

TENTATIVE AGENDA AND MINIBOOK
STATE AIR POLLUTION CONTROL BOARD MEETING

FRIDAY, SEPTEMBER 9, 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 (June 17, 2016)	A
III.	Regulations - Final Exempt	
	Ozone Implementation (9VAC5-20, 30, 151 and 160 – Rev. G16)	Sabasteanski B
	Commercial/Industrial/Solid Waste Incinerators (9VAC5-40 - Rev. F16)	Sabasteanski C
	Federal Operating Permits (9VAC5-80 - Rev. E16)	Sabasteanski D
	Clean Air Interstate Rule (CAIR) Program (9VAC5-140 - Rev. D16 – Repeal)	Major E
IV.	High Priority Violations Report	Nicholas F
V.	Public Forum	
VI.	Other Business	
	Air Division Director's Report Future Meetings (December 5)	Dowd

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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.

Ozone Implementation (9VAC5-20 and -30, 9VAC5-151, 9VAC5-160, Rev. G16) - Request for Board Action on Exempt Final Regulations: On March 6, 2015 (80 FR 12264), the U.S. Environmental Protection Agency (EPA) established a final rule for implementing the 2008 ozone national ambient air quality standards (NAAQS). This rule addresses a range of nonattainment area state implementation plan (SIP) requirements for the 2008 ozone NAAQS, including how to address the revoked 1997 ozone NAAQS. The board's ambient air quality regulation must be

amended accordingly, as well as the list of nonattainment areas to reflect this change. Clarifying text has also been added to the Regulation for Transportation Conformity and the Regulation for General Conformity.

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.

Below is a brief summary of the substantive amendments.

1. The list of nonattainment areas has been modified in order to indicate that the revoked 1997 ozone standard does not apply. [9VAC5-20-204]
2. The 1997 ozone standard is revoked. [9VAC5-30-55]
3. The applicability section of the Regulation for Transportation Conformity has been amended to indicate that conformity determinations are not required in areas designated nonattainment or maintenance under the revoked 1997 ozone standards. [9VAC5-151-20]
4. The applicability section of the Regulation for General Conformity has been amended to indicate that conformity determinations are not required in areas designated nonattainment or maintenance under the revoked 1997 ozone standards. [9VAC5-160-30]

Commercial/Industrial/Solid Waste Incinerators (9VAC5-40, Revision F16) - Request for Board Action on Exempt Final Regulation: On June 23, 2016 (81 FR 40956), the U.S. Environmental Protection Agency (EPA) amended the emissions guidelines for commercial/industrial/solid waste incinerators, Subpart DDDD of 40 CFR Part 60. The amendments were made in order to (i) revise the definitions of "continuous emission monitoring system data during startup and shutdown periods" and "kiln"; (ii) revise the particulate matter limit for the waste-burning kiln subcategory; (iii) revise the fuel variability factor for coal-burning energy recovery units; and (iv) remove the provisions for affirmative defense. Virginia implements Subpart DDDD through Article 45, Emission Standards for Commercial/Industrial Solid Waste Incinerators, 9VAC5-40-6250 et seq. of 9VAC5-40 (Existing Stationary Sources). Although the provisions of Subpart DDDD are adopted by reference into Article 45, some revisions to Article 45 are needed in order for it to correctly track with the EPA revisions.

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.

Below is a brief summary of the amendments.

Article 45 of 9VAC5-40 is amended in order to be consistent with its underlying federal regulation.

Federal Operating Permits (9VAC5-80, Revision E16) - Request for Board Action on Exempt Final Regulations: On June 12, 2015 (80 FR 33840), the U.S. Environmental Protection Agency (EPA) issued a final SIP call concerning treatment of excess emissions in state rules by sources during periods of startup, shutdown or malfunction (SSM), including Virginia's SSM rules at 9VAC5-20-180 G. The U.S. Court of Appeals for the District of Columbia Circuit (NRDC v. EPA, No. 10-1371) held that such provisions are illegal, and state plans must be amended accordingly. Essentially, EPA found that 9VAC5-20-180 G created an impermissible affirmative defense for violations of emission limits, and that provision was amended accordingly. EPA's Title V operating permit program at 40 CFR Part 70 contains affirmative defense provisions which EPA is now proposing to remove (June 3, 2016). Virginia's operating permit regulations (Articles 1 and 3 of 9VAC5-80), which are based on 40 CFR Part 70, also contain an affirmative defense for malfunctions that must now be removed. A number of minor administrative amendments are also being made in order to be more consistent with 9VAC5-20-180.

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.

Below is a brief summary of the amendments.

The affirmative defense provisions are removed and a number of minor administrative amendments are made. [9VAC5-80-250 and 9VAC5-80-650]

Clean Air Interstate Rule (CAIR) Program (Parts II through IV of 9VAC5-140, Revision D16) - Request for Board Action on Exempt Final Regulation: The Clean Air Interstate Rule (CAIR) was an emissions trading program intended to control nitrogen oxides (NO_x) and sulfur dioxide (SO₂) which contribute to harmful levels of fine particle matter and ozone in downwind states. On August 8, 2011 (76 FR 48208), EPA replaced CAIR with the Cross-State Air Pollution Rule (CSAPR). CSAPR Phase 1 implementation was scheduled for 2015, with Phase 2 beginning in 2017. CSAPR is being implemented in Virginia under the associated federal implementation plan (FIP) and no further regulatory action is needed at the state level for this purpose.

Chapter 291 of the 2011 Acts of Assembly requires that §§ 10.1-1327 and 10.1-1328, and any regulations implementing CAIR, be repealed when facilities in the Commonwealth become subject to the requirements of a FIP adopted by EPA in response to the remand of CAIR. Because CAIR has been replaced by CSAPR, and Virginia is subject to the CSAPR FIP, Virginia may now, as required by Chapter 291, repeal its CAIR regulations.

The department is requesting approval of draft final regulation amendments repealing Parts II through IV of 9VAC 4-140 that meet state requirements and federal statutory and regulatory requirements.

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

NOV's Issued from April through June

BRRO	Aquatic Company South Boston, Virginia Registration No. 30794	Discovery Date: 2/5/2016 Alleged Violations: Failed to meet destruction and removal efficiency limit (90%) during stack test.	NOV: Issued 5/17/2016
PRO	Chaparral Virginia Incorporated Petersburg, Virginia Registration No. 51264	Discovery Date: 4/25/2016 Alleged Violations: 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

Consent Orders issued from April through June

BRRO	NOVEC Energy Production Halifax County Biomass South Boston, Virginia	Discovery Date: 5/6/2014 Alleged Violations: Exceeded CO emissions limit.	NOV: Issued 12/14/2015 Consent Order effective 5/18/2016 including civil charge of \$105,576.
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	Registration No. 21526		
VRO	O-N Minerals (Chemstone) Company – Strasburg Lime Strasburg, Virginia Registration No. 80252	Discovery Date: 8/26/2015 Alleged Violations: Exceeded PM limit during stack test.	NOV: Issued 11/12/2015 Consent Order effective 6/28/2016 including civil charge of \$33,256 and a compliance schedule requiring modification of equipment and additional performance tests.

Consent Orders in Development – Previously Reported NOV's

BRRO	Radford Army Ammunitions Plant Radford, Virginia Registration No. 20656	Discovery Date: 11/24/2015 Alleged Violations: Exceeded opacity limits.	NOV: Issued 12/14/2015, 3/17/2016
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	Ashland Inc. (formerly Hercules Inc. Aqualon Division) Hopewell, Virginia Registration No. 50363	Discovery Date: 9/25/2015 Alleged Violations: Exceeded VOC limit for three consecutive 12 month periods in 2015.	NOV: Issued 10/8/2015
PRO	Honeywell Resins and Chemicals LLC - Hopewell Hopewell, Virginia Registration No. 50232	Discovery Date: 5/13/2015 Alleged Violations: 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 Elkton, Virginia Registration No. 80524	Discovery Date: 10/20/2015 Alleged Violations: Report indicates exceedance of combined hazardous air pollutant (HAP) limits	NOV: Issued 11/10/2015

VRO	O'Sullivan Films Inc. Winchester, Virginia Registration No. 80333	Discovery Date: 2/1/2016 Alleged Violations: Exceeded required NOx concentration limit for low NOx burners in Thermal Oil Heater.	NOV: Issued 2/29/2016