

TENTATIVE AGENDA AND MINIBOOK
STATE AIR POLLUTION CONTROL BOARD MEETING

FRIDAY, SEPTEMBER 5, 2014
HOUSE ROOM C
GENERAL ASSEMBLY BUILDING
9TH & BROAD STREETS

Convene – 10:00 a.m.

			TAB
I.	Review and Approve Agenda		
II.	Minutes (June 13, 2014)		A
III.	Regulations - Fast-Track Definition of Volatile Organic Compound (9VAC5-10, Rev. E14)	Sabasteanski	B
IV.	Regulations - Final General Administration, Conflict of Interest (9VAC5-170, Rev. F14)	Sabasteanski	C
V.	High Priority Violators Report	Nicholas	D
VI.	Public Forum		
VII.	Other Business Air Division Director's Report Future Meetings	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) 698-4346; e-mail: cindy.berndt@deq.virginia.gov.

Definition of Volatile Organic Compound (9VAC5-10, Rev. E14) - 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 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 March 27, 2014 (79 FR 17037), EPA revised the definition of VOC to exclude 2-amino-2-methyl-1-propanol (also known as AMP).

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.

The list of substances not considered to be VOCs in Virginia is proposed to be revised to include 2-amino-2-methyl-1-propanol.

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.

General Administration, Conflict of Interest (9VAC5-170, Rev. F14) - Request for Board Action on Exempt Final Regulation: Section 110(a)(2)(E)(ii) of the federal Clean Air Act requires that each applicable state implementation plan (SIP) provide requirements that the state comply with the requirements respecting state boards under § 128 of the Act. Subdivision (a)(1) of § 128 requires that each SIP contain requirements that any board or body that approves permits or enforcement orders under the Act shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under the Act. In Virginia, this is addressed in Code of Virginia § 10.1-1302, which states that no person appointed to the board shall be employed by persons subject to permits or enforcement orders of the board or receive a significant portion of his income, whether directly or indirectly, from persons subject to permits or enforcement orders of the board. Subdivision (a)(2) of § 128 requires that any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed. With respect to subdivision (a)(2), the director of the Virginia Department of Environmental Quality issues air permits (§ 10.1-1322 and 9VAC5-170-180), and the State Air Pollution Control Board may issue a permit under § 10.1-1322.01. The authority to issue enforcement orders resides with the board (§ 10.1-1307 D) and the department director (§ 10.1-1307.3 and 9VAC5-170-180). Because there are no provisions in Virginia code or the board's regulations that directly address § 128(a)(2), the Virginia SIP must be amended to incorporate the requirements of § 128(a)(2); the mechanism for accomplishing this is through the Regulation for General Administration, which covers general administrative actions.

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 Clean Air Act.

Because the state regulation amendments are necessary to meet the requirements of the federal Clean Air Act and do not differ materially from the Act, the state regulation amendments 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 regulation amendments are 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 amendments the department are recommending be made to the regulation.

1. Add definitions of "disclosure form" and "potential conflict of interest" to 9VAC5-175-220.
2. Add a new Part IX that covers the Clean Air Act conflict of interest requirements of § 128(a)(2).
3. Add a new section 9VAC5-175-210 to require that in accordance with § 128(a)(2) of the federal Clean Air Act, the board and the director, in their capacity of approving permits or enforcement orders, must adequately disclose any potential conflicts of interest.

High Priority Violators (HPV's) for the Third Quarter, 2014

NOV's Issued from April through June 2014

BRRO	South Boston Energy, LC South Boston, Virginia Registration No. 21526 SIC 4911 Electrical Services NAICS 221119 Electric Power Generation	Discover Date: 3/19/2014 Alleged violations: Late submittal of performance test results, failure to conduct RATA, failure to submit EERs for 3 rd and 4 th quarters of 2013, improper stack testing.	NOV – Issued 5/29/2014
BRRO	Virginia Electric and Power Company Altavista Power Station, Altavista, Virginia Registration No. 30859 SIC 4911 Electrical Services NAICS 221112 Electric Power Generation	Discovery Date: 2/12/2014 Alleged violations: Excess Emissions Report review showed exceeded 30 day rolling average and hourly CO limits for Boiler #2.	NOV – Issued 4/7/2014

Cases Closed from April through June 2014

SWRO	<p>Saltville Gas Storage Company LLC</p> <p>Saltville, Virginia</p> <p>Registration No. 11237</p> <p>SIC 4922 Natural Gas Transmission NAICS 486210 Pipeline Transportation of Natural Gas</p>	<p>Discovery Date: 10/3/2013</p> <p>Alleged Violations:</p> <p>Failed stack test, exceeded VOC limit for natural gas dehydration unit and glycol regenerators.</p>	<p>NOV – Issued 12/9/2013</p> <p>RESOLVED – LOA, HPV status removed with EPA concurrence. Errors with original stack test methods, re-tested and minor permit amendment addressed issues.</p>
VRO	<p>Miller-Coors</p> <p>Elkton, Virginia</p> <p>Registration No. 81012</p> <p>SIC 2082 Malt Beverages NAICS 312120 Beverage Manufacturing</p>	<p>Discovery Date: 1/30/2014</p> <p>Alleged violations:</p> <p>Failure to conduct performance test on GE Jenbacher SI internal combustion engine.</p>	<p>NOV – Issued 3/7/2014</p> <p>RESOLVED – with EPA concurrence, HPV status removed and case closed</p>

CO's In Development – Previously Reported NOV's

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's – Issued 4/10/2013, 9/30/2013</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. Region is currently negotiating consent order.</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</p>	<p>Discovery dates – 11/07/2007</p> <p>Alleged violations:</p> <p>Violations of 40 CFR 63 Subpart VVV (Publically Owned Treatment Works -</p>	<p>EPA 1st NOV - Issued 07/06/2009 EPA 2nd NOV - Issued 12/17/2010</p> <p>Additional Information:</p> <p>NOV meetings were held with</p>

<p>DEQ- PRO</p>	<p>Hopewell City Registration No. 50735 SIC 4952 Sewage Systems NAICS 221320 Utilities, Water, Sewage and Other Systems</p>	<p>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> <hr/> <p>Discovery dates: 02/04/2011</p> <p>Alleged violations: Failure to meet 92% HAP mass removal present in wastewater.</p>	<p>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. Attempting to reschedule meeting with EPA, DOJ and HRWTP in September.</p> <hr/> <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>
<p>**EPA</p>	<p>Smurfit-Stone Container Corp. / Hopewell Mill (RockTenn) Hopewell, Virginia Registration No. 50370 SIC 2631 Pulp Mills NAICS 322130 Pulp, Paper, and Paperboard Products</p>	<p>Discovery dates – 07/27/2010</p> <p>Alleged violations: 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>NOV - Issued 09/27/2010</p> <p>Additional Information: 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>