

**TENTATIVE AGENDA
STATE AIR POLLUTION CONTROL BOARD MEETING
WEDNESDAY, JUNE 22, 2005**

**DEPARTMENT OF ENVIRONMENTAL QUALITY
PIEDMONT REGIONAL OFFICE
4949-A COX ROAD
GLEN ALLEN, VA**

Convene – 9:30 A.M.

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I. Regulations

NOx and VOC Emissions Control Areas (Rev. D04 – Proposed)	Graham	
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II. Public Forum

III. Other Business

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State Advisory Board – Membership		Daniel

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. No public comment is allowed on case decisions when a FORMAL HEARING is being held.

Pooling Minutes: 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 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: cmberndt@deq.virginia.gov.

NO_x and VOC Emissions Control Areas (9 VAC 5 Chapter 20, Rev. D04) - Regulation
Development Report and Request to Publish Proposal for Public Comment: As a result of the recent promulgation of the new 8-hour ozone nonattainment areas, it is necessary to change the VOC and NO_x emissions control areas designated in 9 VAC 5-20-206 so that regulations that are designed to attain ozone air quality standards are implemented within the new and revised ozone nonattainment areas. In this amendment, a new Fredericksburg VOC and NO_x Emissions Control Area is created and the Richmond and Hampton Roads VOC and NO_x Emissions Control Areas are expanded to include all of the counties and cities in the corresponding 8-hour ozone nonattainment areas. Most of the emission standards that are designed to attain and maintain ozone air quality standards are extended to the new areas automatically by reference. Other regulations refer to individual VOC emissions control areas and must be amended in order to be properly implemented within the appropriate VOC emissions control areas.

To solicit comment from the public on the notice of intended regulatory action, the Department issued a notice that provided for receiving comment during a comment period and at a public meeting. No public input was received.

The notice of intended regulatory action included a statement inviting comment on whether the Department should use an ad hoc advisory group to assist the Department in the development of the proposal. Since the department did not receive written responses from at least five persons during the associated comment period indicating that the department should use an ad hoc advisory group, the department did not use an ad hoc advisory group.

The VOC and NO_x emissions control areas designated in 9 VAC 5-20-206 are being amended so that those regulations that are used to enforce control measures designed to attain the ozone air quality standard are implemented within the new ozone nonattainment areas. A new Fredericksburg VOC and NO_x Emissions Control Area is being created that consists of the County of Spotsylvania and the City of Fredericksburg. The Richmond VOC and NO_x Emissions Control Areas are being expanded to include the County of Prince George and the City of Petersburg. The Hampton Roads VOC and NO_x Emissions Control Areas are being expanded to include the counties of Gloucester and Isle of Wight.

Many of the Chapter 40 VOC emission standards will be extended into the new 8-hour nonattainment areas automatically when the VOC emissions control areas in 9 VAC 5-20-206 are amended. For new affected facilities subject to these rules, compliance with the VOC emission standards is automatically required by 9 VAC 5-40-20 to be achieved no later than 90 days after the effective date of the amendment except for sources that require certain physical or process changes to comply, in which case compliance is required no later than one year after the effective date of the amendment. These automatically extended rules include:

Article 6	Rubber Tire Manufacturing Operations
Article 11	Petroleum Refinery Operations
Article 24	Solvent Metal Cleaning Operations Using Non-Halogenated Solvents
Article 25	Volatile Organic Compound Storage and Transfer Operations
Article 26	Large Appliance Coating Application Systems
Article 27	Magnet Wire Coating Application Systems
Article 28	Automobile and Light Duty Truck Coating Application Systems
Article 29	Can Coating Application Systems
Article 30	Metal Coil Coating Application Systems
Article 31	Paper and Fabric Coating Application Systems
Article 32	Vinyl Coating Application Systems
Article 33	Metal Furniture Coating Application Systems
Article 34	Miscellaneous Metal Parts and Products Coating Application Systems
Article 35	Flatwood Paneling Coating Application Systems
Article 37	Petroleum Liquid Storage and Transfer Operations
Article 39	Asphalt Paving Operations

Other Chapter 40 regulations are being amended to apply (or not apply) within the appropriate VOC emissions control areas:

Chapter 40, Article 4 is being amended to ensure that VOC RACT is not automatically required of all large VOC sources in the new areas that were included in Richmond VOC Emissions Control Area to make it correspond with the expanded Richmond (marginal) 8-hour Ozone Nonattainment Area.

Chapter 40, Article 36 is being amended to provide exemptions for small publication and packaging printing rotogravure, and flexographic printing operations with a potential to emit less than 100 tons of VOC per year within all VOC emissions control areas other than the Northern Virginia VOC Emissions Control Area instead of just in the Richmond and Hampton Roads VOC Emissions Control Areas.

Chapter 40, Article 42 (Portable Fuel Containers), Article 48 (Mobile Equipment Repair and Refinishing), Article 49 (Architectural and Industrial Maintenance Coatings), and Article 50 (Consumer Products) are being amended so that the provisions also apply in the Richmond VOC Emissions Control Area and in the new Fredericksburg VOC Emissions Control Area instead of just in the Northern Virginia VOC Emissions Control Area.

Chapter 40, Article 53 is being amended to apply to lithographic printing operations in all VOC emissions control areas instead of just in the Northern Virginia and Richmond VOC Emissions Control Areas. The regulation is also being amended to provide exemptions for small facilities with a potential to emit less than 100 tons of VOC per year in the newly applicable VOC emissions control areas (i.e. the Hampton Roads, Western and Fredericksburg VOC Emissions Control Areas).

The 90-day/one-year compliance schedule of 9 VAC 5-40-20 also applies to new affected facilities that are being made subject to VOC emission standards under Articles 36. Persons affected by the extension of the provisions of Articles 42, 48, 49, and 50 to the Richmond and Fredericksburg VOC Emission Control Areas must comply by January 1, 2008. Compliance for affected facilities now subject to VOC emission standards under Article 53 will be required no later than one year after the effective date of the amendment.

Variance for International Paper (9 VAC 5 Chapter 230) - Public Participation Report and Request for Board Action: International Paper, Inc. has requested that the Board grant a variance from certain portions of the SAPCB Regulations and authorize the DEQ to issue a FESOP which will act in lieu of those regulations. The draft order and variance and final draft FESOP are being used to implement a

portion of the International Paper Innovations Project. The International Paper Innovations Project is a central part of EPA's effort to reinvent environmental protection.

International Paper Company (IP) Franklin Paper Mill is a pulp and paper mill located in Franklin, Virginia. International Paper Company (IP) has entered into a partnership with the U.S. Environmental Protection Agency (EPA) and the Virginia Department of Environmental Quality (DEQ) to initiate an innovative approach for meeting environmental regulations in a cost-effective manner. This partnership has identified a way to exceed the requirements of environmental regulations in order to provide the greatest benefit to the environment, IP's Franklin mill, and the local community.

A variance would allow IP to implement the environmental innovations project. While the precedent exists in Virginia for sitewide caps, IP must agree to accept the sitewide caps in order to obtain a variance from existing state regulations. The final result will be an IP site-specific regulation specifying the air pollutant caps.

A site-specific variance is needed for the IP Franklin Paper Mill in order to provide relief from the state regulations governing new source review and to establish sitewide emission caps for particulate matter (PM and PM₁₀), sulfur dioxide, oxides of nitrogen, carbon monoxide, volatile organic compounds, total reduced sulfur, lead, sulfuric acid mist and fluorides. The sitewide emission caps would be used as alternative means of compliance with state regulations governing new source review (Article 4 of Chapter 50, and Articles 6, 8 and 9 of Chapter 80).

The Department is requesting approval of a draft final variance that meets federal statutory and regulatory requirements. Approval of the variance will ensure that the Commonwealth will be able to implement International Paper's Innovations Project. The variance will allow DEQ to issue the FESOP in lieu of otherwise applicable regulations, and allow International Paper to operate within their FESOP without obtaining additional permits which would otherwise be required.

Because the regulation is a variance, the regulation is subject to the public participation requirements § 10.1-1307 C of the Code of Virginia and is exempt from the normal regulatory process under the provisions of §§ 2.2-4007 M, -4013 E, -4014 D, and -4015 C of the Administrative Process Act. Section 10.1-1307 C requires a public hearing with 30 days notice; § 10.1-1307.01 requires an additional 15-day comment period beyond the date of the hearing. The state requirements for public participation satisfy the federal public participation requirements.

To solicit comment from the public on the proposal, the Department issued a notice that provided for receiving comment during a comment period and at a public hearing.

The Order grants a variance (to be promulgated as a regulation--9 VAC 5 Chapter 230) which allows International Paper to use compliance with the variance and FESOP as an alternate demonstration of compliance with provisions of the SAPCB regulations pertaining to new source review and new source control technology review. The proposal as promulgated for public comment is summarized below:

9 VAC 5-230-10 specifies the International Paper Franklin Paper Mill as the facility to which the provisions of the variance apply.

9 VAC 5-230-20 defines words and phrases used in the variance.

9 VAC 5-230-30 specifies the authority of International Paper to operate under the variance and the FESOP. International Paper may operate under the variance provided no administrative appeals are filed and once it provides written notice to the department.

9 VAC 5-230-40 establishes the sitewide emissions caps for particulate matter (PM and PM₁₀), sulfur dioxide, oxides of nitrogen, carbon monoxide, volatile organic compounds, total reduced sulfur, lead, sulfuric acid mist and fluorides. Compliance is based on a 12 month rolling sum.

9 VAC 5-230-50 grants relief from the New Source Review program for all pollutants for which an emissions cap has been established. Also, there is no exemption for pollutants covered by the state toxic program. However, the company must comply with major new source control technology requirements for the addition of a new emissions unit. Previous NSR program permits issued to the affected facility are rescinded if certain criteria are met.

9 VAC 5-230-60 covers other regulatory requirements. International Paper must comply with all other regulations except for the MACT for the Pulp and Paper Industry (40 CFR Part 63, subpart S). As an alternative to the MACT standard, Intentional Paper must comply with alternative requirements reflected in a permit issued by the department. International Paper may not use emissions trading to comply with the emissions caps.

9 VAC 5-230-70 specifies the relationship between the FESOP and variance and the federal operating permit (Title V) program. International paper will be required to obtain a Title V operating permit, pursuant to the applicable Title V program, and be subject to the Title V fees.

9 VAC 5-230-80 sets out the authority for FESOP issuance and amendments. The FESOP is to contain the terms and conditions for determining compliance, monitoring, recordkeeping, and reporting. Additionally, the variance sets out the procedures for issuing and modifying the FESOP.

9 VAC 5-230-90 specifies provisions for transfer of ownership of the facility.

9 VAC 5-230-100 specifies that future amendments to the regulations covered by the variance shall not apply to the facility unless the board amends this variance to specifically address the applicability of the regulatory amendments to the facility.

9 VAC 5-230-110 specifies the requirements covering the termination of the authority of International Paper to operate under the variance and FESOP.

9 VAC 5-230-120 specifies the procedures for periodic review and confirmation of the variance by board.

Below is a brief summary of the substantive changes the Department is recommending be made to the original proposal.

9 VAC 5-230-40 (subsections A and B) has been revised to provide a temporary increase in the sitewide emissions caps for VOCs and TRS until International Paper has completed its efforts to comply with the requirements of 40 CFR Part 63 relating to HAPs.

9 VAC 5-230-50 (subsection C) has been revised firm up the obligation to comply with the requirements applicable to pollutants covered by the state toxic program.

9 VAC 5-230-100 has been revised to obligate the Board to follow the precedent of providing operational flexibility and regulatory simplification in any future amendments to the variance.

9 VAC 5-230-110 (subdivision B 2) has been revised to allow for the negotiation of alternatives to resolving issues associated with the need to terminate the authority of

International Paper to operate under the variance.

Emissions Inventory – Briefing: The Department will brief the Board on the status of the emissions inventory, including comparisons to other states, Virginia emissions profiles, future emissions predictions, and a discussion of data sources.

High Priority Violators (HPVs) for the First Quarter, 2005

ACTIVE CASES — Table A *			
DEQ Region	Facility Name and location	Brief Description	Status
NRO	Bergmann’s Cleaners, Inc., Arlington (large dry cleaning establishment)	Alleged release of perchloroethylene in violation of dry cleaning facility MACT; various Title V permit recordkeeping violations	NOV issued 12/1/04; pending; Consent Order dated 3/18/05 imposed civil fine of \$17,014; payment plan (4 monthly payments of \$4,253.50 each); 1 st two monthly payments received.
NRO	Potomac River Generating Station/Mirant, Alexandria (coal-fired electric power plant)	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
PRO	Carry-On Trailer Corporation, Callao, Northumberland County (trailer 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 (educational institution)	Alleged failure to stack test boiler; failure to install, maintain, and operate continuous opacity monitors; failure	NOV issued 5/28/04; pending

		to perform visual opacity inspections; various recordkeeping violations	
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
SCRO	Intermet Archer Creek Foundry, Campbell County (ductile iron castings manufacturer)	Alleged exceedances of opacity limits at cupola amrex baghouse (5% limit – 12.7% observed) and at ETA baghouse (20% limit – 33.54% observed)	NOV issued 7/19/04; 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	Chemical Lime Company, Ripplemead (lime kiln and lime product manufacturing facility)	Alleged pervasive and chronic fugitive dust emission exceedances in violation of facility's Title V permit	NOV issued 12/13/04; pending
WCRO	Cinergy Solutions of Narrows, LLC,	Recurrent alleged exceedances of opacity limits	NOV issued 2/16/05; pending

	Narrows, Giles County (power plant)		
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 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; Consent Order dated 3/8/05 imposed civil fine of \$4,500 and required a pollution prevention SEP valued at no less than \$4,050 calling for installation of new energy efficient lighting fixtures

* **Table A includes the following categories of HPV cases:**

- 1) Those initiated by a Notice of Violation (NOV) issued prior to or during the first quarter of 2005 that have not been settled by Consent Order, and;**
- 2) Those settled by Consent Order prior to or during the first quarter of 2005 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
NRO	Master Print, Inc., Newington (offset web lithographic printing facility)	Alleged exceedance of facility's throughput limit for inks and cleaning solution (permitted ink throughput limit 10,450 lbs - actual ink throughput 139,128.4 lbs; permitted cleaning solution throughput limit 44,000 lbs -actual cleaning solution throughput 52,765 lbs); failure to maintain numerous records required by permit, including failure to keep records for annual throughput of inks, varnishes, cleaning solution, and failure to keep records of annual VOC emissions, naptha emissions, and other HAP emissions	NOV issued 6/25/04; revised NOV issued 12/10/04; pending; Consent Order dated 2/18/05 imposed civil fine of \$15,654 (full required payment) received on 2/22/05. New NSR Permit issued 5/3/05.
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; Alleged exceedance of particulate emissions limit from banbury mixer in Title V permit; 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	NOVs issued 7/17/03 12/8/03, and 4/27/04; Consent Order dated 1/18/05 imposed civil fine of \$40,698
SWRO	Galax Energy	Alleged violation of Title	NOV issued 5/24/04; Consent Order

	Concepts, LLC Galax, Carroll County (wood burning power plant)	V permit certification and deviation reporting requirements; failure to properly enclose wood waste area	dated 2/11/05 imposed civil fine of \$13,720.
VRO	Harrisonburg Resource Recovery Facility, Harrisonburg (waste burning power plant)	Alleged failure to demonstrate compliance with PM emissions limits within 60 days of issuance of NSR permit as required by the permit; submission of incomplete PM stack test report	NOV issued 7/12/04; Letter of Agreement dated 1/27/05
VRO	Harrisonburg Resource Recovery Facility, Harrisonburg (waste burning power plant)	Alleged numerous violations of facility's Title V permit, including failure to establish method to determine waste throughput tons/yr. limit not exceeded, opacity violations, and SO2 CEMs in operation only 88.4% of time (90% up-time required by permit)	NOV issued 9/30/04; Consent order dated 2/9/05 imposed civil fine of \$8,260
VRO	Mohawk Industries, Inc., Lees Carpets Division, Glasgow (carpet and yarn manufacturing facility)	Alleged exceedances of PM emissions limits for #1 and #2 Suessen heat set lines (PM limit 0.10 lb./hr - stack test result 0.183 lb./hr)	NOV issued 11/17/04; Consent Order dated 3/30/05 imposed a civil fine of \$2,000
WCRO	Cinergy Solutions of Narrows, LLC, Narrows, Giles County (power plant)	Alleged exceedance of opacity limits	NOV issued 5/12/04; Consent Order dated 2/11/05 imposed civil fine of \$2,100

**** Table B includes HPV cases resolved by Consent Order during the first quarter of 2005 where the alleged violator has complied with substantially all of the terms of the Consent Order.**

