

TENTATIVE AGENDA  
STATE AIR POLLUTION CONTROL BOARD MEETING

FRIDAY, DECEMBER 2, 2011  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
2ND FLOOR CONFERENCE ROOM  
629 EAST MAIN STREET  
RICHMOND, VIRGINIA

Convene – 10:00 a.m.

			<b>TAB</b>
<b>I.</b>	<b>Review and Approve Agenda</b>		
<b>II.</b>	<b>Minutes</b> (September 9, 2011)		A
<b>III.</b>	<b>Regulation Repeals (Fast-Track and Variances)</b>		
	Variance for Atlantic Research Corp Gainesville Facility (Rev. L11)	Major	B
	Hospital/Medical/Infectious Waste Incinerators (Rev. J11)	Major	C
	National Low Emission Vehicle Program (Rev. M11)	Graham	D
<b>IV.</b>	<b>Regulation Repeals (Final Exempt)</b>		
	Hg Budget Trading Program for Coal Fired Electric Steam Generating Units (Rev. K11)	Major	E
<b>V.</b>	<b>Final Regulations - Exempt</b>		
	Federal Documents Incorporated by Reference (Rev. N11)	Sabasteanski	F
<b>VI.</b>	<b>High Priority Violators Report</b>	Nicol	G
<b>VII.</b>	<b>State Advisory Board Reports</b>	Dan Demers	
	Project Status Reports - Minor New Source Exemption Limits and District Energy Reports GHG/BACT Energy Efficiency Project Report		H
<b>VII.</b>	<b>Public Forum</b>		
<b>VIII.</b>	<b>Other Business</b>		
	State Advisory Board Appointments Air Division Director's Report Future Meetings Election of Officers	Dowd	I

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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**Repeal of Variance for Rocket Motor Test Operations at Atlantic Research Corporation Gainesville Facility (9VAC5 Chapter 221, Rev. L11) - Request to Publish Proposal for Public Comment:** On September 30, 2002, the board issued a variance (9VAC5 Chapter 221) to the Atlantic Research Corporation (ARC) rocket test facility. Due to the nature of the testing operations, ARC had no appropriate method by which it could demonstrate compliance with the board's opacity standards. The board therefore granted a variance for the testing facility that enabled ARC to demonstrate compliance through meeting a particulate matter standard as an alternative to the opacity standard. Because the facility was shut down in March 2007, the variance is no longer required. In order for the state regulations to be administratively correct, 9VAC5-221 must now be repealed. The department is requesting approval of this proposal for public comment that meets state statutory and regulatory requirements. Under §2.2-4016, a regulation may be repealed after its effective date only in accordance with the provisions of the Administrative Process Act that governed its adoption. Approval of the proposal will ensure that the board's regulations are up to date and accurate.

**Repeal of Hospital/Medical/Infectious Waste Incinerators (9VAC5 Chapter 40, Article 44, Rev. J11) - Request to Publish Proposal for Public Comment and Use the Fast-Track Process:** The Commonwealth of Virginia Hospital/Medical/Infectious Waste Incinerators (HMIWI) plan and related state rule (Article 44 of 9VAC5-40, Existing stationary sources) were approved by the Environmental Protection Agency (EPA) in the September 10, 2004 edition of the Federal Register (69 FR 54756) and codified in 40 CFR Part 62, subpart VV. Since that time, all three designated incinerator facilities in the plan inventory have been dismantled. On October 6, 2009, EPA promulgated revised HMIWI emission guidelines under 40 CFR Part 60, subpart Ce, that triggered the need for revised state plan submittals. As a result, on September 13, 2010, DEQ submitted a negative declaration regarding HMIWI sources within the state and requested EPA's approval of a plan withdrawal request. In December 17, 2010 edition of the Federal Register (75 FR 78917) the EPA published "Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Commonwealth of Virginia; Control of Emissions From Existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) Units, Negative Declaration and Withdrawal of EPA Plan Approval." Subpart VV § 62.11625 was modified to reflect a negative declaration and became effective February 15, 2011. Because there are no sources in the state to control and because there are no longer HMIWI components in the federal rule for Virginia, there is no longer a need for the corresponding Virginia regulation. The definition of the term "metropolitan statistical area" in 9VAC5-10-20 and the listing of such areas in 9VAC5-20-202 should also be repealed as the term is only used in Article 44 and no other regulation of the board. The department is requesting approval of draft final regulation amendments to repeal Article 44, the definition of the term "metropolitan statistical area" in 9VAC5-10-20 and the listing of such areas in 9VAC5-20-202. Approval of the amendments will ensure that the board's regulations are accurate and up to date.

**Repeal of National Low Emission Vehicle Program (9VAC5 Chapter 200, Rev. M11) - Request to Publish Proposal for Public Comment and Use the Fast-Track Process:** The regulation for the National Low Emission Vehicle (NLEV) Program (9VAC5 Chapter 200) was adopted by the board on January 7, 1999 with an effective date of April 14, 1999, to implement an EPA-approved alternative clean fuel fleet standard for mobile sources. The regulation required mobile source manufacturers to participate in the optional National Low Emission Vehicle Program (Subpart R of 40 CFR 86) or a subsequent Virginia regulation that met the requirements of § 177 of the federal Clean Air Act. On February 10, 2000 the federal NLEV program was superseded by federal Tier 2 standards, which were more restrictive than the NLEV program standards (65 FR 6698). Additionally, the federal NLEV program became mandatory on a national basis in 2006 and Virginia's participation in the National NLEV program ceased with the 2006 model year. The department is requesting approval of draft final regulation amendments that repeal 9VAC5 Chapter 200 because the regulation is no longer effective and more restrictive federal regulations meet all of the federal statutory and regulatory requirements.

**Repeal of Mercury (Hg) Budget Trading Program for Coal Fired Electric Steam Generating Units (Part VI of 9VAC5 Chapter 140, Rev. K11) - Request for Board Action on Exempt Final Regulation:** On May 18, 2005 (70 FR 28606), EPA published the Clean Air Mercury Rule (CAMR). The rule was designed to reduce the regional deposition of mercury and its subsequent entry into the food chain. The final rule, promulgated

under § 111 of the Clean Air Act (CAA), called for an interim cap of 38 tons per year (tpy) of mercury emissions by 2010 and a second-phase cap of 15 tpy by 2018. CAMR became effective July 11, 2005. The Virginia State Air Pollution Control Board adopted its final regulation, Hg Budget Trading Program for Coal Fired Electric Steam Generating Units (Part VI of 9VAC5-140), to implement the federal CAMR program on January 16, 2007. The regulation was published in the Virginia Register on March 5, 2007 and became effective on April 4, 2007. The § 111(d) plan submittal (legal authority, regulation, inventory and allocations) for the state CAMR program was made on May 8, 2007. On February 8, 2008, the District of Columbia Circuit Court of Appeals, in a unanimous decision, vacated CAMR and the associated New Source Performance Standard (NSPS). In the decision, the DC Circuit Court found that EPA's action to remove oil- and coal-fired electric generating units (EGUs) from the list of source categories to be regulated under the CAA § 112 did not comply with the requirements of the statute. CAMR was vacated because the court determined that EGUs must be regulated under CAA § 112 standards, rather than the § 111-based standards (NSPS). The vacatur was mandated by the Court on March 14, 2008 and the associated mercury rules are no longer effective. Because the underlying federal rule has been vacated, there is no longer a basis on which the state rule can operate, thus rendering the state rule unnecessary and inconsistent with the federal program. The department is requesting approval of draft final regulation amendments to repeal Part VI of Chapter 140, Hg Budget Trading Program for Coal Fired Electric Steam Generating Units. Approval of the amendments will ensure that the board's regulations are accurate, consistent with their federal counterpart and remove any conflict with the federal court order.

**Federal Documents Incorporated by Reference (Rev. N11) - 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. 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. 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, 2010. Below is a list of the new standards the department is recommending be incorporated into the state regulations by reference:

1. One NSPS is being incorporated: Sewage Sludge Incineration Units (Subpart LLLL, 40 CFR 63.4760-4925). 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. Two MACTs are being incorporated: Aluminum, Copper, and Other Nonferrous Foundries, Area Sources (Subpart ZZZZZZ, 40 CFR 63.11544-11558); and Gold Mine Ore Processing and Production Area Sources (Subpart EEEEEEE, 40 CFR 63.11640-11653). The date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version.

**High Priority Violators (HPV's) - Fourth Quarter, 2011**

NOV's Issued from July through September 2011.

DEQ Region	Facility	Brief Description	Status
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NRO	<b>GenOn Mid-Atlantic LLC / GenOn Potomac River LLC (pka Mirant)</b>  Alexandria, Virginia  Registration No. 70228  SIC 4911 Electrical Services NAICS 221112 Utilities – Electric Power Generation, Transmission and Distribution	<b>Discovery date:</b> 07/12/2011  <b>Alleged violations:</b> Failure to install water fogging system.  Exceeded permitted NOx limit.  Failure to maintain and operate in a manner consistent with air pollution control practices for minimizing emissions	<b>NOV</b> - Issued 08/30/2011  <b>Additional Information:</b> Water fogging system has been installed.  No further NOx exceedances .
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CO's Issued from July through September 2011.

NRO	<b>VADATA Manassas Exchange Data Center</b>  Manassas, Virginia  Registration No. 73741  SIC 7374 Data Processing & Preparation NAICS 518210 Data Processing, Hosting, and Related Services	<b>Discovery dates:</b> 03/28/2011  <b>Alleged violations:</b> Construction and Operation without a permit.	<b>NOV</b> - Issued 03/29/2011 <b>CO</b> - Issued 08/05/2011 <b>Civil Charge</b> - \$261,638.00 (Paid)  <b>Additional Information:</b>
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CO's In Development – Previously Reported NOV's

PRO	<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:</b> 02/04/2011  <b>Alleged violations:</b> Failure to meet 92% HAP mass removal present in wastewater.	<b>NOV</b> - Issued 05/25/2011  <b>Additional Information:</b> This NOV cites the same violations as the EPA NOV issued on 12/17/2010.
PRO	<b>Kinder Morgan Southeast Terminals LLC –Terminal 1</b>  Richmond, Virginia  Registration No. 50258	<b>Discovery dates:</b> 03/22/2011  <b>Alleged violations:</b> Failure to record data for the Vapor Recovery System.	<b>NOV</b> - Issued 06/10/2011  <b>Additional Information:</b>

SIC 5171 Petroleum Bulk Station & Terminal NAICS 424710 Petroleum Bulk Station & Terminal		
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UPDATES FOR THE FOURTH QUARTER, 2011

Actions occurring from October 1, 2011 through October 31, 2011

<i>*The following actions have occurred post quarter and will be included in the next quarterly report.</i>		
DEQ Region	Facility	Status Update
PRO	<b>Chaparral Inc</b>	NOV issued on October 3, 2011 Failure to conduct Performance tests (SO2 and VOC) and to submit required documentation for quarterly Excess Emissions Report.
VRO	<b>Mohawk Industries, Inc.</b>	NOV issued on October 5, 2011 Exceeded permitted calcium carbonate storage throughput.
PRO	<b>Kinder Morgan Southeast Terminals LLC –Terminal 1</b>	Consent Order executed on October 7, 2011 with civil charge of \$11,071.00
BRRO	<b>Celanese Acetate LLC</b>	NOV issued on October 11, 2011 Failure to capture emissions data for more than 75% of operating time.

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

<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>			
**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</b> – 11/07/2007  <b>Alleged violations:</b> Violations of 40 CFR 63 Subpart VVV (Publically 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.  Violations of 40 CFR 63 Subpart VVV (Publically Owned Treatment Works - POTW) and Reasonably Available Control Technology (RACT) for failure meet control requirements.	<b>EPA 1<sup>st</sup> NOV</b> - Issued 07/06/2009 <b>EPA 2<sup>nd</sup> NOV</b> - Issued 12/17/2010  <b>Additional Information:</b> NOV Meeting was held with EPA, DEQ, and the Responsible Party on 9/23/09 and 03/09/2011.
**EPA	<b>DuPont Teijin Films</b>  Hopewell, Virginia	<b>Discovery dates</b> – 04/18/2008  <b>Alleged violations:</b>	<b>EPA 1<sup>st</sup> NOV</b> - Issued 07/17/2009 <b>EPA 2<sup>nd</sup> NOV</b> - Issued

	<p>Chesterfield County</p> <p>Registration No. 50418</p> <p>SIC 2821 Plastic Material/Synthetic resins NAICS 325211 Chemical - resin, Synthetic rubber, and artificial synthetic fibers.</p>	<p><b>1<sup>st</sup> NOV</b> - Violations of 40 CFR 63 Subpart JJJ (Polymers and Resins Group IV), Subpart H (Equipment Leaks), and Subpart EEEE (Organic Liquid Distribution (Non-Gasoline) that include improper use of emission debits and credits; failure to provide certifications, reports and plans; improper emission controls; and failure to identify and repair leaking components.</p> <p><b>2<sup>nd</sup> NOV</b> – Further violations of 40 CFR 63 Subpart JJJ (Polymers and Resins Group IV), and Subpart H (Equipment Leaks), that include improper use of emission debits and credits; failure to provide certifications, reports and plans; and improper emission controls.</p>	<p>12/7/2010</p> <p><b>Additional Information:</b> NOV Meetings have been held with EPA, DEQ, and the Responsible Party on 9/10/09 and 2/2/2011.</p>
**EPA	<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 date</b> – 11/06/2007</p> <p><b>Alleged violations:</b> <b>1<sup>st</sup> NOV</b> - Alleged violations of the Benzene Waste NESHAP (40 CFR 61 Subpart FF) and the associated Leak Detection and Repair (LDAR) program for the Organic HAPs from Equipment Leaks MACT (40 CFR 63 Subpart H)</p> <p><b>2<sup>nd</sup> NOV</b> - Annual NOx and PM10 emission limit exceedances in 2004, 2005, 2006, and 2007 at the A, C, D, and E trains of the Area 9 hydroxylamine production unit.</p>	<p><b>EPA 1<sup>st</sup> NOV</b> - Issued 03/10/2009 <b>EPA 2<sup>nd</sup> NOV</b> - Issued 08/21/2009</p> <p><b>Additional Information:</b> NOV Meetings have been held with EPA, DEQ, and the Responsible Party on 5/27/09, 11/17/09, 03/25/10, 11/10/2010 and 1/26/2011.</p>
**EPA	<p><b>Smurfit-Stone Container Corp. / Hopewell Mill</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</b> – 07/27/2010</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</b> - Issued 09/27/2010</p> <p><b>Additional Information:</b> NOV Meeting was held with EPA, DEQ, and the Responsible Party on 01/31/2011.</p>