Future Meetings Election of Officers	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 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](mailto:cindy.berndt@deq.virginia.gov).

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**Definition of Volatile Organic Compound (9VAC5 Chapter 10, Rev. H13) - 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. Section 51.100, which consists of a list of definitions, includes a definition of VOC. This definition is revised by EPA in order to add or

remove VOCs as necessary. If, for example, 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 ground-level or upper atmospheric ozone--then EPA may remove that substance from the definition of VOC.

On August 28, 2013 (78 FR 53029), EPA revised the definition of VOC in 40 CFR 51.100 to exclude *trans* 1-chloro-3,3,3-trifluoroprop-1-ene (also known as Solstice™ 1233zd(E)). This change to the exemption list became effective on September 27, 2013. On October 22, 2013 (78 FR 62451), EPA further revised the definition of VOC to exclude 2,3,3,3-tetrafluoropropene (also known as HFO-1234yf), which became effective on November 21, 2013.

The purpose of 9VAC5 Chapter 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.

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.

The general definitions (9VAC5-10-20) is proposed to be revised to add *trans* 1-chloro-3,3,3-trifluoroprop-1-ene (also known as Solstice™ 1233zd(E)) and 2,3,3,3-tetrafluoropropene (also known as HFO-1234yf) to the list of substances not considered to be VOCs in Virginia.

#### **Federal Documents Incorporated by Reference (Rev. I13) - 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.

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.

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, 2013. Below is a list of the new standards the department is recommending be incorporated into the state regulations by reference:

1. Three NSPSs are being modified: Subpart KKK, Equipment Leaks of VOC From Onshore Natural Gas Processing Plants for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011 (40 CFR 60.630 through 40 CFR 60.636); Subpart LLL, SO<sub>2</sub> Emissions From Onshore Natural Gas Processing for Which Construction, Reconstruction, or Modification Commenced After January 20, 1984, and on or Before August 23, 2011 (40 CFR 60.640 through 40 CFR 60.648); and Subpart F, Portland Cement Plants (40 CFR 60.60 through 40 CFR 60.66).

Three NSPSs are being added: Subpart Ga, Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011 (40 CFR 60.70a through 40 CFR 60.77a); Subpart OOOO, Crude Oil and Natural Gas Production, Transmission and Distribution (40 CFR 60.5360 through 40 CFR 60.5430); and Subpart Ja, Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007 (40 CFR 60.100a through 40 CFR 60.109a).

Provisions have been added in order to clarify that only non-Title V (federal operating permit) sources are not subject to standards for which the board has not accepted delegation. The date of the Code of Federal Regulations book being incorporated by reference is also being updated to the latest version.

2. No new NESHAPs are being incorporated. The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.

3. One MACT is being incorporated: Subpart DDDDD, Industrial, Commercial, and Institutional Boilers and Process Heaters--major sources (40 CFR 63.7480 through 40 CFR 63.7575).

Provisions have been added in order to clarify the board has enforcement authority for all federal standards applicable to Title V (federal operating permit) sources. The date of the Code of Federal Regulations book being incorporated by reference is also being updated to the latest version.

#### **Major New Source Review (9VAC5 Chapter 80) - Presentation of Petition for Rulemaking and Plan for**

**Disposition:** On October 22, 2013, the department received a petition from the Virginia Manufacturers Association to initiate a rulemaking concerning major new source review (Articles 8 and 9 of 9VAC5-80, Permits for Stationary Sources).

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.

The applicable statutory requirements governing petitions are found in 9VAC5-5-60 of the Board's Public Participation Guidelines, and in § 2.2-4007 of the Administrative Process Act. Both of these statutory provisions govern the content of the petition; however, processing the petition will be conducted under the Administrative Process Act, which takes precedence.

The petitioner is requesting the board to amend Article 8, Permits for Major Stationary Sources and Major Modifications Locating in Prevention of Significant Deterioration Areas (9VAC5-80-1605 et seq.) and Article 9, Permits for Major Stationary Sources and Major Modifications Locating in Nonattainment Areas or the Ozone Transport Region (9VAC5-80-2000 et seq.) of Part II of 9VAC5-80 (Permits for Stationary Sources) as follows:

1. Amend the definition of "baseline actual emissions" in 9VAC5-80-1615 C and 9VAC5-80-2010 C and make any other regulatory changes necessary to make the Virginia regulation conform with the federal definition. This would allow VMA members and other facility owners in Virginia to use a 10-year lookback period, thus making the Virginia regulations no more stringent than federally required.

2. Amend subdivision b 4 of the definition of "baseline actual emissions" in 9VAC5-80-1615 C and 9VAC5-80-2010 C, amend 9VAC5-80-1865 E and 9VAC5-80-2144 E, and make any other regulatory changes necessary to make the Virginia regulation conform with the federal definition. This would allow VMA members and other facility owners in Virginia to use different lookback periods for different regulated NSR pollutants, thus making the Virginia regulations no more stringent than federally required.

3. Amend 9VAC5-80-1615 C, 9VAC5-80-1685 C 1 f, 9VAC5-80-2010 C and 9VAC5-80-2144 C 1 f, and make any other regulatory changes necessary to make the Virginia regulation conform with the federal definition. This would allow VMA members and other facility owners in Virginia to obtain PALs for 10 years, rather than only 5 years, thus making the Virginia regulations no more stringent than federally required.

4. Amend the definition of "emissions unit" and add a definition of "replacement unit" in 9VAC5-80-1615 C and 9VAC5-80-2010 C, and make any other regulatory changes necessary to make the Virginia regulation conform with the federal definition. This would allow VMA members and other facility owners in Virginia to use the baseline actual emissions of the unit being replaced and the projected actual emissions of the replacement unit, thus making the Virginia regulations no more stringent than federally required.

Within 14 days of this board meeting, the department will forward a notice of the petition to the Registrar for publication in the Virginia Register of Regulations. The notice will include a public comment period of 21 days, during which written comments will be accepted. At the first available board meeting following the end of the comment period, the department will present the petition and a summary of comments to the board for it to make a decision on whether to grant the petition request or deny the petition request. The board must make a final decision within 90 days after the end of the comment period. Should there be no board meeting scheduled during this 90 day period, the board's decision must be made at the first available board meeting and forwarded to the Registrar for publication in the Virginia Register within 14 days of the board meeting.

### High Priority Violators (HPVs) for the Fourth Quarter, 2013

NOV's Issued from July through September 2013

NRO	<b>Kinder Morgan</b> Newington, Virginia Registration No. 70087 SIC 5171 Petroleum Bulk Stations and Terminals NAICS 424710 Petroleum Bulk Stations	<b>Discovery Date:</b> 7/24/2013  Failure to submit performance evaluation testing report for Continuous Emissions Monitoring System (CEMS) for Vapor Recovery Unit.	<b>NOV</b> – Issued 8/15/2013
PRO	<b>James River Genco</b> Hopewell, Virginia Registration No. 50950 SIC 4911 Electric Services NAICS 221112 Fossil Fuel Electric Power Generation	<b>Discovery Date:</b> 5/22/2013  <b>Alleged Violations:</b>  Failed stack test for high load filterable PM10 emissions for Units 1A, 1B and 1C.	<b>NOV</b> – Issued 8/16/2013
SWRO	<b>Virginia City Hybrid Energy Center</b>	<b>Discovery date:</b> 9/30/2013  <b>Alleged violations:</b>	<b>NOV</b> – Issued 9/30/2013

	<p>Wise County, Virginia</p> <p>Registration No. 11526</p> <p>SIC 4911 Electric Services NAICS 221119 Electric Power Generation</p>	<p>Exceeded CO limit for 30 day rolling average variable permit limit for CFB Units 1 &amp; 2, exceeded filterable PM limit for 3 hour average for Unit 2, and exceeded SO2 limits for the 3 hour and 24 hour averages for Units 1 &amp; 2.</p>	
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CO's Issued from July through September 2013

BRRO	<p><b>Dominion Resources, Inc., Pittsylvania Power Station</b></p> <p>Hurt, Virginia</p> <p>Registration No. 30871</p> <p>SIC 4911 Electric Services NAICS 221119 Electric Power Generation</p>	<p><b>Discovery date:</b> 5/29/2013</p> <p><b>Alleged violations:</b></p> <p>Failure to conduct required Cylinder Gas Audit on NOx/O2 monitors for each of three boilers during first quarter 2013.</p>	<p>NOV issued 6/28/2013</p> <p>Order signed 9/30/2013, \$8,645.00 civil charge assessed.</p>
NRO	<p><b>Buckeye Terminals LLC – Fairfax Terminal</b></p> <p>Fairfax, Virginia</p> <p>Registration No. 70220</p> <p>SIC 5170 Petroleum and Petroleum Products NAICS 424710 Petroleum Bulk Stations and Terminals</p>	<p><b>Discovery date:</b> 3/28/2013</p> <p><b>Alleged violations:</b></p> <p>Failure to demonstrate monitoring of gasoline pressure drop at top of vapor recovery unit on daily basis from June 1, 2011 through December 31, 2012.</p> <p>Failure to note deviations in Title V Semi-Annual Monitoring Reports (3) and Annual Compliance Certification (1)</p>	<p>NOV issued 5/16/2013</p> <p>Order signed 9/12/2013, \$14,262.36 civil charge assessed.</p>
PRO	<p><b>Honeywell International Inc.</b></p> <p>Hopewell, Virginia Hopewell City</p> <p>Registration No. 50232</p> <p>SIC 2869, 2899, 2819 Industr. Organic Chemical NEC, Chemical &amp; Chem. Prep, NEC, Industrial Inorganic Chemicals NAICS 325199 Chemical Mfg.</p>	<p><b>Discovery dates:</b> 3/14/2012, 5/11/12, 10/1/2012</p> <p><b>Alleged violations:</b></p> <p>Excess emissions for PM, PM-10, PM-2.5, and sulfuric acid mist from the Sulfuric Acid Plant (SAP).</p> <p>Excess visible emissions from the molten sulfur storage tank.</p> <p>Excess NOx emissions from TW-33.</p>	<p>NOVs - Issued 04/17/2012, 5/22/12, 11/19/2012</p> <p>Order signed 7/15/13 - \$333,370 civil charge assessed along with injunctive relief.</p>

CO's In Development – Previously Reported NOV's

BRRO	<b>Radford Army Ammunition Plant</b>  Radford, Virginia  Registration No. 20656  SIC 2892 Industrial/Explosives NAICS 325920 Explosives Manufacturing	<b>Discovery date:</b> 4/17/2013  <b>Alleged violations:</b>  Construction and operation of 3 unpermitted 300 HP diesel engines/pumps. 2 engines installed and in continuous operation since April 2011. Third engine added March 2013.  Failure to maintain written documentation of once per shift inspections for absorption tower for Nitric Acid Concentrator/ Sulfuric Acid Concentrator from July through December 2012.	<b>NOV – Issued 5/3/2013</b>  Continuing to negotiate consent decree language with U.S. Army.
SWRO	<b>Virginia City Hybrid Energy Center</b>  Wise County, Virginia  Registration No. 11526  SIC 4911 Electric Services NAICS 221119 Electric Power Generation	<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 – Issued 4/10/2013</b>  EPA currently considering Dominion’s request for a diluents cap.

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

*\*\*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.*

**EPA	<b>Hopewell Regional Wastewater Treatment Facility (WWTP)</b>  Hopewell, Virginia Hopewell City  Registration No. 50735  SIC 4952 Sewage Systems NAICS 221320 Utilities, Water, Sewage and Other Systems	<b>Discovery dates – 11/07/2007</b>  <b>Alleged violations:</b> Violations of 40 CFR 63 Subpart VVV (Publicly 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> NOV Meeting was 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.
DEQ - PRO		<b>Discovery dates: 02/04/2011</b>  <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.

<p>**EPA</p>	<p><b>Smurfit-Stone Container Corp. / Hopewell Mill (RockTenn)</b></p> <p>Hopewell, Virginia</p> <p>Registration No. 50370</p> <p>SIC 2631 Pulp Mills NAICS 322130 Pulp, Paper, and Paperboard Products</p>	<p><b>Discovery dates – 07/27/2010</b></p> <p><b>Alleged violations:</b> 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><b>NOV - Issued 09/27/2010</b></p> <p><b>Additional Information:</b> NOV meetings were held with EPA, DEQ, and the Responsible Party on 01/31/2011 and 8/7/2012. RP submitted requested information to EPA/DEQ September 2012. DEQ received draft CD 2/11/2013, comments provided to EPA/DOJ, discussions to follow soon.</p>
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