

**TENTATIVE AGENDA
STATE AIR POLLUTION CONTROL BOARD MEETING
WEDNESDAY, MARCH 2, 2005**

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

Convene – 9:30 A.M.

Tab

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|---|---|----------------|---|
| I. Regulations | | | |
| | Particulate Matter Nonattainment Areas (Rev. D05 – Final Exempt) | Sabasteanski | A |
| | Definition of Volatile Organic Compound (Rev. B05 – Final Exempt) | Sabasteanski | B |
| | Small Municipal Waste Combustors (Rev. C05 – Final Exempt) | Sabasteanski | C |
| | Open Burning (Rev. H03 – Proposed) | Major | D |
| | Major New Source Reform (Rev. E03 – Proposed) | Mann | E |
| | International Paper Project Description | Corl | F |
| | International Paper Variance (Rev. DV – Proposed) | Mann | G |
| II. Public Forum | | | |
| III. Other Business | | | |
| | Director’s Report | Daniel | H |
| | High Priority Violators Report | Dowd | I |
| | Minutes – November 3, 2004 & January 5, 2005 | | J |
| IV. Report | | | |
| | Health Effects of Fine Particulate - The ARIES Study | Cerimele/Wycga | |
| V. State Advisory Board on Air Pollution Charter | | Bhavsar | K |

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

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: cumberland@deq.virginia.gov.

SUBJECT: Particulate Matter Nonattainment Areas (Rev. D05) - Request for Board Action: On January 5, 2005, EPA amended 40 CFR Part 81 by adding a list of areas that are nonattainment for the PM_{2.5} standard. The new PM_{2.5} nonattainment areas become effective on April 5, 2005. In addition to providing the basis for broad-based non-regulatory plans for attainment and maintenance of the standards, the nonattainment area designations and classifications are also part of the legally enforceable means by which the state implements the new source review program for nonattainment areas. 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.

There is one substantive amendment to the regulation: the Northern Virginia PM_{2.5} Nonattainment Area has been added. [9 VAC 5-20-204 A 3]

SUBJECT: Definition of Volatile Organic Compound (Rev. B05) - Request for Board Action: On November 29, 2004, EPA revised the definition of volatile organic compound (VOC) in 40 CFR 51.100 to exclude four compounds which have been demonstrated to be less reactive. This exclusion is accomplished by adding the substances to a list of substances not considered to be a VOC. At the same time, EPA revised the definition of VOC to partially exclude t-butyl acetate: it should be considered to be a VOC for recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOCs, and should be uniquely identified in emission reports, but it is not a VOC for purposes of VOC emission standards, emission limitations, or content requirements.

In order to meet the federal requirements for reducing VOCs and therefore ozone, Virginia's SIP must meet the overall requirements of the Clean Air Act as well as the specific requirements of 40 CFR Part 51 and other relevant parts of the federal code. Virginia's definition of VOC, therefore, must be consistent with EPA's definition.

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 that were originally proposed for public comment.

1. The definition of VOC was revised to exclude 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane, 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6-dodecafluoro-2-(trifluoromethyl) hexane, 1,1,1,2,3,3,3-heptafluoropropane, and methyl formate. [9 VAC 5-10-20, subdivisions 1 ss, tt, uu, and vv of the definition for VOC]

2. A paragraph was added to indicate that t-butyl acetate is considered to be a VOC for purposes of recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOCs and is to be uniquely identified in emission reports, but is not a VOC for purposes of VOC emission standards, VOC emission limitations, or VOC content requirements. [9 VAC 5-10-20, subdivision 5 of the definition for VOC]

3. Several minor typographical corrections were made. [9 VAC 5-10-20, subdivisions 1 nn, oo, pp, and qq of the definition of VOC]

SUBJECT: Small Municipal Waste Combustors (Rev. C05) - Request for Board Action: Table 3 of 40 CFR Subpart BBBB (Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units) contains nitrogen oxides (NO_x) emission limits that apply only to Class I small municipal waste combustion units (SMWCs). The corresponding Virginia regulation, 9 VAC 5-40-6620, does not specify that the NO_x limits apply only to Class I SMWCs. Therefore, the Virginia regulation must be revised in order to make this distinction.

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.

There is one substantive amendment to the regulation: revise 9 VAC 5-40-40-6620 to indicate that the standards for NO_x apply only to Class I SMWCs.

SUBJECT: Opening Burning (9 VAC 5 Chapter 40, Rev. H03) - Regulation Development Report and Request to Publish Proposal for Public Comment: This regulation was developed to provide a mechanism to remedy both a public welfare problem and a public health problem. The regulation has proven essential in managing the frequent open burning, including burning with the use of special incineration devices, conducted throughout the Commonwealth, particularly in rural and suburban areas.

The open burning regulation limits or in some instances prohibits open burning. It establishes requirements to restrict emissions of nitrogen oxides (NO_x) and volatile organic compounds (VOCs) during the peak ozone season in VOC control areas to the level necessary for the protection of public health and welfare. It also provides guidance to local governments on the adoption of ordinances to regulate open burning.

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 better protect public health and meet its obligations under the federal Clean Air Act.

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. The summary and analysis of public input is included in the agency background document.

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.

Amendments are being made to reduce emissions of volatile organic compounds (VOCs) and nitrogen oxides (NOx) from open burning and special incineration devices in Virginia's emissions control areas in order to attain and maintain the federal health-based air quality standard for ozone and nitrogen oxides. To this end, the proposed amendments to the regulation do the following:

1. Prohibit the use of special incineration devices during the summer burning ban.
2. Expand the summer burning ban from three months to five.
3. Expand the summer ban into the new volatile emissions control areas, formed to address control measures for areas designated as nonattainment for the 8-hour ozone air quality standard.

In addition, technical changes were required to ensure that the regulation is consistent with the Board's regulations for incinerators and to resolve definition conflicts between the regulations of the Board and those of the Waste Management Board.

SUBJECT: Major New Source Review Reform (9 VAC 5 Chapter 80, Rev. E03) - Regulation Development Report and Request to Publish Proposal for Public Comment: Articles 8 and 9 of 9 VAC 5 Chapter 80 apply to the construction or reconstruction of new major stationary sources or major modifications to existing ones. The owner must obtain a permit prior to the construction or modification of the source. The owner of the proposed new or modified source must provide information as may be needed to enable a preconstruction review in order to determine compliance with applicable control technology and other standards, and to assess the impact of the emissions from the facility on air quality. The regulation also provides the basis for final action (approval or disapproval) on the permit depending on the results of the preconstruction review.

EPA's new major NSR reform rule incorporates five main elements: (i) changes to the method for determining baseline actual emissions; (ii) changes to the method for determining emissions increases due to operational change; (iii) provisions to exclude pollution control projects (PCPs) from NSR; (iv) provisions for determining applicability of NSR requirements for units designated as Clean Units; and (v) provisions to allow for compliance with plantwide applicability limits (PALs). The current NSR regulations must be amended in order to meet these new requirements.

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.

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. The summary and analysis of public input is included in the agency background document.

To assist in the development of the proposal, the department formed an ad hoc advisory group consisting of representatives from the general public, environmental groups, industry, and department staff (both the central and regional offices). Information gathered from the federal statutes, regulations and policies, its own analysis and input from the advisory group form the basis for the department recommendation. A copy of the ad hoc advisory group report has been forwarded to the board.

The following amendments apply to Articles 8 (PSD areas) and 9 (nonattainment areas):

1. Provisions for electric utility steam generating units (EUSGUs) have been added in order for the baseline state regulations to be consistent with the baseline federal regulations.

2. Sources making physical changes to existing emissions units must determine whether the changes trigger major NSR requirements by establishing their baseline actual emissions. Sources may now use any consecutive 24-month period during the five-year period prior to the change to determine the baseline actual emissions.
3. The method for determining if a physical or operational change will result in an emissions increase has been revised. The previous "actual-to-potential" and "actual-to-representative-actual-annual" emissions applicability tests for existing emissions units have been replaced with an "actual-to-projected-actual" applicability test.
4. New provisions for pollution control projects (PCPs) have been added. A PCP is an activity, set of work practices, or project at an existing emissions unit that reduces air pollution. Obtaining a PCP exclusion relieves the PCP from major NSR review. These new PCP provisions replace the old PCP provisions of Article 6. which have been removed.
5. The "Clean Unit test" is a new type of control technology applicability test. An emissions unit qualifies as a Clean Unit, and qualifies to use the Clean Unit applicability test, if it has gone through major NSR permitting review and is complying with a BACT or LAER determination that has been subject to public participation. When a source undergoes NSR review and installs a BACT or LAER technology that has undergone public comment, it may make changes to a Clean Unit without triggering an additional major NSR review.
6. Provisions for plantwide applicability limits (PALs) have been added. A PAL is a voluntary option that allows a source to manage emissions without triggering major new source review. The PAL program is based on plantwide actual emissions. If the emissions are maintained below a plantwide actual emissions cap, then the facility may avoid major NSR permitting process when it makes alterations to the facility or individual emissions units.

The following amendments are limited to specific articles:

7. Article 8 has been revised in order to be consistent with other NSR regulations. This consists of (i) removing federal enforceability of certain provisions that should be enforceable by the state (toxics and odor) in order to prevent state-only terms and conditions from being designated as federally enforceable in a permit; (ii) deleting provisions covered elsewhere regarding circumvention, and reactivation and permanent shutdown; and (iii) adding provisions regarding changes to permits, administrative permit amendments, minor permit amendments, significant amendment procedures, and reopening for cause.
8. Article 4 of 9 VAC 5 Chapter 40, which contains general requirements for new and modified stationary sources, has been revised to be consistent with the control technology provisions of Articles 8 and 9.

Rather than attempt to reach consensus on any specific issues, the group agreed to prepare summaries of the group's two primary positions, each creating its own summary report. The two primary positions consisted of (i) adopt the EPA regulation with little if any revision, and (ii) retain the current Virginia regulation and not adopt any provision of the EPA regulation; should the EPA regulation be adopted, there are specific elements that should be revised. A number of theoretical compromise positions were discussed by the group and, as explained below, the department selected several for inclusion in the regulation proposal.

1. In the EPA rule, the lookback period for determining past actual emissions is specified as any

consecutive 24 months in the previous 10 years. The Virginia proposal uses any consecutive 24 months in the previous 5 years.

2. In the EPA regulation, the period used for establishing each pollutant baseline can be separate for each pollutant. The Virginia proposal requires that it be the same for all pollutants.
3. The EPA regulation does not specify consequences where the owner determines there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and does not obtain a permit. The Virginia proposal specifies how the state will act should the owner fail to make an accurate determination.
4. The EPA regulation requires owners to develop and maintain information to support their determination that a project that is not a part of a major modification may result in a significant emissions increase. The Virginia proposal requires advance notification of the availability of the information prior to beginning actual construction of the project.
5. The EPA rule establishes PAL duration as 10 years; the Virginia proposal contains a 5-year duration.
6. The Clean Unit duration period of 10 years is established by the EPA rule; 5 years is provided in the Virginia proposal.

SUBJECT: Site-Specific Regulation And The Federally Enforceable State Operating Permit For International Paper Located In Franklin Virginia - Description Of The Project And Public Participation Report: International Paper (IP) gave a presentation to the Board at the September Board meeting regarding their Innovations Project. The purpose was to get feedback from the Board in advance of finalizing the regulation. Since that time, DEQ, EPA and IP have met numerous times to discuss the Project. From those discussions DEQ has written the regulation that is being proposed.

This regulation and its associated permit is one part of the multi-part Innovations Project. The entire project is referred to as an Innovations Project under EPA's National Center for Environmental Innovation. IP's Innovations Project consists of 3 parts.

- 1) IP has requested to comply with Phase II (the High Volume Low Concentration portion) of 40 CFR Part 63, Subpart S (commonly known as a MACT-Maximum Achievable Control Technology Standard) in an alternate way from the regulation.
- 2) IP is offering to take some of the money saved by complying with the MACT in an alternate manner and complete other environmental projects (plus projects) at the site.
- 3) One of these plus projects will require an air permit before construction can commence. Consequently, IP has requested DEQ to write a Site-Specific regulation that would include a Site-Wide Emissions Cap (SWEC) as a basis to permit this project and at the same time alleviate future permitting restraints on the facility.

The Site-Specific regulation will allow IP to operate the mill under a SWEC for 10 different pollutants. Once IP accepts the cap limitations, and corresponding monitoring and reporting, major and minor source permitting will no longer be applicable to the facility. This means that they will be allowed to make changes at the facility as long as the overall emissions from the site do not exceed any of the Site-Wide Emission Caps.

The caps were established by allowing a look back period of 6 representative years. For 7 of the 10 pollutants (SO₂, NO_x, CO, VOC, TRS, Lead, Fluorides) the average of the most recent 24 month

period (2003, 2004) of actual emissions was used to generate the past actuals baseline. For the other 3 pollutants (PM, PM₁₀, H₂SO₄), the average of a different 24 month period (1998, 2000) was used to generate the past actuals baseline.

Once the baseline of past actuals was established for each pollutant, the baseline was adjusted to compensate for any increases or decreases in emissions that will result from complying with the MACT standard. Then the PSD significance level was added to the baseline for each pollutant, with the exception of Lead. The PSD significance level for Lead is so large compared to the current emissions from the facility that only 0.05 ton/year (8% of the significance level) was added to the baseline. These adjustments resulted in the SWEC levels that are in the regulation and the permit.

The facility agreed to add 8 new Continuous Emissions Monitoring Systems (CEMS) to their power boilers to obtain accurate emission levels of SO₂, NO_x and CO. In establishing the caps at the past actual emission levels, IP has agreed to install additional control devices in order to stay under their new caps. Some of the devices they have suggested are a new scrubber on an existing stripper to reduce SO₂ and the installation of low NO_x burners being installed on the power boilers to reduce NO_x emissions.

At the September Board meeting concerns were expressed that although there had been a stakeholders group formed to address the Innovations Project, the public had not been informed or involved with the project. IP held an advertised public meeting on January 26, 2005 at 6 PM in Franklin, Virginia. Six people chose to speak and five of those speakers spoke in favor of the project. The sixth person was interested in whether odor from the facility would be affected by the project. A representative from IP stated that odor would be reduced as a result of the project by approximately 20%. The most odorous emissions are from TRS and SO₂, which will be reduced by 16% and 11%, respectively, based on the 2004 actual emissions from the site.

SUBJECT: Variance for International Paper (9 VAC 5 Chapter 230) - Request to Promulgate Proposal for Public Comment: 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.

IP's ECOS innovation proposal was submitted to EPA by DEQ. The capital package was approved by the IP Board of Directors in July 2004. The IP innovation project requires an equivalency by permit determination, a pollution control project (PCP) exemption, and relief from new source review requirements via a variance that would also establish site-wide emissions caps for a variety of pollutants, mostly criteria pollutants.

Equivalency by permit would allow the use of the alternate approach for MACT I Phase 2 compliance. The PCP exemption would allow IP to permit the collateral sulfur dioxide (SO₂) emission increase resulting from the HVLC gas treatment. It requires submittal of emissions inventory and air modeling of the SO₂ increase.

A variance would allow IP to implement the environmental innovations project. While the precedent exists in Virginia for site-wide caps, IP must obtain a variance from existing state regulations in order to obtain the site-wide caps. 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 site-wide 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 site-wide 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 proposal for public comment that meets federal statutory and regulatory requirements. Approval of the proposal 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.

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 provisions of 9 VAC 5 Chapter 230 are 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 site-wide 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. The regulation establishes compliance caps that may be used to determine compliance with the emissions caps. The initial compliance caps are equal to the emissions caps but may be adjusted by the Department based on the applicability of future regulations and revised site specific emission factors or other quantification methods. Public participation is required prior to the decision to adjust the compliance caps.

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.

Subject: High Priority Violators (HPVs) – Fourth Quarter, 2004

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
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, naphtha emissions,	NOV issued 6/25/04; revised NOV issued 12/10/04; pending

		and other HAP emissions	
NRO	Potomac River Generating Station/Mirant, Alexandria	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 to perform visual opacity inspections; various recordkeeping violations	NOV issued 5/28/04; pending
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	Goodyear Tire and Rubber Co., Danville	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	NOV issued 4/27/04; pending

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
SWRO	Galax Energy Concepts, LLC Galax, Carroll County (wood burning power plant)	Alleged violation of Title V permit certification and deviation reporting requirements; failure to properly enclose wood waste area	NOV issued 5/24/04; pending
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; 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
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; 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	Alleged exceedance of opacity limits	NOV issued 5/12/04;

	of Narrows, LLC, Narrows, Giles County (power plant)		pending
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; pending

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

- 1) Those initiated by a Notice of Violation (NOV) issued prior to or during the fourth quarter of 2004 that have not been settled by Consent Order, and;
- 2) Those settled by Consent Order prior to or during the fourth quarter of 2004 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	Covanta Alexandria	Alleged emission exceedances and	NOV issued 4/18/02;

	Arlington, Inc., Arlington (MSW incinerator)	failure to keep certain records in violation of PSD permit	Consent Order dated 3/20/03 imposed a civil fine of \$14,695 (payment note and schedule confirmed)
SCRO	Dominion Resources/ODEC Clover Power Station Clover, Halifax County (coal-fired power plant)	Alleged exceedances of PM emissions limits (PM limit = 81.7 lb./hr; .02 lb./MMBTu - stack test result for Unit 1= 112.89lb./hr.; .024 lb./MMBTu; for Unit 2 = 96.84 lb./hr.; .023 lb./MMBTu	NOV issued 6/21/04; Consent Order dated 11/19/04 imposed civil fine of \$8,064
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 and failure to complete SEP
VRO	Harrisonburg Resource Recovery Facility, Harrisonburg (waste burning power plant)	Alleged failure to conduct performance testing within require time period; failure to properly conduct PM testing; exceedance of NOx limits (limit = 160 ppm/10.25 lbs/hr – stack test results for unit 1 = 190 ppm/14.2 lbs/hr; stack test results for unit 2 = 216 ppm/16.8 lbs/hr)	NOV issued 7/12/04; emission limits to be reevaluated due to apparent inapplicability of AP-42 factors in development of original permit limits

**** Table B includes HPV cases resolved by Consent Order during the fourth quarter of 2004 where the alleged violator has complied with substantially all of the terms of the Consent Order.**