

**TENTATIVE AGENDA & MINI BOOK
STATE AIR POLLUTION CONTROL BOARD MEETING
MONDAY, MARCH 29, 2004**

**HOUSE ROOM C, GENERAL ASSEMBLY BUILDING
9TH & BROAD STREETS
RICHMOND, VIRGINIA**

Convene - 1:00 P.M.

I.	High Priority Violators Report	Dowd	A
II.	Regulations		
	Federal Documents Incorporated by Reference (Rev. I03)	Sabasteanski	B
	Control Technology Determinations for Major Sources of Hazardous Air Pollutants (Rev. E02)	Mann	C
III.	Public Forum		
IV.	Other Business		
	Nonattainment Area Designation Activities Related to Particulate Matter & 8-Hour Ozone Air Quality Standards	Ballou	D
	Appointments to State Advisory Board on Air Pollution	Daniel	E
	Report on Air Quality Program Activities	Daniel	F
	Future Meetings	Daniel	
	Minutes (November 5 and December 8, 2003)	Berndt	G

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. **NEW INFORMATION** will not be accepted at the meeting. The Board expects comments and information on a regulatory action 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. 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, P.O. Box 10009, Richmond, Virginia 23240, phone (804) 698-4378; fax (804) 698-4346; e-mail: cumberndt@deq.state.va.us.

HIGH PRIORITY VIOLATORS (HPVs) FOR THE FOURTH QUARTER, 2003

ACTIVE CASES — Table A *			
DEQ Region	Facility Name and location	Brief Description	Status
NRO	Covanta Alexandria Arlington, Inc., Arlington (MSW incinerator)	Alleged emission exceedances and failure to keep certain records in violation of PSD permit	NOV issued 4/18/02; Consent Order dated 3/20/03 imposed a civil fine of \$14,695 (in bankruptcy – fine not paid)
NRO	Covanta Alexandria Arlington, Inc., Arlington (MSW incinerator)	Alleged burning of non-MSW industrial material in violation of permit requirements	NOV issued 4/1/03; pending
NRO	Covanta Fairfax, Inc., Fairfax (MSW incinerator)	Alleged burning of non-MSW industrial material in violation of permit requirements	NOV issued 4/1/03; pending
NRO	Potomac River Generating Station/Mirant, Alexandria	Alleged exceedance of ozone season NOx emissions limit contained in state operating permit	NOV issued 9/10/01; NOV issued by EPA 1/22/04; pending
NRO	Washington Gas Light Company, Fairfax County	Alleged exceedance of NOx emissions limit	NOV issued 3/27/03; Consent Order dated 1/4/04 imposed civil fine of \$15,960 and required study of NOx formation rates from combustion of combinations of natural gas enriched w/propane
PRO	Carry-On Trailer Corporation, Northumberland County, (manufacturer)	Alleged construction and operation of a major source of HAP emissions w/o obtaining a permit; failure to submit Title V permit application w/in 12 months of start-up	NOV issued 6/18/02; pending
PRO	Chaparral Steel Co., Dinwiddie County (specialty steel manufacturer)	Alleged by-passing of pollution control device and exceedances of mercury, NOx, and CO emissions limits	NOV issued 3/24/03; Consent order dated 1/13/04 imposed a civil fine of \$137,500 and continuous emissions monitors for CO and NOx
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	NOV issued 7/17/03; pending
SCRO	Goodyear Tire and Rubber Co., Danville	Alleged exceedance of particulate emissions limit from banbury mixer in Title V permit	NOV issued 12/8/03; pending

SCRO	JM Huber Corporation, Halifax County (furniture manufacturer)	Alleged exceedance of CO and formaldehyde emissions limits in Title V permit	NOV issued 12/31/04; pending
SWRO	Consolidation Coal Company, Buchanan County (coal mine)	Alleged exceedance of VOC emissions limit contained in PSD and Title V permits for thermal dryer located at mine #1	NOV issued 8/22/03; pending
VRO	Merck & Co., Inc., Rockingham County (pharmaceutical manufacturer)	Alleged exceedance of HAPs emissions limit in synthetic minor HAP permit; failure to adequately measure wastewater influent for HAPs as required by permit	NOV issued 12/11/03; pending
VRO	Valley Proteins, Inc., Winchester (rendering facility)	Alleged installation of new cooker in violation of PSD requirements	NOV issued 2/4/03; Consent Order dated 4/4/03 imposed a civil fine of \$30,136 and requirement to obtain synthetic minor permit (the permit was issued 4/3/03; Valley Proteins has appealed the permit on grounds unrelated to the allegations settled in the consent order)
WCRO	Magnox Pulaski Inc., Pulaski, Pulaski County (magnetic tape manufacturer)	Numerous alleged violations of Title V permit recordkeeping and monitoring requirements	NOV issued 5/8/03; pending
WCRO	Southern Finishing Co., Martinsville, Henry County (furniture manufacturer)	Alleged operation of unpermitted spray booths, improperly maintained air pollution control equipment, and numerous MACT and Title V permit violations	NOV issued 5/27/03; Consent Order dated 10/17/03 imposed a civil fine of \$44,738.67 and SEP requiring installation of spray booth filters; Consent Order violated by failure to pay substantial portion of the civil fine by the due date of 11/17/03
WCRO	Southern Finishing Co., Martinsville, Henry County (furniture manufacturer)	Alleged failure to comply with 10/17/03 Consent Order by failing to pay \$41,072 of the \$44,738,67 civil fine required by the Consent Order by the due date of 11/17/03	NOV issued 1/5/04; pending
WCRO	Wolverine Gasket Division – Cedar Run Plant, Blacksburg, Montgomery	Alleged by-passing of pollution control equipment and failure to properly maintain pollution control system	NOV issued 3/19/03; Consent Order dated 12/16/03 imposed a civil fine of \$10,500 and required a pollution prevention SEP that reduces wastewater discharges by 70%

	County (automotive parts manufacturer)		
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* Table A includes the following categories of HPV cases:

- 1) Those initiated by a Notice of Violation (NOV) issued prior to or during the third quarter of 2003 that have not been settled by Consent Order, and;
- 2) Those settled by Consent Order prior to or during the third quarter of 2003 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	U.S. Geological Survey, Fairfax County (printing)	Alleged construction and operation of air emissions sources w/o a permit	NOV issued 8/5/03; Consent Order dated 2/3/04 imposed testing requirements (no civil penalty was imposed because U.S.G.S. is a federal government agency – required permit obtained prior to Consent Order)
PRO	Pre Con, Inc., Petersburg (body armor and armor panel manufacturer)	Alleged construction of a minor air emission source w/o a permit; failure to submit deviation reports and compliance certification required by Title V permit	NOV issued 8/12/03; Consent Order dated 12/17/03 imposed a civil fine of \$1,700
SCRO	Burlington Industries, Inc., Hurt, Campbell County (textile manufacturer)	Alleged violation of particulate emissions limit in stack test taken 12/21/02 and failure to properly maintain pollution control equipment	NOV issued 3/6/03; subsequent stack test taken 5/30/03 indicated compliance; Consent Order dated 11/4/03 imposed a civil fine of \$14,687
WCRO	Ethan Allen Inc., Dublin, Pulaski County (furniture manufacturer)	Numerous alleged violations of Title V permit and MACT requirements with respect to recordkeeping, monitoring, operating conditions	NOV issued 7/7/03; Consent Order dated 12/11/03 imposed a civil fine of \$11,212.50 and required a SEP involving removal of PCB capacitors and installation of an airless spray gun system
WCRO	Martinsville Thermal, LLC, Ridgeway, Henry County	Alleged failure to maintain records of monthly emissions calculations for criteria pollutants as required by Title V permit	NOV issued 8/18/03; Consent Order dated 10/14/03 imposed civil fine of \$1,400
WCRO	Volvo Trucks North America, Inc., Dublin, Pulaski County	Alleged by-passing of pollution control device without notice and failure to maintain certain records	NOV issued 6/19/03; Consent Order dated 12/16/03 imposed a civil fine of \$2,247 and a SEP requiring removal of freon-

	(heavy truck manufacturer)	required by Title V permit	containing refrigeration units
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** Table B includes HPV cases resolved by Consent Order during the third quarter of 2003 where the alleged violator has complied with substantially all of the terms of the Consent Order.

Federal Documents Incorporated by Reference (9 VAC 5 Chapter 20, Rev. I03) - Request for Board Action: 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 agency's regulations. 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, 2003. Below is a list of the new standards the department is recommending be incorporated into the state regulations by reference: no new NSPS are being incorporated; however, the date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version; no new NESHAP are being incorporated; however, the date of the Code of Federal Regulations book being incorporated by reference is being updated to the latest version; and incorporation of 20 national emission standards for hazardous air pollutants for source categories (MACT). In addition, three new sections entitled "authority to implement and enforce standards as authorized by EPA" have been added to each article: 9 VAC 5-50-405, 9 VAC 5-60-65, and 9 VAC 5-60-95. Each lists a series of documents that identify the Commonwealth's delegated authority to implement and enforce the standards designated in each article on behalf of EPA. These sections has been added in response to ongoing internal and external interest regarding specific delegated authorities. These sections have been added for informational purposes only, and the listed documents are not enforceable in any way other than by EPA to the state.

Control Technology Determinations for Major Sources of Hazardous Air Pollutants (Rev. E02) - Request for Board Action: As required under the Clean Air Act, the federal § 112(j) regulations apply if EPA misses a deadline for the promulgation of a hazardous air pollutant standard established in the source category schedule for standards. In such a case, the owner of a major source of hazardous air pollutants in a source category for which EPA has failed to promulgate a standard is required to submit an application for the purpose of enabling a state to determine, on a case-by-case basis, emission limitations that meet the criteria for maximum achievable control technology (MACT). The federal regulations contain provisions addressing requirements for the content of permit applications, the establishment of the emission limitations by a state, the criteria for the state to determine completeness, and compliance dates. 9 VAC 5 Chapter 60, Article 3 (9 VAC 5-60-120 et seq.) is Virginia's equivalent to the federal § 112(j) regulations. Adopted by the State Air Pollution Control Board on January 1, 2001, this regulation now needs to be updated to conform to recent changes in the federal regulations.

The amendments update a state regulation that essentially duplicates federal regulatory provisions concerning control technology determinations for major sources of hazardous air pollutants under § 112(j) of the federal Clean Air Act. The original state regulation was based on 40 CFR 63.2 and 40 CFR 63.50-63.56. The regulation amendments are based on changes to the federal regulations promulgated on May 30, 2003 (68 FR 32586), which were determined through settlement negotiations between EPA and petitioners requesting a review of the § 112(j) provisions. The amendments establish a new timetable for the submission of section 112(j) Part 2 applications, which is based on the timetable that EPA agreed to follow for promulgation of the remaining

NESHAP, and modify the content requirements for Part 2 applications. The amendments also establish revised procedures for requests for applicability determinations previously submitted under the section 112(j) rule, and for section 112(j) applications submitted by sources that previously obtained a case-by-case determination under CAA section 112(g).

Nonattainment Area Designation Activities Related to Particulate Matter (PM_{2.5}) and 8-Hour Ozone Air Quality Standards - Status Report: The Department will brief the Board on the status of nonattainment area designation activities concerning the particulate matter (PM_{2.5}) and 8-hour ozone air quality standards.

Appointments to State Advisory Board on Air Pollution (SABAP): On December 31, 2003, the appointment terms of some of the SABAP Members expired. For those members who wish to continue, reappointment is appropriate. Since some members no longer desire to serve because of retirements, job changes, etc., new appointments need to be made.